

## SPECIAL BOARD MEETING



**DATE:** WEDNESDAY 4 MARCH 2015

**TIME:** 9:30 A.M.

**VENUE:** BOARDROOM, WAVERLEY GATE, 2-4 WATERLOO PLACE, EDINBURGH EH1 3EG

*Members are reminded that they should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest. It is also a member's duty under the Code of Conduct to ensure that any changes in circumstances are reported to the Corporate Services Manager within one month of them changing.*

### AGENDA

#### Agenda Item

#### Lead Member

- Welcome to Members of the Public and the Press  
Apologies for Absence
1. Integration of Health and Social Care: Integration Schemes **AMcM/JF/PG/EMcH/DAS** \*
  2. Any Other Competent Business
  3. Next Board Meeting: Wednesday 1 April 2015 at 9:30 a.m. in the Boardroom, Waverley Gate.
  4. Next Development Session: Wednesday 6 May 2015 at 9:30 a.m. in the Boardroom, Waverley Gate.

#### **Board Meetings**

1 April 2015  
24 June 2015\*  
5 August 2015  
7 October 2015  
2 December 2015

#### **Development Sessions**

6 May 2015  
15 July 2015  
2 September 2015  
4 November 2015

\* = paper attached    # = to follow    v = verbal report    p = presentation    ® = restricted

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**NHS Lothian**

Board Meeting  
4 March 2015

Director of Strategic Planning, Performance Reporting & Information  
 Joint Director, West Lothian Community Health & Care Partnership  
 Joint Director of Health & Social Care, Edinburgh  
 Joint Director of Health & Social Care, East Lothian  
 Joint Director of Health & Social Care, Midlothian

**SUMMARY PAPER - INTEGRATION OF HEALTH AND SOCIAL CARE: INTEGRATION SCHEMES**

This paper aims to summarise the key points in the full paper.

The relevant paragraph in the full paper is referenced against each point.

<p>Consider and approve the following integration schemes to submit to Scottish Government</p> <ul style="list-style-type: none"> <li>▪ East Lothian Integration Scheme</li> <li>▪ Edinburgh Integration Scheme;</li> <li>▪ West Lothian Integration Scheme;</li> <li>▪ Midlothian Integration Scheme</li> </ul>	<p>Appendices 1,2, 3, 4</p>
<p>Agree to delegate school nursing and health visiting to East Lothian and Midlothian IJBs in the first phase rather than phase two as had been originally planned</p>	<p>2.4.3</p>
<p>Agree to delegate HMP Addiewell and HMP Edinburgh prison healthcare services to Edinburgh IJB.</p>	<p>2.4.3</p>
<p>Agree that if amendments are required to be made to the Integration Schemes by Scottish Government after submission that these changes can be authorised by the Chief Executive and the Chairman on behalf of the Board.</p>	<p>2.6.3</p>

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27 February 2015  
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## **NHS Lothian**

Board Meeting  
4 March 2015

Director of Strategic Planning, Performance Reporting & Information  
Joint Director, West Lothian Community Health & Care Partnership  
Joint Director of Health & Social Care, Edinburgh  
Joint Director of Health & Social Care, East Lothian  
Joint Director of Health & Social Care, Midlothian

### **INTEGRATION OF HEALTH AND SOCIAL CARE: INTEGRATION SCHEMES**

#### **1 Purpose of the Report**

- 1.1 The purpose of this report is to invite the Board to approve for submission to Scottish Government the four Integration Schemes required in Lothian to establish the Integration Joint Boards (IJBs). The Board received and approved for consultation the Midlothian and East Lothian Integration Schemes in December 2014 and the West Lothian and Edinburgh Schemes in January 2015.
- 1.2 This report is directly relevant to one of the 2014/15 corporate objectives (No 11): *“Improve integration of care by creating four Integrated Joint Boards in line with the Public Bodies (Scotland) Act.”*

Any member wishing additional information should contact the Executive Lead in advance of the meeting.

#### **2 Recommendations**

- 2.1.1 Consider and approve for final approval to submit the following to Scottish Government:
- East Lothian Integration Scheme
  - Edinburgh Integration Scheme;
  - West Lothian Integration Scheme;
  - Midlothian Integration Scheme
- 2.1.2 Agree to delegate school nursing and health visiting to East Lothian and Midlothian IJBs in the first phase rather than phase two as had been originally planned.
- 2.1.3 Agree to delegate HMP Addiewell and HMP Edinburgh prison healthcare services to Edinburgh IJB.
- 2.1.4 Agree that if amendments are required to be made to the Integration Schemes by Scottish Government after submission that these changes can be authorised by the Chief Executive and the Chairman on behalf of the Board.

2.1.5 Agree to the actions listed in 2.5.2 to ensure that the IJB members are involved in overseeing the carrying out of integration functions

## 2.2 Discussion of Key Issues

2.2.1 The Public Bodies (Joint Working) (Scotland) Act 2014 received Royal Assent on 1 April 2014 with a requirement for Local Authorities and Health Boards to jointly submit Integration Schemes for Ministerial approval by 31 March 2015. NHS Lothian is required to jointly prepare and submit four Integration Schemes, one for each Local Authority area in Lothian.

2.2.2 Each Integration Scheme must include all matters described in the Public Bodies (Joint Working) (Integration Scheme) (Scotland) Regulations 2014. The prescribed information is to be agreed between the Health Board and the relevant Local Authority.

2.2.3 The four Councils must also approve the Integration Schemes and will intend to so on the dates set out in the table below.

	Approval of final Integration Scheme prior to submitting to Scottish Government
East Lothian Council	10 March
Edinburgh Council	12 March
Midlothian Council	24 March
West Lothian Council	10 March

## 2.3 Consultation

2.3.1 Public Consultations were held for each Integration Schemes. The Integration Scheme and supporting documents were available online on the Council and Health Board Internet and Intranet. There were 142 responses to the consultations (91 in Midlothian, 23 in Edinburgh, 9 in East Lothian and 19 in West Lothian). Most responses to the consultation were received from this mechanism. The Schemes were also discussed with key groups and committees (e.g the Area Clinical Forum responded to the four Integration Schemes, Healthcare Governance discussed the Schemes and EVOC organised a workshop with interested third sector organisations to discuss the scheme and provide a response to the Edinburgh consultation.

2.3.2 Scottish Government were consulted informally on the Schemes and provided valuable feedback on the changes they considered to be required to improve the content of the Integrations Schemes.

2.3.3 The main themes to emerge from the consultation were:

- The need for strong representation from third sector organisations on the IJB and Strategic Planning Groups which the IJBs will need to consider once established
- Support for the approach to use existing structures for clinical and care governance structures but also concern that this may not deliver an integrated approach to governance. This section has been refined to respond to the consultation process.

- Support for the delegation of additional functions but some concerns about the impact on the relationship with functions that will not be delegated (e.g. education services). The IJBs and the Parties of the Integration Schemes will need to ensure that relationships are maintained with functions that have not been delegated.
- Difficulty in understanding a complex legal document and some complaints on the short length of the consultation which was driven by the national process

## 2.4 Delegation of additional functions

2.4.1 The Board has agreed in December that the following additional healthcare functions as they related to provision for people under the age of 18 will be delegated to the four Integration Joint Boards.

- Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
- General Dental Services, Public Dental Services and the Edinburgh Dental Institute
- General Ophthalmic Services
- General Pharmaceutical Services
- Out of Hours Primary Medical Services
- Learning Disabilities

2.4.2 The Local Authorities are also empowered under the Regulations to delegate additional functions to the Integration Joint Board. The additional Council functions that will be delegated to the IJB are described in the table below:

	Additional Local Authority Functions delegated to the IJB
<b>Midlothian IJB</b>	Criminal Justice Social Work
<b>East Lothian IJB</b>	Criminal Justice Social Work Youth Justice Social Work
<b>Edinburgh IJB</b>	No additional functions
<b>West Lothian IJB</b>	No additional functions

2.4.3 During the consultation process it was determined that there are additional functions that should be delegated to the IJBs. These are:

	Additional Functions
<b>Midlothian IJB</b>	School Nursing and Health Visiting
<b>East Lothian IJB</b>	School Nursing and Health Visiting
<b>Edinburgh IJB</b>	Prison Health Care Service in HMP Addiewell and HMP Edinburgh

## 2.5 Operational Oversight of the Integration Joint Board

- 2.5.1 At the January Board meeting the role of operational oversight of the IJB was described in the paper titled "Integration of health and social care: integration schemes". In summary the expectation of Scottish Government is that the Integration Joint Board is fully responsible for the carrying out of functions that have been delegated to it. However as it cannot employ or contract staff, it requires to direct the Health Board and the local authority to deliver services on its behalf. The Health Board and the local authority will therefore always be responsible in law for the delivery of services. The effect of this is that the operational governance of integration functions will be a combination of the governance activities of the Integration Joint Board and the governance activities of the Health Board and the local authority.
- 2.5.2 This means that governance responsibility lies across three organisations (the Health Board, the Local Authority and the Integration Joint Board). In preparing the Schemes cognisance has been made to this arrangement whilst seeking to minimise duplication of governance functions. Therefore the principle followed in developing the Integration Schemes has been that existing governance structures will be amended to provide governance for the IJB and that the IJB will have the authority to develop additional governance committees if these are required.

The integration scheme sets out detailed measures on the governance of integration functions throughout the text. Over and above those measures, the parties in East Lothian, Midlothian and Edinburgh will ensure that the IJB members are involved in overseeing the carrying out of integration functions through the following measures:

- The terms of reference and membership of the relevant committees of the parties shall be reviewed, and the IJB will be consulted as part of this process (and all future reviews).
- In order to develop a sustainable long term solution for the oversight of the integration functions by the IJBs, a working party will be convened, with membership from all four Lothian IJBs and the parties. This working party will develop recommendations for approval by the Lothian IJBs

In West Lothian the Council and NHS Lothian will ensure that their respective standing orders, schemes of delegation and other governance documents are amended (if required) to reflect the IJB's power and remit.

## 2.6 Next stage

- 2.6.1 Providing NHS Lothian and the relevant Council approve the Integration Scheme it will be submitted to Scottish Government before the 1<sup>st</sup> April 2015, the deadline set in the Regulations.
- 2.6.2 Scottish Government has advised that the process to approve the Integration Schemes will take 12 weeks. During this period Scottish Government will review the schemes and liaise with partnerships to obtain information or clarity. The Cabinet Secretary will sign-off the Integration Scheme at week 8 and then the Order will be laid in Parliament for 28 days. After this the IJB can be legally constituted.

2.6.3 There may be further changes required to the Integration Schemes as a result of the Scottish Government process. Any changes are likely to be minor because Scottish Government has been informally advising on the content of the draft Integration Schemes. In order to facilitate this process the Board is requested to delegate authorisation of any changes to the Chief Executive and the Chairman.

### **3 Key Risks**

There is an entry on the corporate risk register relating to health and social care integration and the preparation of integration schemes (risk ID: 3567). However such is the scope of functions covered by the Act, arguably integration has a bearing on all the Board's corporate objectives, and risks at all levels of the Board's risk management system.

### **4 Risk Register**

The following risk is recorded on the NHS Lothian risk register.

'There is a risk that the Board and its Partners fail to submit agreed integration plans that satisfy the Scottish Government requirements to agreed timescales resulting in a failure to meet its legal responsibilities (Public Bodies Joint Working Act)'.

NHS Lothian must follow instruction in the Regulations to ensure that Integration Plans are submitted by 31 March 2015.

### **5 Impact on Inequality, Including Health Inequalities**

5.1 An Impact assessment was completed on February 10<sup>th</sup> between representatives from NHS Lothian the four Local Authorities in Lothian. The Impact Assessment will be published on the NHS Lothian website. The main negative impacts identified from the EQIA were:

- The objective to reduce use of hospital-based services will increase the burden of care in the community. This may have a negative impact on carers and especially women who make up a higher proportion of informal carers in Lothian.
- The ambition to reduce inequalities is unlikely to be achieved by IJBs alone because of the wider determinants of ill health. Community Planning will have a much greater influence in reducing inequalities so the relationship between the CPP and the IJB will be important. This issue will be raised by NHS Lothian with the IJBs with the recommendation that IJB members ensure there is a robust and effective relationship between the IJB, its Strategic Planning Group and the Community Planning Partnership.

### **6 Involving People**

6.1 There has been a collaborative approach to the development of the Integration Schemes between Health Board and Local Authority staff. There was a public and staff consultation held for each Integration Scheme.

## **7 Resource Implications**

- 7.1 There are no resource implications from this paper but there are substantial resource implications from the implication of the Act and the changes being proposed in terms of establishing governance and management arrangements. These require to be worked through during the course of the consultation and in establishing the Integration Joint Boards and the setting agreed budgets for the first year, which we are describing as a transitional year.

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**Final Integration Scheme  
(Body Corporate)**

**Edinburgh Integration Joint Board**

**26 February 2014**

**Version 1.3**

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## **Preamble: Aims of the Scheme and Vision for the IJB**

The vision of the Parties for the IJB is to work together for a caring, healthier, safer Edinburgh.

The work of the IJB will be guided by the integration delivery principles as stated in the Act, and will contribute to the achievement of agreed health and wellbeing outcomes.

The Parties' ambition for the IJB is as follows:

- (a) In Edinburgh, the successful integration of health and social care will mean that people experience improved health and wellbeing; and that inequalities, including health inequalities, are reduced.
- (b) Services will become more focused on outcomes for individuals and will always be planned with and around people and local communities, who will be active partners in the design, delivery and evaluation of these services.
- (c) The Parties will work collaboratively to embed the shared vision within staff teams, to develop, train and support staff from all organisations to work together to respond appropriately and to put the needs of people we work with first.
- (d) The Parties will deploy their shared resources in the most cost effective way to achieve better outcomes for people, to maximise the efficiencies from coordination of care and to allow public funds to go further to meet demand.
- (e) The IJB will work in partnership with each of the Parties and their staff, with third sector organisations, independent sector providers and most importantly people and communities themselves, using best practice approaches in engagement and involvement, to deliver improved and fully-integrated health and social care services for the people of Edinburgh.
- (f) The IJB will respect the principles of equality, human rights, and independent living, and will treat people fairly.

The provisions within this preamble are not intended to create legally binding obligations.

## **Integration Scheme**

**between**

**The City of Edinburgh Council**, constituted under the Local Government etc (Scotland) Act 1994 and having its principal office at Waverley Court, 4 East Market Street, Edinburgh EH8 8BG (“**CEC**”);

**and**

**Lothian Health Board**, established under section 2(1) of the National Health Service (Scotland) Act 1978 (operating as “NHS Lothian”) and having its principal offices at Waverley Gate, Waverley Gate, 2-4 Waterloo Place, Edinburgh EH1 3EG (“**NHS Lothian**”)

(together the “**Parties**”, and each a “**Party**”)

## **Background**

- A. The Parties are required to comply with either subsection (3) or (4) of section 2 of the Act, and have elected to comply with subsection (3) such that the Parties must jointly prepare an integration scheme (as defined in section 1(3) of the Act) for the Edinburgh Area.
- B. In preparing this Scheme, the Parties (a) have had regard to the integration planning principles set out in section 4(1) of the Act and the national health and wellbeing outcomes prescribed by the Public Bodies (Joint Working)(National Health and Wellbeing Outcomes)(Scotland) Regulations 2014, (b) have complied with the provisions of section 6(2) of the Act and (c) have followed the guidance issued by the Scottish Ministers regarding the governance arrangements that are considered by Scottish Ministers to provide the requisite degree of integration; and in finalising this Scheme, the Parties have taken account of any views expressed by virtue of the consultation processes undertaken under section 6(2) of the Act.

The Parties agree as follows:

### **1. Definitions and Interpretation**

- 1.1 The following definitions shall apply throughout this integration scheme and the preamble, except where the context otherwise requires:

“Act” means the Public Bodies (Joint Working) (Scotland) Act 2014;

“Edinburgh Area” means the local authority area served by CEC;

“IJB” means the Integration Joint Board for the City of Edinburgh Council area, to be established by Order under section 9 of the Act;

“IJB Budget” means the total funding available to the IJB in the relevant financial year as a consequence of:

- a) the payment for delegated functions from NHS Lothian under Section 1(3) (e) of the Act;
- b) the payment for delegated functions from CEC under Section 1(3) (e) of the Act; and
- c) the amount “set aside” by NHS Lothian for use by the IJB for functions carried out in a hospital and provided for the areas of two or more local authorities under Section 1(3)(d) of the Act;

“Integration Joint Boards Order” means the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014;

“Integration Scheme Regulations” means the Public Bodies (Joint Working) (Integration Scheme) (Scotland) Regulations 2014;

“Lothian IJBs” means the integration joint boards to which functions are delegated in pursuance of the integration schemes in respect of the local authority areas served by CEC, East Lothian Council, Midlothian Council and West Lothian Council respectively;

“Neighbouring IJBs” means the Lothian IJBs excluding the IJB;

“Operational Budget” means the amount of the payment made from the IJB to a Party in order to carry out delegated functions;

“Outcomes” means the health and wellbeing outcomes prescribed by the Scottish Ministers in Regulations under section 5(1) of the Act;

“Relevant Date” means the date on which the IJB is established by order under section 9 of the Act;

“Scheme” means this integration scheme;

“Standing Orders” means the standing orders for the regulation of the procedure and business of the IJB prepared in accordance with the Integration Joint Boards Order;

“Strategic Plan” means the plan which an integration joint board is required to prepare, in accordance with section 29 of the Act, in relation to the functions delegated to that integration joint board in pursuance of an integration scheme in respect of the relevant local authority area; and, except in its application to a strategic plan prepared or under preparation by one of the Neighbouring IJBs, means the strategic plan which the IJB is required to prepare in respect of the Edinburgh Area;

1.2 Words and expressions defined in the Act shall bear the same respective meanings in the Scheme, unless otherwise defined in the Scheme.

1.3 References to Sections are to the sections of this Scheme.

1.4 References to Annexes are to the annexes to this Scheme and references to Parts are to parts of the relevant Annex.

## **2. The Model to be Implemented**

2.1 The integration model set out in section 1(4)(a) of the Act will apply in relation to the Edinburgh Area, namely the delegation of functions by each of the Parties to a body corporate (an “integration joint board”) that is to be established by Order under section 9 of the Act.

2.2 This Scheme comes into effect on the Relevant Date.

## **3. Local Governance Arrangements**

### **3.1 Membership**

3.1.1 The IJB shall have the following voting members:

- a. 5 councillors nominated by CEC
- b. 5 members nominated by NHS Lothian in compliance with articles 3(4) and 3(5) of the Integration Joint Boards Order.

3.1.2 The Parties may determine their own respective processes for deciding who to nominate as voting members of the IJB.

3.1.3 Non-voting members of the IJB will be appointed in accordance with regulation 3 of the Integration Joint Boards Order.

3.1.4 The term of office of members shall be as prescribed by regulation 7 of the Integration Joint Boards Order.

### **3.2 Chairperson and vice chairperson**

3.2.1 The IJB shall have a chairperson and a vice-chairperson who will both be voting members of the IJB.

3.2.2 The term of office for the chairperson and the vice-chairperson will be two years.

3.2.3 The right to appoint the chairperson and vice-chairperson respectively shall alternate between each of the Parties on a two-year cycle, on the basis that during any period when the power to appoint the chairperson is vested in one Party, the other Party shall have power to appoint the vice-chairperson.

3.2.4 NHS Lothian shall appoint the chairperson, and CEC the vice-chairperson for the initial two year period from the Relevant Date.

3.2.5 The chairperson shall not have a casting vote.

3.2.6 Each Party may change its appointment as chairperson (or, as the case may be, vice chairperson) at any time; and it is entirely at the discretion of the Party which is making the appointment to decide who it shall appoint.

### **3.3 Disqualification, Resignation, Removal, Voting and other matters**

The provisions of articles 8 to 19 (but excluding article 14) of the Integration Joint Boards Order shall apply in relation to the IJB.

## **4. Delegation of Functions**

4.1 The functions that are to be delegated by NHS Lothian to the IJB (subject to the exceptions and restrictions specified or referred to in Parts 1A and 1B of Annex 1) are set out in Parts 1A and 1B of Annex 1. For indicative purposes only, the services currently provided by NHS Lothian in carrying out these functions are described in Part 2 of Annex 1.

4.2 The functions that are to be delegated by CEC to the IJB (subject to the restrictions and limitations specified or referred to in Part 1 of Annex 2) are set out in Part 1 of Annex 2. For



indicative purposes only, the services which are currently provided by CEC in carrying out these functions are described in Part 2 of Annex 2.

## **5. Local operational delivery arrangements**

### **Operational Role of IJB**

- 5.1.1 The IJB must direct the Parties to carry out each of the functions delegated to the IJB. A direction in relation to a given function may be given to one or other of the Parties, or to both Parties. The primary responsibility for delivering capacity (that is to say, activity and case mix) in respect of the services associated with the carrying out of a given function shall lie with the IJB, and shall be reflected in the directions issued from time to time by the IJB. Subject to the provisions of the Act and the Scheme, the Parties are required to follow those directions.
- 5.1.2 The IJB shall oversee delivery of the services associated with the functions delegated to it by the Parties. The Integration Joint Board is the only forum where health and social care functions for the Edinburgh Area are governed by members of both NHS Lothian and CEC. Accordingly NHS Lothian and CEC agree that the primary focus for performance management in respect of delivery of the delegated functions will be at the Integration Joint Board.
- 5.1.3 NHS Lothian and CEC will provide performance information so that the IJB can develop a comprehensive performance management system.
- 5.1.4 The IJB performance management reports will be available to both NHS Lothian and CEC for their use in their respective performance management systems. However it is expected that the voting members of the IJB will take responsibility for performance management at the IJB, and will provide an account of highlights and/or exceptional matters to meetings of NHS Lothian and CEC.
- 5.1.5 In the interests of efficient governance, the relevant committees of NHS Lothian and CEC will continue to discharge their existing remits for assurance and scrutiny of the carrying out of NHS Lothian and CEC functions, regarding matters such as internal control, quality and professional standards, and compliance with the law. The Integration Joint Board will not duplicate the role carried out by those committees other than in exceptional circumstances where the IJB considers that direct engagement by the IJB (or by a committee established by the IJB) is appropriate in order to secure the proper discharge by the IJB of its statutory responsibilities.

- 5.1.6 Each of the Parties shall use reasonable endeavours to procure that in the event that one of its committees identifies an issue which is of direct and material relevance to the Integration Joint Board, the chair of that committee will advise the Chair of the Integration Joint Board and the Chief Officer of that matter and will co-operate with the IJB (liaising as appropriate with any relevant committee established by the IJB) in supplying such further information and evidence in respect of that matter as the IJB may reasonably request.
- 5.1.7 The Parties shall ensure that their respective standing orders, schemes of delegation and other governance documents are amended (if and in so far as required) to reflect the IJB's powers and remit, and its place as a common decision-making body within the framework for delivery of health and social care within the Edinburgh Area.
- 5.1.8 The voting members of the Integration Joint Board are councillors of CEC and non-executive directors (or other board members) of NHS Lothian. In their capacity as councillors and non-executive directors, they will be engaged in the governance of their respective constituent bodies, and it is likely that they will be members of one or more committees of those constituent bodies.
- 5.1.9 Given the overall vision as outlined in the preamble to the Scheme, it is the intention that the interests of NHS Lothian, CEC, and the Integration Joint Board should be integrated. In all matters associated with the work of the Integration Joint Board, the voting members of the Integration Joint Board will be expected by the Parties to play a crucial role in:
- (a) communicating, and having due regard to, the interests of NHS Lothian or (as the case may be) CEC, but on the understanding that, in carrying out their role as a member of the Integration Joint Board, their primary duties and responsibilities are those which attach to them in that capacity;
  - (b) communicating, and having due regard to, the interests of the Integration Joint Board whilst discharging their role as a councillor or (as the case may be) as a non-executive director, but on the understanding that, in carrying out their role as a councillor or non-executive director, their primary duties and responsibilities are those which attach to them in that capacity.
- 5.1.10 Without prejudice to the role of the voting members of the Integration Joint Board (as specified above) in relation to oversight of operational delivery of services in accordance with directions issued to either or both of the Parties by the Integration Joint Board, the Integration Joint Board will, through the Chief Officer, have an

appropriate role in the operational delivery of services by the Parties in the carrying out of integration functions. The Parties acknowledge that the Chief Officer's role in operational delivery will represent an important means by which closer integration of services, in accordance with the integration delivery principles specified in the Act, can be achieved. For the avoidance of doubt, the Chief Officer's role in operational delivery shall not displace

- (a) the responsibilities of each Party regarding compliance with directions issued by the Integration Joint Board; or
- (b) the principle that each Party's governance arrangements must allow that Party to manage risks relating to service delivery.

5.1.11 In addition to the measures specified above, the Parties will use all reasonable endeavours to ensure that the members of the IJB are fully involved in overseeing the carrying out of integration functions through the following measures:

- (a) The terms of reference, membership and reporting arrangements of the relevant committees of the Parties shall be reviewed shortly after the establishment of the IJB and periodically thereafter, with a view to reinforcing the principles of integration and reflecting the role of the IJB and its members; and the IJB will be consulted in the context of each of such reviews;
- (b) In order to develop an optimum solution for the oversight of integration functions by the members of the IJB, a working party will be convened, with membership drawn from all four Lothian IJBs and from the Parties; the working party will develop recommendations in this regard for approval by the IJB.

5.1.12 In addition to the specific commitments set out above and the obligations regarding provision of information attaching to the Parties under the Act, each of the Parties will use reasonable endeavours to provide the Integration Joint Board with any information which the Integration Joint Board may reasonably require from time to time to support its responsibilities regarding strategic planning, performance management, and public accountability.

## Support for Strategic Planning

- 5.1.13 The Parties will provide the IJB with all information that it may reasonably require to prepare its Strategic Plan, including information that is pertinent specifically to localities.
- 5.1.14 The Parties will advise the IJB of any intention to change service provision where that change would have a significant impact on the Strategic Plan.
- 5.1.15 The Parties will support the IJB in ensuring that the consultation process associated with the preparation of each Strategic Plan for the Edinburgh Area includes other integration authorities likely to be affected by the Strategic Plan. The integration authorities that are most likely to be affected by the Strategic Plan for the Edinburgh Area are:
- (a) East Lothian integration joint board
  - (b) Midlothian integration joint board
  - (c) West Lothian integration joint board.
- 5.1.16 NHS Lothian will procure that reciprocal provisions to those set out in Sections 5.1, 5.2 and to 5.3 are contained in the integration schemes of the Neighbouring IJBs.
- 5.1.17 The Parties will provide appropriate support (through the measures specified in Section 5.1.18) with a view to ensuring that the IJB can:
- (a) effectively engage in all of the planning processes and support the Neighbouring IJBs in discharging their role, including contributing to the work of the Strategic Planning Groups for the Neighbouring IJBs as required;
  - (b) provide such information and analysis as Neighbouring IJBs reasonably require for the production of their Strategic Plans
  - (c) inform Neighbouring IJBs as to how the services, facilities and resources associated with the functions delegated to the IJB by the Parties are being or are intended to be used with respect to carrying out of those functions in line with these planning processes;

- (d) in a situation where Strategic Plans in one area are likely to have an impact on the plans in another area, ensure that these matters are raised with other relevant integration joint boards and resolved in an appropriate manner.
- (e) in a situation where Strategic Plans in another area are likely to have an impact on the Edinburgh Area, ensure that these matters are raised and any associated risks are mitigated for the benefit of service users.
- (a)

5.1.18 The measures referred to in Section 5.1.17 are as follows:

- (a) The Chief Officers for the Lothian IJBs sharing information and working collaboratively, taking reasonable steps to ensure that each of the Lothian IJBs is aware of emerging proposals intended to be described in any of the Strategic Plans which are under preparation by the Lothian IJBs;
- (b) Regular meetings between the Chief Officers for the Lothian IJBs and relevant managers of NHS Lothian to provide the Chief Officers with an opportunity to communicate any proposed changes likely to be required by their integration joint boards which will impact on service provision for the population served by another integration joint board and to allow NHS Lothian managers to make the Chief Officers of the Lothian IJBs aware of any new developments which could have a bearing on Strategic Plans.
- (c) Regular meetings between the Chief Officer of the IJB and relevant senior officers of CEC to provide the Chief Officer with an opportunity to communicate any proposed changes likely to be required by the IJB which may impact on service provision for other services delivered by CEC, and to allow CEC senior officers to make the Chief Officer aware of any developments which could have a bearing on the Strategic Plan.

5.1.19 In addition, a template will be introduced for the IJB, with the support of each of the Parties, to help to ensure that all major strategic matters are considered in light of the potential impact on Neighbouring IJBs, and on services provided by the Parties which are not delivered in the course of carrying out functions delegated to the IJB.

## **5.2 Lothian Hospitals Strategic Plan**

- 5.2.1 NHS Lothian will develop a plan (the “**Lothian Hospitals Strategic Plan**”) to avoid destabilisation of hospital provision and to support the Lothian IJBs to achieve their purpose. The Lothian Hospitals Strategic Plan will encompass both functions delegated to the Lothian IJBs and functions that are not so delegated.
- 5.2.2 The Lothian Hospitals Strategic Plan will be developed in partnership with the Lothian IJBs where integration functions are delivered by NHS Lothian in a hospital. It will reflect the relevant provisions of the Strategic Plans prepared by the respective Lothian IJBs, as well as NHS Lothian plans for non delegated functions. The first Lothian Hospitals Strategic Plan will be published by 1 December 2015
- 5.2.3 The purpose of the Lothian Hospitals Strategic Plan is to ensure that planning for hospital functions and use of hospital facilities is:
- (a) responsive to and supports each Strategic Plan prepared by the Lothian IJBs for delegated functions; and
  - (b) supports the requirement of NHS Lothian to deliver hospital services required by the IJB and other hospital services that are not the responsibility of the Lothian IJBs (e.g. tertiary, trauma, surgical, planned and children’s services).
- 5.2.4 The Lothian Hospitals Strategic Plan will be a plan developed jointly by NHS Lothian and the Lothian IJBs. The elements of the Lothian Hospitals Strategic Plan addressing non delegated functions can only be agreed by the NHS Lothian Board after the four Lothian IJBs have been consulted and their views and requirements appropriately considered. Elements of the Lothian Hospitals Strategic Plan which cover functions delegated to the respective Lothian IJBs will be signed off by relevant Lothian IJBs in consultation with NHS Lothian and all Lothian IJBs.
- 5.2.5 The Lothian Hospitals Strategic Plan will be updated at least every three years; the process to update the plan (which will include appropriate consultation) will be led by NHS Lothian.

## **5.3 Professional, technical or administrative support services**

- 5.3.1 In the short term, the Parties will continue to use the arrangements that have already been put in place to provide professional, technical and administrative support to

Community Health Partnerships, social care services and joint working more generally.

5.3.2 In order to develop a sustainable long term solution, a working party will be convened, with membership from NHS Lothian and the four local authorities which prepared integration schemes for the Lothian IJBs. This working party will develop recommendations for approval by NHS Lothian, the four local authorities, and the Lothian IJBs.

5.3.3 Key matters that the working party will address are:

- (a) understanding the needs of the Lothian IJBs (in relation to functions delegated to them), as well as the continuing needs of the Parties (for non-delegated functions);
- (b) defining what is meant by “professional, technical or administrative services”;
- (c) systems to appoint the Chief Officer and Chief Finance Officer, as well as addressing their requirements for support;
- (d) bringing all these elements together and devising a pragmatic and sustainable solution.

5.3.4 The working party will link in with any ongoing initiatives that are pertinent to its agenda, so that all relevant work is co-ordinated. Any changes will be taken forward through the existing systems in NHS Lothian and CEC for consultation and managing organisational change.

5.3.5 As soon as the proposals have been finalised by the working party and agreed by NHS Lothian and the four local authorities which prepared the integration schemes for the Lothian IJBs, a draft agreement will be prepared reflecting the agreed proposals. The draft agreement will be adjusted in line with discussions among the parties, and, as soon as the terms have been finalised, it is intended that the agreement will then be formally executed by NHS Lothian, the four local authorities, and the Lothian IJBs (including the IJB).

#### **5.4 Performance targets, improvement measures and reporting arrangements**

5.4.1 All national and local outcomes, improvement measures and performance targets which are connected exclusively with the functions delegated by the Parties to the IJB

under the Scheme will become the responsibility of the IJB to deliver; and the IJB will also be responsible for providing all such information regarding integration functions which is required by either of the Parties to enable each of them to fulfil its obligations regarding reporting arrangements in respect of those functions.

- 5.4.2 Where particular national or local outcomes, measures or targets (and associated reporting arrangements) relate to services which are associated with both integration functions and functions which are not delegated by a Party to the IJB, the responsibility for the outcomes, measures or targets (and associated reporting arrangements) will be shared between the IJB and the Party or Parties which exercise those functions, and the IJB will be responsible for providing all such information regarding those integration functions as is required by the relevant Party to enable it to fulfil its obligations regarding reporting arrangements.
- 5.4.3 A set of shared principles will be developed and agreed between the Parties for targets and measurement based on existing best practice.
- 5.4.4 A core group of senior managers and relevant support staff from each Party will develop the performance framework for the IJB, taking account of relevant national guidance. In addition, a collaborative approach will be adopted with wider partners involved in the strategic planning group to develop a holistic approach to performance across the whole system. The framework will be underpinned by the Outcomes and will be developed to drive change and improve effectiveness. The framework will be informed by an assessment of current performance arrangements across the whole system and the development of a set of objectives which the framework will be intended to achieve.
- 5.4.5 A core set of indicators and measures will be identified by the Parties from publicly accountable and national indicators and targets which relate to services delivered in carrying out the functions delegated to the IJB.
- 5.4.6 An integration dataset (“**Integration Dataset**”) will be created for the IJB. This will include information on the data gathering, reporting requirements and accountability for each of these measures and targets and including, in relation to each target, the extent to which responsibility is to transfer to the IJB. This work will be shared with and reviewed by the IJB and amended as appropriate following such review.
- 5.4.7 Indicators will be aligned with the priority areas identified in the joint strategic needs assessment and the Strategic Plan and will be refined as these documents are reviewed and refreshed. These priority areas will be aligned with all the indicators



within the Integration Dataset and will be linked to the Outcomes to demonstrate progress in delivering these.

5.4.8 The Parties have obligations to meet targets for functions which are not delegated to the IJB, but which are affected by the performance and funding of integration functions. Therefore, when preparing performance management information, the Parties agree that the effect on both integration and non-integration functions must be considered and details must be provided of any targets, measures and arrangements for the IJB to take into account when preparing the Strategic Plan. Where responsibility for performance measures and targets is shared, this will be set out clearly for agreement by the relevant Parties.

5.4.9 The Integration Dataset will include information on functions which are not delegated to the IJB. Either one of the Parties, or the IJB, will be able to reasonably require information of that nature to be included within the Integration Dataset.

5.4.10 The principles for an Integration Dataset will be prepared by the Parties by 1 April 2015 and this will be reviewed and developed into the Integration Dataset during the strategic planning process in 2015. A final Integration Dataset will be submitted for approval by the IJB and the Parties before 1 March 2016.

5.4.11 The Integration Dataset will be reviewed on at least an annual basis, through a process similar to that outlined above.

## **6. Clinical and Care Governance**

### **6.1 Introduction**

6.1.1 The Parties are to delegate certain of their respective clinical and care functions to the IJB in accordance with Section 4 of the Scheme. The Parties have had regard to their continuing duties regarding clinical and care governance as well as the integration planning principles (as set out in the Act) and the Outcomes when preparing the Scheme .

6.1.2 This section of the Scheme sets out the arrangements that will be put in place to allow the IJB to fulfil its role with professional advice and with appropriate clinical and care governance in place.

- 6.1.3 The Parties have well established governance systems (including committees of NHS Lothian and Committees of CEC, to provide governance oversight in terms of clinical and care governance, as well as assurance for professional accountabilities. Those existing systems will continue following the establishment of the IJB and their scope will be extended so as to support the IJB in fulfilling its clinical and care governance responsibilities.
- 6.1.4 Continuous improvement and the quality of service delivery (and its impact on outcomes) will be addressed through the development of the IJB's performance management framework pursuant to Section 5 of the Scheme.
- 6.1.5 The arrangements for local operational oversight by the IJB as Specified in section 5 will also apply to clinical and care governance.
- 6.1.6 Within its existing governance framework, NHS Lothian has:
- (a) a healthcare governance committee, the remit of which is to provide assurance to the Board of NHS Lothian that the quality of all aspects of care in NHS Lothian is person-centred, safe, effective, equitable and maintained to a high standard and to provide assurance to the Board of NHS Lothian that NHS Lothian meets its responsibilities with respect to:-
    - i. NHS Lothian participation standards
    - ii. Volunteers/Carers
    - iii. information governance
    - iv. Protection of vulnerable people including children, adults, offenders
    - v. Relevant statutory equalities duties;
- and
- (b) a staff governance committee, the remit of which is to support and maintain a culture within NHS Lothian where the delivery of the highest possible standard of staff management is understood to be the responsibility of everyone working within NHS Lothian and is built upon partnership and collaboration. The staff governance committee must ensure that robust arrangements to implement the (NHS Scotland) Staff Governance Standard are in place and monitored.
- 6.1.7 The staff governance committee has the primary role on staff governance matters, but can and does refer matters of relevance to the healthcare governance committee.

- 6.1.8 The healthcare governance committee can request assurance from the staff governance committee on matters of direct relevance to its remit, e.g. quality of recruitment, learning and development, completion of mandatory training.
- 6.1.9 Within CEC, the Chief Social Work Officer has overall responsibility for the professional standards of CEC's social work and social care staff. The workforce is also regulated by the Scottish Social Services Council (SSSC), and all social work professional staff must by law be registered with the SSSC. This registration requirement will, in due course, extend to all social care staff employed by CEC and the voluntary and independent sectors. Allied health professionals are required to register with their relevant professional body.
- 6.1.10 The Chief Social Work Officer reports annually to CEC on the registration of the workforce and on training, including mandatory training and post-qualifying learning and development. The Chief Social Work Officer will provide a copy of this annual report to the IJB.
- 6.1.11 The Chief Social Work Officer also reports annually to CEC on standards achieved, governance arrangements and volume/quantity of statutory functions discharged. This report must comply with national guidance issued by the Scottish Government. The Chief Social Work officer will provide a copy of this annual report to the IJB.
- 6.1.12 For the avoidance of doubt, the rationale for using the relevant existing NHS Lothian and CEC committees (and associated arrangements) as a primary source of assurance for the IJB regarding clinical and care governance is that, following the establishment of the IJB, the Parties will have continuing governance responsibilities for both delegated and non-delegated functions and, against that background, the use of existing NHS Lothian and CEC committees avoids unnecessary bureaucracy. The IJB will be engaged through its membership on these committees and its relationship with the chairs of these committees. The IJB will be in a position to holistically consider the information and assurance received from the Parties in exercising its functions. If at any time the IJB is not satisfied with the information or assurance that it receives from the Parties, or with the effectiveness of the Parties' committees, it may address the issues of concern (a) by requesting a Party to take appropriate steps to revise its clinical and care governance systems, or (b) by revising its own clinical and care governance systems.

## 6.2 Professional advice

There is a risk that a Strategic Plan and/or a direction issued by the IJB could have a negative impact on clinical and care governance and/or on professional accountabilities. This section of the Scheme sets out the arrangements that will be put in place to avoid this.

- 6.2.1 NHS Lothian's Board has within its executive membership three clinical members (referred to below as "**Executive Clinical Directors**"): a Medical Director, a Nurse Director, and a Director of Public Health. Their roles include responsibility for the professional leadership and governance of the clinical workforce (medical, nursing, allied health professionals, healthcare scientists, psychology, pharmacy), as well as clinical governance within NHS Lothian generally. The creation of the IJB does not change their roles in respect of professional leadership, and they remain the lead and accountable professionals for their respective professions.
- 6.2.2 CEC has a Chief Social Work Officer who reports to the Chief Executive and councillors. The Chief Social Work Officer monitors service quality and professional standards in social care and social work, for staff employed in both adult and children's services, together with standards in relation to the protection of people at risk. The Chief Social Work Officer role also includes quality assurance of decision-making with regard to adult social care, mental health, criminal justice and children's services, in particular in relation to public protection and the deprivation of liberty.
- 6.2.3 The creation of an IJB does not change the Chief Social Work Officer's role in respect of professional leadership, and he or she will remain the lead and accountable professional for his or her profession.
- 6.2.4 The Chief Social Work Officer must be a non-voting member of the IJB
- 6.2.5 The IJB may elect to appoint one or both of the Medical Director and Nurse Director as additional non-voting members of the IJB.
- 6.2.6 The Integration Joint Boards Order requires NHS Lothian to fill the following non-voting membership positions on the IJB:
  - (a) a registered medical practitioner whose name is included in the list of primary medical services performers prepared by the Health Board in accordance with Regulations made under Section 17P of the National Health Service (Scotland) Act 1978;

- (b) a registered nurse who is employed by the Health Board or by a person or body with which the Health Board has entered into a general medical services contract; and
  - (c) a registered medical practitioner employed by the Health Board and not providing primary medical services.
- 6.2.7 NHS Lothian will consider the advice of the Executive Clinical Directors, and of any other relevant officer it deems fit, before making appointments to fill the membership positions referred to in Section 7.2.6. The appointees will be professionally accountable to the relevant Executive Clinical Director.
- 6.2.8 NHS Lothian will develop a role description for the appointments referred to in Section 7.2.6, to ensure that their role on the IJB with regard to professional leadership and accountability is clearly defined and understood.
- 6.2.9 The three health professional representatives referred to in Section 7.2.6 will each also be:
  - (a) a member of an integrated professional group (should it be established), and/or
  - (b) a member of an NHS Lothian Board committee, and/or
  - (c) a member of a consultative committee established by NHS Lothian.
- 6.2.10 If a new 'integrated professional group' is established, then the Chief Social Work Officer must also be a member.
- 6.2.11 The three health professional representatives set out in Section [7.2.6] and the Chief Social Work Officer will be expected by the Parties to play a lead role in:
  - (a) communicating and having regard to their duties to NHS Lothian or CEC as the case may be whilst discharging their role as a member of the IJB;
  - (b) communicating and having regard to the interests of the IJB whilst discharging their duties as professionals employed by NHS Lothian or (as the case may be) CEC.
- 6.2.12 The members will be expected to communicate regularly with the Executive Clinical Directors, and CEC's Chief Executive as and when appropriate.

- 6.2.13 The presence of these four members will ensure that the decisions of the IJB are informed by professional advice from within the membership of the IJB.
- 6.2.14 As noted in Section 7.1.10, the Chief Social Work Officer reports annually to CEC on the registration of the workforce and on training, including mandatory training and post-qualifying learning and development.
- 6.2.15 NHS Lothian includes a governance statement in its annual accounts, the content of which is informed by the annual reports of its governance committees (such as healthcare governance and staff governance) and certificates of assurance from its Executive Clinical Directors. The IJB may place reliance on these existing processes, and the Parties will provide any such reports from those processes as the IJB may require.
- 6.2.16 The Executive Clinical Directors shall be entitled to raise issues directly with the IJB in writing. The IJB shall be required to respond in writing when issues are raised in this way. The Chief Social Work Officer will be a non-voting member of the IJB, and can therefore raise any issues directly at the IJB.
- 6.2.17 The engagement of professionals throughout the process to develop and consult on the Strategic Plan, is intended to ensure that the IJB has all the required information to prepare a Strategic Plan which will not compromise professional standards.
- 6.2.18 In the unlikely event that the IJB issues a direction to NHS Lothian which is reasonably likely to compromise professional standards, then in the first instance the relevant Executive Clinical Director will write to the IJB.
- 6.2.19 If the issue is not resolved to his/her satisfaction, he/she must inform the Board of NHS Lothian before it takes action to implement the direction, and the following measures will apply:
- (a) the relevant Executive Clinical Director must ensure that appropriate advice is tendered to the Board of NHS Lothian on all matters relating to professional standards;
  - (b) the relevant Executive Clinical Director must set out in writing to the Board of NHS Lothian any objections he/she may have on a proposal that may compromise compliance with professional standards;

- (c) the Board of NHS Lothian will inform the IJB that it has received such objections, along with a statement of the views of the Board of NHS Lothian on those objections;
- (d) if the Board of NHS Lothian decides to proceed with a proposal despite those objections, then the relevant Executive Clinical Director must obtain written authority from the Board of NHS Lothian to act on the proposal. The Board of NHS Lothian must inform the Scottish Government Health & Social Care Directorate if a request for such a written authority is made. A copy of that authority must be sent to the appropriate regulatory body, e.g. General Medical Council;
- (e) once the relevant Executive Clinical Director has received that written authority, then he/she must comply with it;

6.2.20 Regardless of whether written authority has been given, the Executive Clinical Directors, in their capacity as members of the board of NHS Lothian, should always vote against a proposal that they cannot endorse as accountable officers. It is not sufficient to abstain from a decision.

6.2.21 The three professional clinical members on the IJB (two medical practitioners, one nurse) are non-voting members. They will be expected by the Executive Clinical Directors to raise any concerns in relation to matters which may compromise professional standards with the IJB.

6.2.22 If any of the three professional clinical members becomes aware of a matter arising from the conduct of IJB business which may compromise professional standards, he/she must immediately notify the Chief Officer of the IJB of his/her concerns, and if his/her concerns are not resolved by the Chief Officer to his/her satisfaction, must then raise the matter with the Chief Executive of NHS Lothian.

6.2.23 The Chief Social Work Officer will be a non-voting member of the IJB, and as such, will contribute to decision-making, and will provide relevant professional advice to influence service development.

6.2.24 In the event that the IJB issues an instruction to a Party which in the view of the Chief Social Work Officer compromises professional social work standards or the discharge of statutory functions, the Chief Social Work Officer must immediately notify the Chief Officer of the IJB of his/her concerns, and if his/her concerns are not resolved by the Chief Officer to his/her satisfaction, must then raise the matter with the Chief Executive of CEC.

### **6.3 Professionals Informing the IJB Strategic Plan**

6.3.1 With regard to the development and approval of its Strategic Plan, the IJB is required by the Act to:

- (a) establish a strategic planning group (which will review the draft Strategic Plan). This strategic planning group must include a nominee from each Party in its membership, as well as representation from health professionals and social care professionals. The Parties will make recommendations to the IJB with regard to the representation from health professionals and social care professionals;
- (b) formally consult both Parties on its Strategic Plan, and take into account their views before it finalises the Strategic Plan.

6.3.2 There will be three opportunities within these arrangements for professional engagement in the planning process;

- (a) at the IJB
- (b) in the context of the work of the strategic planning group; and
- (c) as part of the consultation process with the Parties associated with the Strategic Plan.

6.3.3 The membership of the IJB will not be the only source of professional advice available to the IJB. In advance of the establishment of the IJB, the Parties agree that the chairs of all appropriate committees and groups will be informed that they are able to, and expected to, directly provide advice to the IJB. Those committees and groups may also advise an integrated professional group that provides advice to the IJB. Those committees and groups include, but are not limited to:

- (a) Area Clinical Forum
- (b) Local consultative committees that have been established under Section 9 of the National Health Service (Scotland) Act 1978.
- (c) Managed Clinical/ Care Networks



- (d) Edinburgh Public Protection Committees (adult and child protection, drug and alcohol, violence against women, offender management etc). The IJB will consult these committees on any plans that may impact on the protection of children or vulnerable adults or people who are assessed as posing a risk
- (e) any integrated professional group which may be established.

6.3.4 The shadow arrangements established within the Shadow Edinburgh Health and Social Care Partnership will be reviewed in light of the legislation and guidance, in order to determine whether any new professional committees need to be established.

6.3.5 The Parties will ensure that the draft Strategic Plan is sent to the following senior professionals in order to secure their input and advice:

- (a) NHS Lothian Medical Director
- (b) NHS Lothian Nurse Director
- (c) NHS Lothian Director of Public Health & Health Policy
- (d) NHS Lothian Allied Health Professions Director
- (e) Chief Social Work Officer.

6.3.6 The engagement of CEC professionals will not be limited to social work staff, but will extend to related professionals within social care, such as, but not exclusively, occupational therapists, home care and social care staff.

6.3.7 The approach to locality planning and delivery including the arrangements for clinical and social care governance will be developed through the strategic planning process in a collaborative manner and determined by the IJB.

#### **6.4 External scrutiny of clinical and care functions**

6.4.1 NHS Lothian seeks assurance for internal control/quality through its Healthcare Governance Committee, which includes reports by external bodies such as Healthcare Improvement Scotland.

6.4.2 The Care Inspectorate (Social Care and Social Work Improvement Scotland) regulates, inspects and supports improvement of adult and children's social work and social care, and its reports feed into CEC's system of governance.

6.4.3 The IJB will consequently be informed of any relevant issues from external scrutiny, as a consequence of drawing from the systems already established by the Parties.

## **6.5 Service User and Carer Feedback**

6.5.1 The Parties have a range of systems already in place to capture and respond to service users' experience, and these will continue to be used as the Parties implement the directions of the IJB.

6.5.2 As part of the wider strategic planning process, (particularly the joint strategic needs assessment process) and the performance management framework, existing work streams on (a) standards and quality improvement and (b) service user feedback will be used to inform how the IJB can address the integration delivery principles and deliver on the Outcomes.

## **7. Chief Officer**

7.1 The Chief Officer will be appointed by the IJB; he/she will be employed by one of the Parties and will be seconded to the IJB. .

7.2 The Chief Officer will provide a strategic leadership role as principal advisor to and officer of the IJB and will also have an appropriate role in the operational delivery of services by the Parties in the carrying out of integration functions. The Chief Officer will lead the development and delivery of the Strategic Plan for the IJB and will be accountable to the IJB for the content of the directions issued to the Parties by the IJB and for monitoring compliance by the Parties with directions issued by the IJB. The Chief Officer's role in operational delivery will represent an important means by which closer integration of services, in accordance with the integration delivery principles specified in the Act, can be achieved.

7.3 The Chief Officer will be jointly managed by both Parties in respect of operational delivery and will report directly to the Chief Executive of NHS Lothian and the Chief Executive of CEC. There will be a joint process for regular performance reviews, support and supervision with both Chief Executives. Some delegated functions are to be operationally managed on a hosted basis within the area served by the Lothian IJBs. Annex 3 provides an illustrative view of how these may be operationally managed, including the relationship to the respective Chief Officers of the Lothian iJBs.

- 7.4 Annual objectives for the Chief Officer will be agreed and the process will involve the chairperson of the IJB agreeing objectives with the Chief Officer relevant to his/her role with the IJB as well as the Chief Executives of CEC and NHS Lothian. The Chief Officer's performance against those annual objectives will be monitored through an agreed performance management framework established by the Party which is his/her employer.
- 7.5 If an interim replacement for the Chief Officer of the IJB is required, in accordance with a request from the IJB to that effect (on the grounds that the Chief Officer is absent or otherwise unable to carry out his/her functions), the Chief Executives of CEC and NHS Lothian will initiate a joint selection process, identifying a list of potential replacements; and selection of a suitable candidate will be undertaken against a set of agreed criteria. The interim replacement will be employed by one of the Parties and will be seconded to the IJB on an interim basis.

## **8. Workforce**

- 8.1 A human resources and organisational development working group established by the Parties has prepared a work plan for integrating the health and social care workforce in Edinburgh. This group includes NHS Lothian partnership representatives and trade union representatives from CEC. The work plan guiding the work of the group includes a number of work streams, two of which focus on the implementation of an integrated senior management model and an organisational development plan respectively.
- 8.2 The organisational development plan, agreed between the Parties, is currently being implemented. This is a comprehensive plan which covers staff communication, staff engagement, staff and team development, leadership development and the training needs for those staff members who will be responsible for managing integrated teams. In particular, it includes procurement of team and leadership development programmes.
- 8.3 A workforce plan will be developed for the IJB to support the implementation of the Strategic Plan. The workforce plan will take into account the workforce supply and demand challenges that will need to be addressed in order to be able to implement the Strategic Plan.
- 8.4 Both the organisational development plan and workforce plan will be finalised following completion of the first Strategic Plan and will be refreshed annually to ensure that they take account of the Strategic Plan and the development needs of staff engaged in the delivery of integrated functions.
- 8.5 The Lothian-wide work plan for 2014 / 2015 guiding the group referred to in Section 9.1 is already agreed by the Parties. It will be reviewed in April 2015 and annually thereafter.

## **9. Finance**

### **9.1 Financial Governance**

#### ***Appointment of a Chief Finance Officer***

- 9.1.1 The IJB will make arrangements for the proper administration of its financial affairs. This will include the appointment of a Chief Finance Officer with this responsibility.
- 9.1.2 The IJB will have regard to the current CIPFA guidance on the role of the chief financial officer in local government when appointing to this finance role. A job description will be developed with due regard to Scottish Government guidance in terms of financial functions.
- 9.1.3 The Chief Finance Officer will be employed by CEC or NHS Lothian and seconded to the IJB.
- 9.1.4 In the event that the Chief Finance Officer position is vacant, the Chief Officer shall secure, through agreement with both the CEC Section 95 officer and the NHS Lothian Director of Finance, an appropriate interim dedicated resource to discharge the role.

#### ***Financial Management of the IJB***

- 9.1.5 The IJB will determine its own internal financial governance arrangements; and the Chief Finance Officer will be responsive to the decisions of the IJB, and the principles of financial governance set out in this Scheme.

#### ***Principles of Financial Governance***

- 9.1.6 The following principles of financial governance shall apply:
- (a) The Parties have agreed to establish the IJB as a “joint operation” as defined by IFRS 11;
  - (b) The Parties will work together in a spirit of openness and transparency.

### ***Financial Governance***

- 9.1.7 CEC and NHS Lothian agree to the establishment of an IJB Budget (as defined in Section 1 of the Scheme). The Chief Officer will manage the IJB Budget. .
- 9.1.8 The Parties are required to implement the directions of the IJB in carrying out a delegated function in line with the Strategic Plan, provided that the costs incurred by the relevant Party in implementing a direction shall be met in full by the IJB.
- 9.1.9 The Parties will apply their established systems of financial governance to the payments they receive from the IJB. The NHS Lothian Accountable Officer and the CEC Section 95 Officer have legally defined responsibilities and accountability for the financial governance of their respective bodies.
- 9.1.10 The Chief Officer in his/her operational role within NHS Lothian and CEC is responsible for the financial management of any Operational Budget, and is accountable for this to the NHS Lothian Chief Executive and CEC Section 95 officer.
- 9.1.11 The IJB will develop its own financial regulations. The Chief Finance Officer will periodically review these financial regulations and present any proposed changes to the IJB for its approval.
- 9.1.12 CEC will host the IJB financial accounts and will be responsible for recording the IJB financial transactions through its existing financial systems, including the ability to establish reserves.
- 9.1.13 The IJB's Chief Finance Officer will be responsible for preparing the IJB's accounts and ensuring compliance with statutory reporting requirements as a body under the relevant legislation.
- 9.1.14 The IJB's Chief Finance Officer will also be responsible for preparing a medium-term financial plan to be incorporated into the Strategic Plan. The IJB's Chief Finance Officer will also be responsible for preparing the annual financial statement that the IJB must publish under Section 39 of the Act, which sets out what the IJB intends to spend in implementation of the Strategic Plan.

9.1.15 The Chief Finance Officer will be responsible for producing finance reports to the IJB, ensuring that those reports are comprehensive.

9.1.16 The Chief Finance Officer will liaise closely with the CEC Section 95 officer and the NHS Lothian Director of Finance and their teams in order to discharge all aspects of his/her role. Section 6 of the Scheme sets out the process the Parties will undertake to determine how professional, technical and administrative services (including, without limitation, finance support) will be provided to the IJB.

## **9.2 Payments to the IJB (made under Section 1(3) (e) of the Act)**

9.2.1 The Parties will agree annually a schedule of payments (covering their respective calculated payments for the financial year in accordance with the Strategic Plan) to the IJB . This schedule of payments will be agreed within the first 30 working days of each new financial year.

9.2.2 It is expected that the net difference between payments into and out from the IJB will result in a balancing payment between CEC and NHS Lothian which reflects the effect of the directions of the IJB in accordance with the Strategic Plan.

### ***Payments to the IJB***

9.2.3 The Parties will apply their respective financial planning processes to arrive at a core baseline Operational Budget for each function delegated to the IJB; this will be used to calculate their respective payments to the IJB for the financial year in question.

### ***Hosted Services***

9.2.4 Some of the functions that will be delegated by NHS Lothian to all four Lothian IJBs are currently provided as part of a single Lothian-wide service, (referred to below as “**Hosted Services**”). As such there is not currently a separately identifiable budget for Hosted Services allocated to each local authority area.

9.2.5 In order to identify the core baseline budget for each of the Hosted Services in each local authority area, NHS Lothian will initially determine which of the following methodologies is the most appropriate in representing the distribution of the delivery of those services in each local authority area and their respective populations at a given point in time:

- (a) local activity and cost data for each service within each local authority area;
- (b) population distribution across the local authority areas;
- (c) patient level activity and cost data;
- (d) historically applied and recognised percentages.

9.2.6 CEC and the IJB will review the proposals from NHS Lothian referred to above, as part of a due diligence process, and the core baseline budget will be jointly agreed.

***Due Diligence***

9.2.7 The Parties will share information on the financial performance over the previous two financial years of the functions which will be delegated to the IJB (and the services associated with the carrying out of those functions). This will allow the Parties to undertake appropriate reviews to gain assurance that the services are currently being delivered sustainably within approved resources, and that the anticipated initial payments will be sufficient for the IJB to fund the carrying out of the functions delegated to it.

9.2.8 Where a Party reasonably believes in relation to a function which it is to delegate to the IJB, that there is potential for the actual expenditure to vary significantly from projections, it will identify that function, and will ensure that sufficient information is provided to the IJB so that it may build up its working knowledge of the issues, and focus on those functions within their systems for risk management and financial reporting..

9.2.9 This process of due diligence will be applied in future years, and this will be informed by, amongst other things, the intelligence within the financial performance reports covering all integration functions that the IJB will routinely receive.

***Determining the schedules for the Initial Payments***

9.2.10 The CEC Section 95 officer and the NHS Lothian Director of Finance are responsible for preparing the draft schedules for their respective constituent authorities setting out the initial payment to the IJB. The CEC Section 95 officer and the NHS Lothian

Director of Finance will consult with the Chief Officer (designate) and officers of both Parties as part of this process.

9.2.11 The CEC Section 95 officer and the NHS Lothian Director of Finance will each prepare a draft schedule outlining the detail and total value of the proposed payment from each Party, and the underlying methodology and assumptions behind that payment. These draft schedules will identify any amounts included in the payments that are subject to separate legislation or subject to restrictions stipulated by third party funders. The draft schedules will also contain the detail and total value of set aside resources for hospital services, made under Section 1(3) (d) of the Act.

9.2.12 The CEC Section 95 officer and the NHS Lothian Director of Finance will refer the draft schedules to the Chief Officer (designate) so that he/she has an opportunity to formally consider it. This draft schedule must be agreed by the Director of Finance of NHS Lothian, the CEC Section 95 Officer and the Chief Officer (designate). The CEC Section 95 officer and the NHS Lothian Director of Finance will thereafter present the final draft schedules to CEC and NHS Lothian for approval in line with their respective governance procedures.

***Subsequent Section 1(3) (e) Payments to the IJB***

9.2.13 The calculation of payments in each subsequent financial year will follow the same processes as are described above for the initial payment subject to the following:

- (a) the starting position will be the payments made to the IJB in the previous financial year;
- (b) the Parties will then review the payments, having due regard to any known factors that could affect core baseline budgets, available funding, their existing commitments, the results of their own financial planning processes, the previous year's budgetary performance for the functions delegated to the IJB, the IJB's performance report for the previous year, and the content of the Strategic Plan;
- (c) the Parties will also have due regard to the impact of any service re-design activities that have been a direct consequence of IJB directions;
- (d) the Parties will engage the IJB, Chief Officer, and Chief Financial Officer in the process of calculating payments for subsequent financial years through the following arrangements:



- (e) both Parties will provide indicative three year allocations to the IJB, subject to annual approval through their respective budget setting processes;
- (f) the Parties will ensure that the Chief Officer and Chief Finance Officer are actively engaged in their financial planning processes. The Chief Officer will be expected to feed into the respective planning processes of the Parties with any intelligence that is relevant, such as the effect of previous directions on activity and expenditure, and projected changes in activity and expenditure.

***The set-aside of resources for use by the IJB under Section 1(3) (d) of the Act***

9.2.14 In order to identify the core baseline budget for each of the set aside functions in each local authority area, NHS Lothian will initially determine which of the following methodologies is the most appropriate in representing the distribution of the delivery of those services in each local authority area and their respective populations at a given point in time:

- (a) local activity and cost data for each service within each local authority area;
- (b) population distribution across the local authority areas;
- (c) patient level activity and cost data;
- (d) historically applied and recognised percentages.

9.2.15 CEC and the IJB will review the proposals from NHS Lothian referred to above, as part of a due diligence process, and the core baseline budget for the set-aside functions will be jointly agreed by CEC, NHS Lothian and the IJB.

***Process to agree payments from the IJB to NHS Lothian and CEC***

9.2.16 The IJB will determine and approve, in accordance with the Strategic Plan, the payments to the Parties which will accompany its directions to them for carrying out functions delegated to the IJB. The Party receiving a direction from the IJB shall implement it to the extent its costs in doing so are met by the payment received from the IJB.

9.2.17 Each direction from the IJB to a Party will take the form of a letter from the Chief Officer referring to the arrangements for delivery set out in the Strategic Plan and will include information on:

- (a) the delegated function(s) that are to be carried out;
- (b) the outcomes to be delivered for those delegated functions;
- (c) the amount of and method of determining the payment to be made, in respect of the carrying out of the delegated functions.

9.2.18 Once issued, directions can be amended by a subsequent direction by the IJB.

9.2.19 Where amounts paid to the IJB are subject to separate legislation or subject to restrictions stipulated by third party funders, the IJB must reflect these amounts in full, in determining the level of the payments to be made to CEC and/or NHS Lothian in respect of the carrying out of the relevant function or functions. However, the IJB is not precluded from increasing the resource allocated to the relevant services.

### **9.3 Financial Reporting to the IJB**

9.3.1 Budgetary control and monitoring reports (in such form as the IJB may reasonably request from time to time) will be provided to the IJB as and when reasonably required. The reports will set out the financial position and outturn forecast against the payments by the IJB to each Party in respect of the carrying out of integration functions and against the amount set aside by NHS Lothian for hospital services. These reports will present the actual and forecast positions of expenditure for delegated functions and highlight any financial risks and areas where further action is required by the IJB to manage its budget pressures.

9.3.2 NHS Lothian will provide reports to the IJB on the set aside budget in accordance with Section 9.3.1 above.

9.3.3 Through the process of reviewing the professional, technical and administrative support to the IJB, and the development of accounting for the set-aside, the Parties will devise a sustainable model to support financial reporting to the new IJB. Until that model is in place, both Parties will provide the required information from their respective finance systems, and this will be co-ordinated and consolidated by the

Chief Finance Officer to provide reports to the IJB on all the IJB's integration functions.

#### **9.4 Process for addressing variance in the spending of the Integration Joint Board**

##### ***Treatment of forecast over- and under-spends against the Operational Budget***

- 9.4.1 The Integration Joint Board is required to deliver its financial outturn for a given financial year within the IJB Budget applicable to that financial year...
- 9.4.2 The Parties will ensure that their respective budget monitoring and management systems will be applied to monitor and manage their expenditure in relation to delivery of integrated functions in accordance with directions issued to them by the IJB.
- 9.4.3 Where financial monitoring reports indicate that an overspend is forecast on the Operational Budget, the Chief Officer should take immediate and appropriate remedial action to endeavour to prevent the overspend.
- 9.4.4 In the event that such remedial action will not prevent the overspend, the IJB Chief Finance Officer will develop a proposed recovery plan to address the forecast overspend. The Chief Finance Officer will then present that recovery plan to the IJB as soon as practically possible. The recovery plan will be subject to the approval of the IJB.

##### ***Additional Payments by the Parties to the Integration Joint Board***

- 9.4.5 Where such a recovery plan is projected to be unsuccessful and an overspend occurs at the financial year end, and there are insufficient reserves to meet the overspend, then the Parties may consider making additional payments to the Integration Joint Board.
- 9.4.6 NHS Lothian and CEC will consider making interim funding available on a basis to be agreed between the Parties, with repayment in future years on the basis of the revised recovery plan by the IJB. If the revised plan cannot be agreed by NHS Lothian and CEC or is not approved by the IJB, the dispute resolution arrangements provided for in the Scheme will apply.

### ***Underspends***

9.4.7 In the event of an underspend in the Operational Budgets, the following shall apply:

- (a) if the underspend is fortuitous, and unrelated to any direction by the IJB, then the underspend shall be returned to the relevant Party (through a corresponding reduction in the payments to be made by it to the IJB);
- (b) the IJB will retain all other underspends.

9.4.8 The IJB can hold reserves. It is a matter for the IJB to determine what its reserves strategy will be.

### ***Treatment of variations against the amounts set aside for use by the IJB***

9.4.9 A process will be agreed between NHS Lothian and the IJB to manage any variations within the set-aside budget. This process will reflect any variations in the activity that was used to establish the set-aside budget. Any cost variations will be managed in the same way as overspends and underspends within the Operational Budgets as specified above.

9.4.10 The Parties agree that the primary responsibility for providing the capacity required in terms of the relevant direction issued by the IJB within the resources allocated by the IJB (being the amount of the set-aside amount specified in the relevant direction) shall lie with NHS Lothian.

## **9.5 Redetermination of payments (made under Section 1(3)(e)) to the IJB**

9.5.1 Redeterminations of payments made by CEC and NHS Lothian for the carrying out of integration functions would apply under the following circumstances:

- (a) additional one off funding is provided to a Party or Parties by the Scottish Government, or some other body, for expenditure in respect of a function delegated to the IJB;
- (b) the Parties agree that an adjustment to the payment is required to reflect changes in demand and/or activity levels;

(c) there is a transfer of resources between set aside hospital resources and integrated budget resources delegated to the IJB and managed by the Chief Officer.

9.5.2 The Parties and the IJB would be required to agree to the redetermination. The Parties would apply the process used to calculate the payment to the IJB to the affected functions and the Strategic Plan would require to be amended accordingly.

9.5.3 Any agreed additional payments shall be added to the schedule of payments for the financial year in question.

#### **9.6 Redetermination of payments (made under Section 1(3)(d)) to the IJB**

A process will be agreed between NHS Lothian and the IJB to manage any redetermination of payments within the set-aside budget. This process will reflect any variations in the activity that was used to establish the set-aside budget. Any cost variations will be managed in the same way as overspends and underspends within the Operational Budgets as specified above.

#### **9.7 Use of Capital Assets**

9.7.1 The IJB, NHS Lothian and CEC will identify all capital assets which will be used in the delivery of the Strategic Plan. Further to this, the associated revenue and future capital liabilities will be identified for each asset

9.7.2 An agreement will be developed which specifies and regulates the use (in relation to integration functions) of capital assets belonging to one Party by the other Party, or jointly by both Parties. A similar agreement will specify and regulate the use by the IJB, in the carrying out of its functions, of assets belonging to the Parties. These agreements will be updated as required.

9.7.3 Changes in use of capital assets will flow from the Strategic Plan and the directions issued by the IJB to the Parties. The Strategic Plan process will outline any implications or requirements for capital assets.

9.7.4 The Parties will ensure that their respective capital asset planning arrangements take due cognisance of the above implications and requirements.

9.7.5 The Chief Officer of the IJB will consult with CEC and NHS Lothian to identify the specific need for improvements/changes to assets owned by each which may be

required in connection with the carrying out of integration functions. Where a capital investment need is identified, the Chief Officer will present a business case to CEC and NHS Lothian to make best use of existing resources and develop capital programmes. Any business case will set out how the investment will meet the strategic objectives set out in the Strategic Plan and identify the ongoing revenue costs/savings associated with implementation of the proposals.

- 9.7.6 The IJB, CEC and NHS Lothian will work together to ensure that assets required in connection with the carrying out of integration functions are used as effectively as possible and in compliance with the relevant legislation relating to use of public assets.

### ***Financial Statements and External Audit***

- 9.7.7 The legislation requires that the IJB is subject to the audit and accounts provisions of a body under Section 106 of the Local Government (Scotland) Act 1973 (Section 13). This will require audited annual accounts to be prepared with the reporting requirements specified in the relevant legislation and regulations (Section 12 of the Local Government in Scotland Act 2003 and regulations under section 105 of the Local Government (Scotland) Act 1973). These will be proportionate to the limited number of transactions of the IJB whilst complying with the requirements for transparency and true and fair reporting in the public sector.
- 9.7.8 The reporting requirements for the annual accounts are set out in legislation and regulations and will be prepared following the CIPFA Local Authority Code of Practice.
- 9.7.9 The Chief Finance Officer of the IJB will supply any information required to support the development of the year-end financial statements and annual report for both NHS Lothian and CEC. Both NHS Lothian and CEC will need to disclose their interest in the IJB as a joint arrangement under IAS 31 and comply in their annual accounts with IAS 27. Both NHS Lothian and CEC will report the IJB as a related party under IAS 24.
- 9.7.10 The IJB financial statements must be completed to meet the audit and publication timetable specified in the regulations (Regulations under section 105 of the Local Government (Scotland) Act 1973). The Parties will agree a timetable for the

preparation of the IJB's annual accounts, which will incorporate a process to agree any balances between the Parties and the IJB.

9.7.11 The Accounts Commission will appoint the external auditors to the IJB.

9.7.12 The financial statements will be signed in line with the governance arrangements for the IJB and as specified in the Regulations under section 105 of the Local Government (Scotland) Act 1973.

9.7.13 In all forms of audit, the Parties are expected to comply with related requests and to aid the audit process.

## **10. Participation and Engagement**

### **10.1 Consultation in the development of the Scheme**

10.1.1 The development of the Scheme has involved consultation with:

- (a) the groups represented on the shadow strategic planning group (the "SPG") established by the Parties as set out in the regulations issued under the Act. (further details of such groups being set out in Annex 4);
- (b) the service user and carer members of the shadow Integration Joint Board established by the Parties, and their wider networks; and
- (c) groups and fora that represent a combination of staff (practitioners and clinicians) service users and service providers (further details of such groups and fora being set out in Annex 5).

10.1.2 A collaborative three stage approach was adopted:

- (d) Stage 1 – officers of NHS Lothian and CEC produced a first draft in line with guidance and in discussion with a range of professionals
- (e) Stage 2 – a wide consultation was undertaken, following the framework for 'Consulting Edinburgh' with the groups and fora referred to in Section 10.1.1(c) above, including members of the Shadow Strategic Planning Group.

- (f) Stage 3 – a second draft was prepared by NHS Lothian and CEC (which included adjustments to reflect points arising from the consultation process) for submission to the Scottish Ministers.

## **10.2 Participation and engagement strategy in relation to decisions about carrying out integration functions**

- 10.2.1 The Parties recognise the importance of building on existing approaches of engagement and participation and will support the IJB to produce a strategy for engagement with, and participation by members of the public, representative groups or other organisations in relation to decisions about the carrying out of integration functions as set out in this Section 10.2.
- 10.2.2 A draft of the IJB's participation and engagement strategy has been produced for consultation with key stakeholders, and with the public, using the 'Consulting Edinburgh' electronic portal.
- 10.2.3 The draft participation and engagement strategy will be amended following consultation and submitted to the IJB for approval.
- 10.2.4 The ongoing development of the participation and engagement strategy will be achieved using a collaborative approach, involving the membership of the strategic planning group and will be underpinned by the very best practice in participation and involvement approaches.
- 10.2.5 It is envisaged that the strategic planning group will take both an advisory and active role in the undertaking of future participation and engagement around the implications of service development and re-design.
- 10.2.6 The action plan for delivering the strategy will be reviewed at regular meetings of the strategic planning group and if necessary, changes will be recommended for approval by the IJB, to take account of new audiences or service design and re-design.
- 10.2.7 CEC's 'Consulting Edinburgh' framework will be used for engagement; and NHS Lothian has contributed to the development of the consultation framework that supports the approach and has agreed to follow the framework and make use of the consultation hub (a digital platform) to launch future consultations. Further details are set out in Annex 6.



10.2.8 The IJB Participation and Engagement Strategy will be produced before the date when the IJB approves the Strategic Plan. When the IJB approves the Strategic Plan, the members of the IJB must be satisfied that the Strategic Plan has had sufficient consultation and that the Participation and Engagement Strategy has been followed.

## **11. Information-Sharing and Data Handling**

- 11.1 There is an existing and long standing Pan-Lothian and Borders General Information Sharing Protocol, to which NHS Lothian, CEC, East Lothian Council, Midlothian Council and West Lothian Council are all signatories. This is currently being reviewed by a sub group on behalf of the Pan-Lothian Data Sharing Partnership for any minor modifications required to comply with the Integration Scheme Regulations. The final Protocol, following consultation, will be recommended for signature by Chief Executives of the respective organisations, and the Chief Officers of the Lothian IJBs, on behalf of the Data Sharing Partnership.
- 11.2 The Pan-Lothian and Borders General Information Sharing Protocol update will be agreed by 31 March 2015.
- 11.3 Procedures for sharing information between the relevant local authority, Health Board, and, where applicable, the relevant integration joint board will be drafted as Information Sharing Agreements and procedure documents. This will be undertaken by a sub group on behalf of the Pan-Lothian Data Sharing Partnership, who will detail the more granular purposes, requirements, procedures and agreements for each of the Lothian IJBs and the functions respectively delegated to them.
- 11.4 CEC and NHS Lothian will continue to be Data Controller for their respective records (electronic and manual), and will detail arrangements where these are jointly controlled by agreement. The IJB may require to be Data Controller for personal data if it is not held by either CEC or NHS Lothian.
- 11.5 Procedures will be based on a single point of governance model. This allows data and resources to be shared; with governance standards and their implementation being the separate responsibility of each organisation.
- 11.6 Following consultation, Information Sharing Protocols and procedure documents will be recommended for signature by the Chief Executives of the respective organisations, and by the Chief Officers of the Lothian IJBs(once established).
- 11.7 Once established, Agreements and Procedures will be reviewed bi-annually by the sub group of the Pan-Lothian Data Sharing Partnership, or more frequently if required.

11.8 The Information Sharing Agreements and procedures applicable to the IJB will be agreed by 31 March 2015.

## **12. Complaints**

12.1 People who use services provided in pursuance of integration functions will continue to make complaints either to CEC or to NHS Lothian. Both organisations have in place well publicised, clearly explained and accessible complaints procedures that allow for timely recourse and signpost independent advocacy services, where relevant.

12.2 Complaints about the delivery of an integration function may be made to, and dealt with by, the Party which is required to deliver that function in pursuance of a direction issued by the IJB or (in a case where the direction is issued in respect of a given function to both constituent authorities jointly) to either of those constituent authorities.

12.3 When responding to complaints about a service which is delivered jointly, officers responsible for complaints handling within CEC and NHS Lothian will discuss the complaint, and identify which elements that are the subject of the complaint will be investigated by each Party, and agree which Party will prepare the written response at the end of the investigation. Failing agreement, the Chief Officer acting reasonably will decide which of the constituent authorities should prepare the written response and this will be signed by the Chief Officer.

12.4 Any investigation will be carried out in line with the published complaints procedure of the relevant Party, mindful of any statutory complaints handling arrangements that might apply. It will be the responsibility of the Party preparing the written response to ensure that the complainant is correctly signposted to the options open to him/her to progress his/her complaint if he/she remains dissatisfied.

12.5 On completion of the complaints procedure, complaints about specific social work functions may be referred to a Complaints Review Committee (CRC) at the complainant's request and thereafter the Scottish Public Services Ombudsman. At the end of the complaints process, complainants are entitled to take their complaint to the Scottish Public Services Ombudsman. Where appropriate, complainants will also be advised of their right to complain to the Care Inspectorate.

12.6 The Chief Officer will have an overview of complaints made about integration services and subsequent responses. Complaints about integration services will be recorded and reported to the Chief Officer on a regular and agreed basis. Regular trend analysis of complaints and complaint outcomes will also be carried out as part of a wider quality assurance framework.

- 12.7 Responsibility for responding to Scottish Public Services Ombudsman complaints enquiries will lie with the Party that dealt with the original complaint.
- 12.8 Where necessary, officers responsible for complaints handling within CEC and NHS Lothian will work together to provide a full response to any Scottish Public Services Ombudsman enquiry that covers both health and social care functions.
- 12.9 All independent contractors involved in the delivery of services associated with an integration function will be required to have a complaints procedure. Where complaints are received about the service provided by an independent contractor, the relevant Party will refer the complaint to the independent contractor in the first instance, either providing contact details or by passing the complaint on, depending on the preferred approach of the complainant. Complaints received about independent contractors will be recorded for contract monitoring purposes.
- 12.10 Complaints about the IJB should be made to the chairperson of the IJB. Staff within CEC and NHS Lothian will support the Chief Officer with the investigation and written response to the complainant, which will be signed by the Chief Officer.
- 12.11 The Parties will work together to align their complaints processes in as far as reasonably practicable and put in place a joint working protocol to adopt an integrated approach to complaints handling, so that the process of making a complaint is as simple as possible for service users and complaints about services associated with integration functions are responded to clearly, thoroughly and timeously. This joint working protocol will identify the lead organisation for each service which is delivered jointly and will include the contact details of officers responsible for managing any complaints received.
- 12.12 For the avoidance of doubt:
- 12.12.1 the Parties and the IJB shall use all reasonable endeavours, in implementing their respective complaints processes, to avoid taking any step which could prejudice the ability of either Party (or the IJB, where applicable) to access the benefit of any relevant insurance policy or, as the case may be, the CNORIS scheme in the event of any claim associated with the event or circumstances which are the subject of the complaint;
- 12.12.2 any claim for compensation shall be dealt with in accordance with the provisions of Section 13, and not in accordance with the provisions of this Section 12.

### **13. Claims Handling, Liability & Indemnity**

- 13.1 The liability of either or both Parties and/or the IJB in respect of any claim that may be made by a third party in relation to any matter connected with the carrying out of integration functions shall be determined in accordance with principles of common law and/or any applicable legislation.
- 13.2 Where a claim by a third party is received by either of the Parties or the IJB in relation to any matter connected with the carrying out of integration functions (the body receiving such a claim being referred to as the "Claim Recipient"), the Claim Recipient, shall, as soon as reasonably practicable, notify the other Party and the IJB (or, in the case of a claim received by the IJB, both Parties); and the Parties and the IJB (each being bound to act reasonably in this respect) shall then jointly assess:
- 13.2.1 which of them could be held to be liable (whether wholly or partly) in relation to the claim were it to be upheld by the court; and
- 13.2.2 (where two or more of them could potentially be liable) which of them is more likely to carry the primary liability.
- 13.3 For the avoidance of doubt, in the circumstances referred to in Section 13.2:
- 13.3.1 the Claim Recipient may acknowledge receipt of the claim, but shall avoid taking any step (without the prior written consent of the other Party and the IJB; or, in the case of a claim received by the IJB, the prior written consent of both Parties) which could prejudice the defence of the claim, pending completion of the assessment referred to in that Section; and
- 13.3.2 the Claim Recipient shall provide such information available to it as may be required to facilitate any formal intimation or other steps which either Party or the IJB may require to take under the terms of any relevant insurance policy or (as the case may be) the CNORIS scheme.
- 13.4 Where, on the basis of the assessment carried out in pursuance of Section 13.2, it is considered that only the Claim Recipient could be held to be liable in relation to the claim should it be upheld by the court, the Claim Recipient may conduct the defence of the claim and any associated negotiations as it sees fit, but shall continue to keep the others informed in that regard.

- 13.5 Where, on the basis of the assessment carried out in pursuance of Section 13.2, it is considered that the other Party and/or the IJB (or, in the case of a claim received by the IJB, both Parties) could be held to be liable in relation to the claim should it be upheld by the court, the Claim Recipient shall, following that assessment:
- 13.5.1 provide the other body or bodies which (on the basis of that assessment) could be liable in respect of the claim, with all such information in relation to the claim as is available to the Claim Recipient;
- 13.5.2 allow that other body or bodies (and/or its or their insurers or, as the case may be, the relevant officers acting under the CNORIS scheme) to conduct the defence of the claim and any associated negotiations, subject to that other body or bodies indemnifying the Claim Recipient in relation to any loss or liability (including legal expenses on a solicitor-client basis, and any award of expenses) which the Claim Recipient might thereby incur; and
- 13.5.3 avoid taking any step which could prejudice the defence of the claim without the prior written consent of that other body or bodies.
- 13.6 Where, on the basis of the assessment carried out in pursuance of Section 13.2, it is considered that the Claim Recipient could be held to be liable along with another Party and/or the IJB (or, where the Claim Recipient is the IJB, along with either or both Parties) in relation to the relevant claim were it to be upheld by the court:
- 13.6.1 the Claim Recipient and the other body or bodies (and/or their respective insurers or, as the case may be, the relevant officers acting under the CNORIS scheme) shall conduct the defence of the claim and any associated negotiations; and
- 13.6.2 the costs of defending the claim (and any associated negotiations) shall be shared between the bodies (including the Claim Recipient) who (on the basis of the assessment carried out in pursuance of Section 13.2) could be held to be liable in respect of the claim, and the indemnity by the other body or bodies referred to in Section 13.5.2 shall be qualified accordingly.
- 13.7 Where two or more bodies are to conduct the defence of any claim (and any associated negotiations) under Section 13.5.2 or 13.6.1, the body which is considered (on the basis of the assessment carried out in pursuance of Section 13.2) to be more likely to carry the primary liability shall have overall control of the conduct of the defence (and any associated negotiations), subject to liaising closely with the other relevant body or bodies and taking due account of the requirements of its or their insurers (and/or, as the case may be, any requirements associated with the CNORIS scheme).

- 13.8 If both Parties, or if either or both Parties and the IJB, receive a claim relating to the same matter, the procedures set out in Sections 13.1 to 13.7 shall (subject to Section 13.9) apply, subject to such adjustments (as agreed among the relevant bodies) as may be appropriate to facilitate the efficient handling of the claims.
- 13.9 If both Parties, or if either or both Parties and the IJB, are parties to the same court proceedings arising out of a claim, each of them (and/or its or their insurers or, as the case may be, the relevant officers acting under the CNORIS scheme) may conduct its own defence of the claim against it (and any associated negotiations) in such manner as it may see fit and at its own expense; and the liability of each body in respect of the claim shall be as determined by the court (or, if the claim is settled outwith the court proceedings) as agreed by each body in the context of the negotiations regarding settlement of the claim.
- 13.10 If a claim by a third party in relation to any matter connected with the carrying out of integration functions relates to services delivered in an area served by a Neighbouring IJB, or relates to services delivered within the Edinburgh Area under arrangements involving a Neighbouring IJB, each of the Parties, and the IJB, will liaise with each other and with the Neighbouring IJB in order to reach agreement as to how the claim is to be handled; the IJB and Neighbouring IJBs shall jointly develop and agree a protocol for the handling of claims of that nature.
- 13.11 The Parties and the IJB shall use all reasonable endeavours to operate the procedures set out in Sections 13.1 to 13.10 as rapidly as possible, and in a manner which complies with the requirements from time to time of relevant insurers and/or (as applicable) the CNORIS scheme; each of them undertakes to the others:
- 13.11.1 to provide all such information and render all such co-operation as may be reasonably required from time to time in connection with any such claim; and
- 13.11.2 if and to the extent that any matter which cannot be agreed between them requires to be dealt with under the dispute resolution procedure set out in Section 16, to operate the dispute resolution procedure as rapidly as possible so as to minimise any prejudice to (a) the efficient defence of the claim and/or (b) the ability of any body to access the benefit of any insurance policy or (as the case may be) the CNORIS scheme.
- 13.12 Where payment is made by either Party or by the IJB in settlement of a claim by a third party in relation to any matter connected with the carrying out of integration functions, the body which made payment (if that body is not wholly liable, on the basis of principles of common law and/or any applicable legislation, in respect of the matter which gave rise to the claim) shall be entitled to be indemnified by the other Party and/or the IJB (or, in a case where

payment was made by the IJB, by either or both Parties) to the extent of its or their liability (as determined in accordance with principles of common law and/or any applicable legislation) in respect of the matter which gave rise to the claim; but due account shall be taken of any prejudice to the indemnifying body or bodies (including its/their ability to access the benefit of any insurance policy or, as the case may be, the CNORIS scheme) arising from any failure to comply with the other provisions of this Section 13.

- 13.13 For the avoidance of doubt, the principles set out in Section 13.12 shall also apply in respect of the expenses of defending any claim by a third party in relation to any matter connected with the carrying out of integration functions, and in respect of any award of expenses in connection with any such claim.
- 13.14 The arrangements set out in this Section 13 shall be subject to periodic review and adjustment, in order to reflect the requirements from time to time of insurers and the CNORIS scheme and to ensure efficiency in the handling of claims; any revised arrangements shall be recorded in a written agreement entered into by the Parties and the IJB.

## **14. Risk Management**

### **14.1 IJB**

14.1.1 The IJB will develop and agree a risk management strategy in relation to carrying out of integration functions by 31<sup>st</sup> March 2016 or the integration start date if sooner.

14.1.2 The risk management strategy will include:-

- (a) a statement of the IJB's risk appetite and associated tolerance measures;
- (b) a description of how the system of risk management will work in practice, including the procedures for identification, classification, recording and reporting of risk, and the respective roles of the IJB and its officers. This will explain how the output from the risk management systems within NHS Lothian and CEC will inform the IJB's system of risk management as well as ensuring that any risks associated with proposals from the Strategic Plan are captured, assessed and managed appropriately and shared with NHS Lothian and CEC;
- (c) a description of how the IJB system of risk management is informed by other related systems of NHS Lothian and CEC, such as complaints management, health & safety, adverse events management, emergency planning and business resilience;

(d) an agreement between NHS Lothian and CEC on the resources to be made available to support risk management in the IJB and how this will work;

(e) a description of how risk will be monitored by the IJB, the framework for reporting and frequency.

14.1.3 A group of officers from across NHS Lothian and CEC have worked collaboratively to develop a first draft risk register for the IJB. The IJB will update and amend its risk register should there be any emerging themes/risks which have a bearing on its activities.

## **14.2 NHS Lothian and CEC**

14.2.1 Both Parties will continue to apply their existing policies and systems for risk management, and will implement any required restructuring of their risk registers to recognise the creation of the IJB.

14.2.2 NHS Lothian covers four local authority areas, and there will be some services delivered by NHS Lothian under directions from the Lothian IJBs which one operational Chief Officer will manage on a Lothian-wide basis. The identification and management of risk for those Hosted Services will reflect the differing directions of the Lothian IJBs.

## **15. Dispute Resolution**

15.1 In the event of any dispute between the Parties in relation to any matter provided for in this Scheme or any of the duties, obligations, rights or powers imposed or conferred upon them by the Act (a “**Dispute**”), the provisions of this section 16 will apply.

15.2 Either Party shall give to the other written notice of the Dispute, setting out its nature and full particulars (a “**Dispute Notice**”), together with relevant supporting documents. The Party giving the Dispute Notice will provide a copy to the chairperson of the IJB. On service of the Dispute Notice, the Chief Executives of the Parties shall meet and attempt in good faith to resolve the Dispute.

15.3 Where the matter remains unresolved within 21 days of service of the Dispute Notice, the Parties shall inform the chairperson of the IJB and may proceed to mediation with a view to resolving the issue. Any mediator will be external to the Parties and will be identified and appointed with the agreement of the Chair of NHS Lothian and the Leader of CEC and failing



agreement within 21 days shall be nominated by the Centre for Effective Dispute Resolution (CEDR) on the request of either Party.

- 15.4 The mediation will start not later than 21 days after the date of appointment of the mediator.
- 15.5 The Parties agree that the cost of the mediator will be met equally by NHS Lothian and CEC. The timeframe to resolve the issue will be agreed prior to the start of the mediation process by the Chair of NHS Lothian and the Leader of CEC and notified to the chairperson of the IJB.
- 15.6 The chairperson of the IJB will inform Scottish Ministers in writing of the Dispute and agreed timeframe to conclude the mediation process.
- 15.7 Where following mediation the issue remains unresolved, the chairperson of the IJB shall notify Scottish Ministers in writing. Scottish Ministers may then advise the Parties how to proceed.
- 15.8 The Parties shall cooperate with each other to mitigate any adverse effect on service delivery pending resolution of the Dispute.
- 15.9 Nothing in this Scheme shall prevent either of the Parties from seeking any legal remedy or from commencing or continuing court proceedings in relation to the Dispute.

## Annex 1

### Part 1A Functions delegated by NHS Lothian to the IJB

Set out below is the list of functions that are to be delegated by NHS Lothian to the IJB, as required by the Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014 (being the functions prescribed for the purposes of section 1(8) of the Act)

<i>Column A</i>	<i>Column B</i>
<b>The National Health Service (Scotland) Act 1978</b>	
All functions of Health Boards conferred by, or by virtue of, the National Health Service (Scotland) Act 1978	Except functions conferred by or by virtue of— section 2(7) (Health Boards);  section 2CB <sup>(1)</sup> (Functions of Health Boards outside Scotland); section 9 (local consultative committees); section 17A (NHS Contracts); section 17C (personal medical or dental services);  section 17I <sup>(2)</sup> (use of accommodation); section 17J (Health Boards' power to enter into general medical services contracts); section 28A (remuneration for Part II services); section 38 <sup>(3)</sup> (care of mothers and young children);  section 38A <sup>(4)</sup> (breastfeeding); section 39 <sup>(5)</sup> (medical and dental inspection, supervision and treatment of pupils and young persons);

<sup>(1)</sup> Section 2CB was inserted by S.S.I. 2010/283, regulation 3(2).

<sup>(2)</sup> Section 17I was inserted by the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2 and amended by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 4. The functions of the Scottish Ministers under section 17I are conferred on Health Boards by virtue of S.I. 1991/570, as amended by S.S.I. 2006/132.

<sup>(3)</sup> The functions of the Secretary of State under section 38 are conferred on Health Boards by virtue of S.I. 1991/570.

<sup>(4)</sup> Section 38A was inserted by the Breastfeeding etc (Scotland) Act 2005 (asp 1), section 4. The functions of the Scottish Ministers under section 38A are conferred on Health Boards by virtue of S.I. 1991/570 as amended by S.S.I. 2006/132.

section 48 (provision of residential and practice accommodation);

section 55<sup>(6)</sup> (hospital accommodation on part payment);

section 57 (accommodation and services for private patients);

section 64 (permission for use of facilities in private practice);

section 75A<sup>(7)</sup> (remission and repayment of charges and payment of travelling expenses);

section 75B<sup>(8)</sup> (reimbursement of the cost of services provided in another EEA state);

section 75BA<sup>(9)</sup> (reimbursement of the cost of services provided in another EEA state where expenditure is incurred on or after 25 October 2013);

section 79 (purchase of land and moveable property);

section 82<sup>(10)</sup> (use and administration of certain endowments and other property held by Health Boards);

section 83<sup>(11)</sup> (power of Health Boards and local health councils to hold property on trust);

section 84A<sup>(12)</sup> (power to raise money, etc., by appeals, collections etc.);

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<sup>(5)</sup> Section 39 was relevantly amended by the Self Governing Schools etc (Scotland) Act 1989 (c.39) Schedule 11; the Health and Medicines Act 1988 (c.49) section 10 and Schedule 3 and the Standards in Scotland's Schools Act 2000 (asp 6), schedule 3.

<sup>(6)</sup> Section 55 was amended by the Health and Medicines Act 1988 (c.49), section 7(9) and Schedule 3 and the National Health Service and Community Care Act 1990 (c.19), Schedule 9. The functions of the Secretary of State under section 55 are conferred on Health Boards by virtue of S.I. 1991/570.

<sup>(7)</sup> Section 75A was inserted by the Social Security Act 1988 (c.7), section 14, and relevantly amended by S.S.I. 2010/283. The functions of the Scottish Ministers in respect of the payment of expenses under section 75A are conferred on Health Boards by S.S.I. 1991/570.

<sup>(8)</sup> Section 75B was inserted by S.S.I. 2010/283, regulation 3(3) and amended by S.S.I. 2013/177.

<sup>(9)</sup> Section 75BA was inserted by S.S.I. 2013/292, regulation 8(4).

<sup>(10)</sup> Section 82 was amended by the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 7) section 1(2) and the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 2.

<sup>(11)</sup> There are amendments to section 83 not relevant to the exercise of a Health Board's functions under that section.

<sup>(12)</sup> Section 84A was inserted by the Health Services Act 1980 (c.53), section 5(2). There are no amendments to section 84A which are relevant to the exercise of a Health Board's functions.

section 86 (accounts of Health Boards and the Agency);

section 88 (payment of allowances and remuneration to members of certain bodies connected with the health services);

section 98 <sup>(13)</sup> (charges in respect of non-residents);

and

paragraphs 4, 5, 11A and 13 of Schedule 1 to the Act (Health Boards);

and functions conferred by—

The National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 <sup>(14)</sup>;

NHS Lothians (Membership and Procedure) (Scotland) Regulations 2001/302;

The National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000/54;

The National Health Services (Primary Medical Services Performers Lists) (Scotland) Regulations 2004/114;

The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004;

The National Health Service (Discipline Committees) Regulations 2006/330;

The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006/135;

The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009/183;

The National Health Service (General Dental Services) (Scotland) Regulations 2010/205; and

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<sup>(13)</sup> Section 98 was amended by the Health and Medicines Act 1988 (c.49), section 7. The functions of the Secretary of State under section 98 in respect of the making, recovering, determination and calculation of charges in accordance with regulations made under that section is conferred on Health Boards by virtue of S.S.I. 1991/570.

<sup>(14)</sup> S.I. 1989/364, as amended by S.I. 1992/411; S.I. 1994/1770; S.S.I. 2004/369; S.S.I. 2005/455; S.S.I. 2005/572 S.S.I. 2006/141; S.S.I. 2008/290; S.S.I. 2011/25 and S.S.I. 2013/177.

The National Health Service (Free Prescription and Charges for Drugs and Appliances) (Scotland) Regulations 2011/55<sup>(15)</sup>.

**Disabled Persons (Services, Consultation and Representation) Act 1986**

Section 7

(Persons discharged from hospital)

**Community Care and Health (Scotland) Act 2002**

All functions of Health Boards conferred by, or by virtue of, the Community Care and Health (Scotland) Act 2002.

**Mental Health (Care and Treatment) (Scotland) Act 2003**

All functions of Health Boards conferred by, or by virtue of, the Mental Health (Care and Treatment) (Scotland) Act 2003.

Except functions conferred by—

section 22 (Approved medical practitioners);

section 34 (Inquiries under section 33: co-operation)<sup>(16)</sup>;

section 38 (Duties on hospital managers: examination notification etc.)<sup>(17)</sup>;

section 46 (Hospital managers' duties: notification)<sup>(18)</sup>;

section 124 (Transfer to other hospital);

section 228 (Request for assessment of needs: duty on local authorities and Health Boards);

section 230 (Appointment of a patient's responsible medical officer);

section 260 (Provision of information to patients);

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<sup>(15)</sup> S.S.I. 2011/55, to which there are amendments not relevant to the exercise of a Health Board's functions.

<sup>(16)</sup> There are amendments to section 34 not relevant to the exercise of a Health Board's functions under that section.

<sup>(17)</sup> Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of "managers" relevant to the functions of Health Boards under that Act.

<sup>(18)</sup> Section 46 is amended by S.S.I. 2005/465.

section 264 (Detention in conditions of excessive security: state hospitals);  
 section 267 (Orders under sections 264 to 266: recall);  
 section 281<sup>(19)</sup> (Correspondence of certain persons detained in hospital);  
 and functions conferred by—  
 The Mental Health (Safety and Security) (Scotland) Regulations 2005<sup>(20)</sup>;  
 The Mental Health (Cross Border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2005<sup>(21)</sup>;  
 The Mental Health (Use of Telephones) (Scotland) Regulations 2005<sup>(22)</sup>; and  
 The Mental Health (England and Wales Cross border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2008<sup>(23)</sup>.

#### **Education (Additional Support for Learning) (Scotland) Act 2004**

##### Section 23

(other agencies etc. to help in exercise of functions under this Act)

#### **Public Services Reform (Scotland) Act 2010**

All functions of Health Boards conferred by, or by virtue of, the Public Services Reform (Scotland) Act 2010

Except functions conferred by—  
 section 31 (Public functions: duties to provide information on certain expenditure etc.); and  
 section 32 (Public functions: duty to provide information on exercise of functions).

#### **Patient Rights (Scotland) Act 2011**

<sup>(19)</sup> Section 281 is amended by S.S.I. 2011/211.

<sup>(20)</sup> S.S.I. 2005/464, to which there are amendments not relevant to the exercise of the functions of a Health Board. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of “managers” relevant to the functions of Health Boards.

<sup>(21)</sup> S.S.I. 2005/467. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of “managers” relevant to the functions of Health Boards.

<sup>(22)</sup> S.S.I. 2005/468. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of “managers” relevant to the functions of Health Boards.

<sup>(23)</sup> S.S.I. 2008/356. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of “managers” relevant to the functions of Health Boards.

All functions of Health Boards  
conferred by, or by virtue of, the  
Patient Rights (Scotland) Act 2011

Except functions conferred by The Patient Rights  
(Complaints Procedure and Consequential  
Provisions) (Scotland) Regulations 2012/36<sup>(24)</sup>.

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But in each case, subject to the restrictions set out in article 3(3) of the Public Bodies (Joint Working)  
(Prescribed Health Board Functions) (Scotland) Regulations 2014

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<sup>(24)</sup> S.S.I. 2012/36. Section 5(2) of the Patient Rights (Scotland) Act 2011 (asp 5) provides a definition of “relevant NHS body” relevant to the exercise of a Health Board’s functions.

## **Annex 1**

### **Part 1B**

#### **Additional functions delegated by NHS Lothian to the IJB**

Set out below is the list of additional functions that are to be delegated by NHS Lothian to the IJB

- (A) The functions exercisable in relation to the following health services as they relate to provision for people under the age of 18:
- (a) Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
  - (b) General Dental Services, Public Dental Services and the services provided by the Edinburgh Dental Institute
  - (c) General Ophthalmic Services
  - (d) General Pharmaceutical Services
  - (e) Out of Hours Primary Medical Services
  - (f) Services for people with Learning Disabilities.
- (B) The functions exercisable in relation to the prison health care service provided within HMP Edinburgh and HMP Addiewell



## Annex 1

### Part 2

#### Services associated with the functions delegated by NHS Lothian to the IJB

Set out below is an illustrative description of the services associated with the functions delegated by NHS Lothian to the IJB as specified in Parts 1A and 1B of Annex 1.

#### Interpretation of this Part 2 of Annex 1

In this Part 2—

“Allied Health Professional” means a person registered as an allied health professional with the Health Professions Council;

“general medical practitioner” means a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council;

“general medical services contract” means a contract under section 17J of the National Health Service (Scotland) Act 1978;

“hospital” has the meaning given by section 108(1) of the National Health Service (Scotland) Act 1978;

“inpatient hospital services” means any health care service provided to a patient who has been admitted to a hospital and is required to remain in that hospital overnight, but does not include any secure forensic mental health services;

“out of hours period” has the same meaning as in regulation 2 of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004<sup>(25)</sup>; and

“the public dental service” means services provided by dentists and dental staff employed by a health board under the public dental service contract.

- a) Accident and Emergency services provided in a hospital.
- b) Inpatient hospital services relating to the following branches of medicine—
  - (a) general medicine;
  - (b) geriatric medicine;
  - (c) rehabilitation medicine;
  - (d) respiratory medicine; and
  - (e) psychiatry of learning disability.

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<sup>(25)</sup> S.S.I. 2004/115.

- c) Palliative care services provided in a hospital.
- d) Inpatient hospital services provided by General Medical Practitioners.
- e) Services provided in a hospital in relation to an addiction or dependence on any substance.
- f) Mental health services provided in a hospital, except secure forensic mental health services.
- g) District nursing services.
- h) Services provided outwith a hospital in relation to an addiction or dependence on any substance.
- i) Services provided by allied health professionals in an outpatient department, clinic, or outwith a hospital.
- j) The public dental service.
- k) Primary medical services provided under a general medical services contract, and arrangements for the provision of services made under section 17C of the National Health Service (Scotland) Act 1978, or an arrangement made in pursuance of section 2C(2) of the National Health Service (Scotland) Act 1978<sup>(26)</sup>.
- l) General dental services provided under arrangements made in pursuance of section 25 of the National Health (Scotland) Act 1978<sup>(27)</sup>.
- m) Ophthalmic services provided under arrangements made in pursuance of section 17AA or section 26 of the National Health Service (Scotland) Act 1978<sup>(28)</sup>.
- n) Pharmaceutical services\* and additional pharmaceutical services provided under arrangements made in pursuance of sections 27 and 27A of the National Health Service (Scotland) Act 1978<sup>(29)</sup>.
- o) Services providing primary medical services to patients during the out-of-hours period.
- p) Services provided outwith a hospital in relation to geriatric medicine.

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<sup>(26)</sup> Section 2C was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 1(2) and relevantly amended by the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 1, and the Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), section 37.

<sup>(27)</sup> Section 25 was relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 15.

<sup>(28)</sup> Section 17AA was inserted by the National Health Service (Primary Care) Act 1997 (c.46), section 31(2) and relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 25. Section 26 was relevantly amended by the Health and Social Security Act 1984 (c.48), Schedule 1, and the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) section 13.

<sup>(29)</sup> Section 27 was relevantly amended by the Health Services Act 1990 (c.53), section 20; the National Health Service and Community Care Act 1990 (c.19), Schedule 9; the Medicinal Products: Prescription by Nurses etc. Act 1992 (c.28), section 3; the National Health Service and Community Care Act 1997 (c.46), Schedule 2 and the Health and Social Care Act 2001 (c.15), section 44.

- q) Palliative care services provided outwith a hospital.
- r) Community learning disability services.
- s) Mental health services provided outwith a hospital.
- t) Continence services provided outwith a hospital.
- u) Kidney dialysis services provided outwith a hospital.
- v) Services provided by health professionals that aim to promote public health.

In each case, subject to the exceptions set out in Parts 1A and 1B of Annex 1 and to the restrictions set out in article 3(3) of the Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014.

In addition to the services (as set out above) associated with the carrying out of functions that must be delegated, NHS Lothian has chosen to delegate

- (A) the following health services as they relate to provision for people under the age of 18:
  - a) Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
  - b) General Dental Services, Public Dental Services and the Edinburgh Dental Institute
  - c) General Ophthalmic Services
  - d) General Pharmaceutical Services
  - e) Out of Hours Primary Medical Services
  - f) Learning Disabilities
- (B) The functions exercisable in relation to the prison health care service provided within HMP Edinburgh and HMP Addiewell

## Annex 2

### Part 1

#### Functions delegated by CEC to the IJB

Set out below is the list of functions that are to be delegated by CEC to the IJB (being the functions prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014)

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
<b>National Assistance Act 1948<sup>(30)</sup></b>	
Section 48 (Duty of councils to provide temporary protection for property of persons admitted to hospitals etc.)	
<b>The Disabled Persons (Employment) Act 1958<sup>(31)</sup></b>	
Section 3 (Provision of sheltered employment by local authorities)	
<b>The Social Work (Scotland) Act 1968<sup>(32)</sup></b>	

<sup>(30)</sup> 1948 c.29; section 48 was amended by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 39, paragraph 31(4) and the Adult Support and Protection (Scotland) Act 2007 (asp 10) schedule 2 paragraph 1.

<sup>(31)</sup> 1958 c.33; section 3 was amended by the Local Government Act 1972 (c.70), section 195(6); the Local Government (Scotland) Act 1973 (c.65), Schedule 27; the National Health Service (Scotland) Act 1978 (c.70), schedule 23; the Local Government Act 1985 (c.51), Schedule 17; the Local Government (Wales) Act 1994 (c.19), Schedules 10 and 18; the Local Government etc. (Scotland) Act 1994 (c.49), Schedule 13; and the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1.

<sup>(32)</sup> 1968 c.49; section 1 was relevantly amended by the National Health Service (Scotland) Act 1972 (c.58), schedule 7; the Children Act 1989 (c.41), Schedule 15; the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act"), schedule 10; S.S.I. 2005/486 and S.S.I. 2013/211. Section 4 was amended by the 1990 Act, Schedule 9, the Children (Scotland) Act 1995 (c.36) ("the 1995 Act"), schedule 4; the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) ("the 2003 Act"), schedule 4; and S.S.I. 2013/211. Section 10 was relevantly amended by the Children Act 1975 (c.72), Schedule 2; the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13; the Regulation of Care (Scotland) Act 2001 (asp 8) ("the 2001 Act") schedule 3; S.S.I. 2010/21 and S.S.I. 2011/211. Section 12 was relevantly amended by the 1990 Act, section 66 and Schedule 9; the 1995 Act, Schedule 4; and the Immigration and Asylum Act 1999 (c.33), section 120(2). Section 12A was inserted by the 1990 Act, section 55, and amended by the Carers (Recognition and Services) Act 1995 (c.12), section 2(3) and the Community Care and Health (Scotland) Act 2002 (asp 5) ("the 2002 Act"), sections 8 and 9(1). Section 12AZA was inserted by the Social Care (Self Directed Support) (Scotland) Act 2013 (asp 1), section 17. Section 12AA and 12AB were inserted by the 2002 Act, section 9(2). Section 13 was amended by the Community Care (Direct Payments) Act 1996 (c.30), section 5. Section 13ZA was inserted by the Adult Support and Protection (Scotland) Act 2007 (asp 10), section 64. Section 13A was inserted by the 1990 Act, section 56 and amended by the Immigration and Asylum Act 1999 (c.33), section 102(2); the 2001 Act, section 72 and schedule 3; the

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 1 (Local authorities for the administration of the Act.)	So far as it is exercisable in relation to another integration function.
Section 4 (Provisions relating to performance of functions by local authorities.)	So far as it is exercisable in relation to another integration function.
Section 8 (Research.)	So far as it is exercisable in relation to another integration function.
Section 10 (Financial and other assistance to voluntary organisations etc. for social work.)	So far as it is exercisable in relation to another integration function.
Section 12 (General social welfare services of local authorities.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 12A (Duty of local authorities to assess needs.)	So far as it is exercisable in relation to another integration function.
Section 12AZA (Assessments under section 12A - assistance)	So far as it is exercisable in relation to another integration function.
Section 12AA (Assessment of ability to provide care.)	
Section 12AB (Duty of local authority to provide information to carer.)	
Section 13 (Power of local authorities to assist persons in need in disposal of produce of their work.)	

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2002 Act, schedule 2 and by S.S.I. 2011/211. Section 13B was inserted by the 1990 Act sections 56 and 67(2) and amended by the Immigration and Asylum Act 1999 (c.33), section 120(3). Section 14 was amended by the Health Services and Public Health Act 1968 (c.46), sections 13, 44 and 45; the National Health Service (Scotland) Act 1972 (c.58), schedule 7; the Guardianship Act 1973 (c.29), section 11(5); the Health and Social Service and Social Security Adjudications Act 1983 (c.41), schedule 10 and the 1990 Act, schedule 9. Section 28 was amended by the Social Security Act 1986 (c.50), Schedule 11 and the 1995 Act, schedule 4. Section 29 was amended by the 1995 Act, schedule 4. Section 59 was amended by the 1990 Act, schedule 9; the 2001 Act, section 72(c); the 2003 Act, section 25(4) and schedule 4 and by S.S.I. 2013/211.

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 13ZA (Provision of services to incapable adults.)	So far as it is exercisable in relation to another integration function.
Section 13A (Residential accommodation with nursing.)	
Section 13B (Provision of care or aftercare.)	
Section 14 (Home help and laundry facilities.)	
Section 28 (Burial or cremation of the dead.)	So far as it is exercisable in relation to persons cared for or assisted under another integration function.
Section 29 (Power of local authority to defray expenses of parent, etc., visiting persons or attending funerals.)	
Section 59 (Provision of residential and other establishments by local authorities and maximum period for repayment of sums borrowed for such provision.)	So far as it is exercisable in relation to another integration function.
<b>The Local Government and Planning (Scotland) Act 1982<sup>(33)</sup></b>	
Section 24(1) (The provision of gardening assistance for the disabled and the elderly.)	
<b>Disabled Persons (Services, Consultation and Representation) Act 1986<sup>(34)</sup></b>	
Section 2 (Rights of authorised representatives of disabled persons.)	
Section 3 (Assessment by local authorities of needs of disabled persons.)	

<sup>(33)</sup> 1982 c.43; section 24(1) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), schedule 13.

<sup>(34)</sup> 1986 c.33. There are amendments to sections 2 and 7 which are not relevant to the exercise of a local authority's functions under those sections.

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 7 (Persons discharged from hospital.)	In respect of the assessment of need for any services provided under functions contained in welfare enactments within the meaning of section 16 and which have been delegated.
Section 8 (Duty of local authority to take into account abilities of carer.)	In respect of the assessment of need for any services provided under functions contained in welfare enactments (within the meaning set out in section 16 of that Act) which are integration functions.
<b>The Adults with Incapacity (Scotland) Act 2000<sup>(35)</sup></b>	
Section 10 (Functions of local authorities.)	
Section 12 (Investigations.)	
Section 37 (Residents whose affairs may be managed.)	Only in relation to residents of establishments which are managed under integration functions.
Section 39 (Matters which may be managed.)	Only in relation to residents of establishments which are managed under integration functions.
Section 41 (Duties and functions of managers of authorised establishment.)	Only in relation to residents of establishments which are managed under integration functions
Section 42 (Authorisation of named manager to withdraw from resident's account.)	Only in relation to residents of establishments which are managed under integration functions
Section 43 (Statement of resident's affairs.)	Only in relation to residents of establishments which are managed under integration functions
Section 44 (Resident ceasing to be resident of	Only in relation to residents of establishments which are managed under integration

<sup>(35)</sup> 2000 asp 4; section 12 was amended by the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), schedule 5(1). Section 37 was amended by S.S.I. 2005/465. Section 39 was amended by the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1 and by S.S.I. 2013/137. Section 41 was amended by S.S.I. 2005/465; the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1 and S.S.I. 2013/137. Section 45 was amended by the Regulation of Care (Scotland) Act 2001 (asp 8), Schedule 3.

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
authorised establishment.)	functions
Section 45 (Appeal, revocation etc.)	Only in relation to residents of establishments which are managed under integration functions
<b>The Housing (Scotland) Act 2001</b> <sup>(36)</sup>	
Section 92 (Assistance to a registered for housing purposes.)	Only in so far as it relates to an aid or adaptation.
<b>The Community Care and Health (Scotland) Act 2002</b> <sup>(37)</sup>	
Section 5 (Local authority arrangements for of residential accommodation outwith Scotland.)	
Section 14 (Payments by local authorities towards expenditure by NHS bodies on prescribed functions.)	
<b>The Mental Health (Care and Treatment) (Scotland) Act 2003</b> <sup>(38)</sup>	
Section 17 (Duties of Scottish Ministers, local authorities and others as respects Commission.)	
Section 25 (Care and support services etc.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 26 (Services designed to promote well-being and social development.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 27 (Assistance with travel.)	Except in so far as it is exercisable in relation to the provision of housing support services.

<sup>(36)</sup> 2001 asp 10; section 92 was amended by the Housing (Scotland) Act 2006 (asp 1), schedule 7.

<sup>(37)</sup> 2002 asp 5.

<sup>(38)</sup> 2003 asp 13; section 17 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), section 111(4), and schedules 14 and 17, and by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7. Section 25 was amended by S.S.I. 2011/211. Section 34 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedules 14 and 17.



<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 33 (Duty to inquire.)	
Section 34 (Inquiries under section 33: Co-operation.)	
Section 228 (Request for assessment of needs: duty on local authorities and Health Boards.)	
Section 259 (Advocacy.)	
<b>The Housing (Scotland) Act 2006<sup>(39)</sup></b>	
Section 71(1)(b) (Assistance for housing purposes.)	Only in so far as it relates to an aid or adaptation.
<b>The Adult Support and Protection (Scotland) Act 2007<sup>(40)</sup></b>	
Section 4 (Council's duty to make inquiries.)	
Section 5 (Co-operation.)	
Section 6 (Duty to consider importance of providing advocacy and other.)	
Section 11 (Assessment Orders.)	
Section 14 (Removal orders.)	
Section 18 (Protection of moved persons property.)	
Section 22 (Right to apply for a banning order.)	
Section 40 (Urgent cases.)	

<sup>(39)</sup> 2006 asp 1; section 71 was amended by the Housing (Scotland) Act 2010 (asp 17) section 151.

<sup>(40)</sup> 2007 asp 10; section 5 and section 42 were amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedules 14 and 17 and by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7. Section 43 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 14.

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 42 (Adult Protection Committees.)	
Section 43 (Membership.)	
<b>Social Care (Self-directed Support) (Scotland) Act 2013<sup>(41)</sup></b>	
Section 3 (Support for adult carers.)	Only in relation to assessments carried out under integration functions.
Section 5 (Choice of options: adults.)	
Section 6 (Choice of options under section 5: assistances.)	
Section 7 (Choice of options: adult carers.)	
Section 9 (Provision of information about self-directed support.)	
Section 11 (Local authority functions.)	
Section 12 (Eligibility for direct payment: review.)	
Section 13 (Further choice of options on material change of circumstances.)	Only in relation to a choice under section 5 or 7 of the Social Care (Self-directed Support) (Scotland) Act 2013 .
Section 16 (Misuse of direct payment: recovery.)	
Section 19 (Promotion of options for self-directed support.)	

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<sup>(41)</sup> 2013 asp 1.

Functions, conferred by virtue of enactments, prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
<b>The Community Care and Health (Scotland) Act 2002</b>	
Section 4 <sup>(42)</sup>	
The functions conferred by Regulation 2 of the Community Care (Additional Payments) (Scotland) Regulations 2002 <sup>(43)</sup>	

In each case, so far as the functions are exercisable in relation to persons of at least 18 years of age.

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<sup>(42)</sup> Section 4 was amended by the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), schedule 4 and the Adult Support and Protection (Scotland) Act 2007 (asp 10), section 62(3).

<sup>(43)</sup> S.S.I. 2002/265, as amended by S.S.I. 2005/445.

## **Annex 2**

### **Annex 2 Part 2**

#### **Services currently associated with the functions delegated by CEC to the IJB**

Set out below is an illustrative description of the services associated with the functions delegated by CEC to the IJB as specified in Part 1 of Annex 2.

Social work services for adults and older people

Services and support for adults with physical disabilities and learning disabilities

Mental health services

Drug and alcohol services

Adult protection and domestic abuse

Carers support services

Community care assessment teams

Support services

Care home services

Adult placement services

Health improvement services

Housing support/aids and adaptation in so far as they relate to adult with social care needs

Day services

Local area co-ordination

Respite provision

Occupational therapy services

Re-ablement services, equipment and telecare.

In each case, so far as the services are provided to persons of at least 18 years of age.

### **Annex 3**

The provisions within this Annex 3 are not intended to create legally binding obligations. They are intended to be illustrative of the management arrangements which may be made in respect of the functions delegated to the IJB

The IJB will issue directions to the Parties via its Chief Officer. Those directions will in the main require that the Chief Officer take forward the development of the Strategic Plan, and leading on ensuring that the plan is delivered. As the Chief Officer will not be personally managing all of the integration functions, ensuring the Strategic Plan is being delivered will include getting assurance from the chief officers of Neighbouring IJBs (for hosted services – see below) and from other managers in Lothian NHS Board and CEC.

The Chief Officer will have direct management responsibility for the following services:

(A) all services described in Annex 2, Part 2, with the exception of the following:

The provision of aids and adaptations is an integrated service involving a number of CEC functions. The assessment of the need for aids or the adaptation of a property is carried out by Health and Social Care for adults with social care needs. Where an adaptation for a property is required these adaptations are project managed by the Housing Service. Where the adaption is to the home of a Council Tenant this adaptation is funded by the HRA Capital Programme. The HRA is a ring fenced account which is managed by CEC on behalf of tenants for the purpose of providing services to Council tenants. Adaptations required for homeowners and private tenants homes are supported by grant funding which is managed by the Housing Service. Funding for adaptations in the homes of RSL tenants is supported by Scottish Government grant. This is managed by the Housing Service as part of the wider delegated authority from Scottish Ministers for the management of the Affordable Housing Supply Programme (AHSP). The project management of adaptations for tenants and homeowners/private tenants will continue to be managed by CEC's Housing Service, as this primarily focuses on the project management of property-related work. It is more efficient and effective to manage all elements together. A clear reporting line from these management arrangements up to the IJB will be established.

(B) all services described in Annex 1, Part 2, with the exception of the following:

### **Hosted Services**

There are Lothian NHS Board services for which it would not be suitable for the Chief Officer to have operational management responsibility. The factors contributing to determining these services are the degree of medical specialism of the service and scale of the service required

for it to be safe, efficient and effective.

It is proposed that the following services will be managed at a pan-Lothian level by one of the Chief Officers of the Lothian IJBs in their role as Joint Director of Lothian NHS Board (area in brackets confirms the Chief Officer who would manage this service)

- Dietetics (Midlothian)
- Art Therapy (Midlothian)
- Lothian Unscheduled Care Service (East Lothian)
- Integrated Sexual and Reproductive Health service (Edinburgh)
- Clinical Psychology Services (West Lothian)
- Continence Services (Edinburgh)
- Public Dental Service (including Edinburgh Dental Institute (West Lothian)
- Podiatry (West Lothian)
- Orthoptics (West Lothian)
- Independent Practitioners (East Lothian via the Primary Care Contracting Organisation)
- SMART Centre (Edinburgh)
- Royal Edinburgh and Associated Services (Director of Mental Health accountable to the Chief Officer of Edinburgh and the Lothian NHS Board Chief Executive)
- Substance Misuse (only Ritson Inpatient Unit, LEAP and Harm Reduction (Director of Mental Health accountable to the Chief Officer of Edinburgh and the Lothian NHS Board Chief Executive)

### **Acute Hospitals**

Services provided from the three acute hospitals in Lothian NHS Board (Western General Hospital, Edinburgh Royal Infirmary, St Johns Hospital) will be managed by the relevant Hospital Site Director.

### **Prison Healthcare**

The Chief Officer of the IJB will have direct operational responsibility for prison healthcare in HMP Edinburgh and Addiewell. This responsibility will be discharged by the Director of Mental Health who is accountable to the Chief Officer of the IJB and the Lothian NHS Board Chief Executive.

## Annex 4

### Part 1: Shadow Strategic Planning Group Consultees

The list of individuals and their wider constituency consulted on the Scheme is as follows:

<b>Member</b>	<b>Wider constituency</b>
Health care member of the Professional Advisory Committee	Professional Advisory Committee
Social care member of Professional Advisory Committee	Professional Advisory Committee
Social care member of Professional Advisory Committee	Professional Advisory Committee
Non-voting service user rep from Shadow Partnership Board (health care)	Patients Council
Non-voting service user rep from Shadow Partnership Board (adult social care)	Network of service users and carers
Non-voting carer rep from Shadow Partnership Board ( health)	Carers' network
Non-voting carer rep from Shadow Partnership Board (adult social care)	Carers' network
Officer or member of Scottish Care	Scottish Independent care providers
Representative from a third sector provider of non-commercial providers of health care	EVOC Named charities
Representative from a third sector provider of social care	Third sector providers of social care
Member of Edinburgh Affordable Housing Partnership	Edinburgh Affordable Housing Partnership
Rep of Third sector organisations carrying out activities related to health or social care	EVOC
Representative from one neighbourhood partnership in each locality	Neighbourhood Partnerships
Commercial providers of health care	Internet

## **Annex 5 List of Consultees**

### **Key Audience - Groups and Fora that represent a combination of staff, services users, service providers and Party governance arrangements**

All Council members

All Health Board members

Edinburgh Partnership Board

Shadow Health and Social Care Partnership

Edinburgh Alcohol and Drugs Partnership

Reducing Re-offending Partnership

#### **Providers:**

Mental Health and Substance Misuse services providers

Disability services providers

Care at Home providers

Care home providers

Care at Home Providers

Scottish Care

Coalition Care Providers

#### **Planning Fora and Groups:**

Joint Mental Health planning forum \*

Dementia Delivery Group

Older People's Management Group \*

Carer Support Hospital Discharge Steering Group

Carers strategic planning group \*

Planning and Commissioning Officers

Edinburgh (Learning Disability) Plan Advisory Group Health & Social Care \*

\*These groups also have service user representatives

#### **Service Users and Carers Groups: (please note that all of these groups may be involved in the planning of services)**

Autism Champions

Young Carers Action Group

VolunteerNet



Edinburgh Carers Reference Group  
Carers Network  
Housing and Care Group  
Network/Core Group (for Personalisation) of service users and carers  
Mental Health & Wellbeing Forum  
Health related groups of the Neighbourhood Partnerships Edinburgh Partnership Equality Network  
LGBT Age Capacity

**Staff and Management Groups:**

General cascade briefing/email for all staff  
Departmental Joint Consultative Committee  
Council Partnership at work Forum  
NHS Lothian Partnership Forum  
Health & Social Care Senior Management Team  
Black and Minority Ethnic Workers Forum  
Discharge Hubs  
Social work sector and hospital teams managers  
Older People and Disabilities Managers  
Integrated Carers Team  
Mental Health Service Managers  
Criminal Justice Service Managers  
Quality and Standards Managers  
Business Development Managers  
Contracts Team  
Joint Consultative Forum/ DJCC/Trade Unions

Open staff meetings at key sites – RIE/WGH/AAH/Liberton  
Staff open sessions (perhaps one on each hospital site in Edinburgh)  
Offer to attend other sessions.

**Health Board and Council Governance:**

Acute Hospitals Committee  
General Practitioners Sub Committee  
Lothian Medical Committee  
CHP committees (e.g. Primary Care)  
NHS Lothian Finance and Resources Committee  
NHS Lothian Staff Governance Committee  
NHS Lothian Healthcare Governance Committee  
NHS Lothian Strategic Planning Committee  
Council Finance and Resources Committee

Council Health, Social Care and Housing Committee  
Council Education, Children and Families Committee  
Council Administration and opposition  
Governance Review and Best Value Committee (Audit)  
Internal Audit of Council and NHS Lothian  
Corporate Programme Office of Council – and relevant programmes e.g. BOLD

**Other External Audiences:**

Other Local Authorities in Lothian  
Criminal Justice Authority Board  
MSPs and MPs  
Community Planning Partnerships  
Scottish Government Health Department  
Third Sector via TSIs – EVOC, Compact  
External Audit of NHS Lothian and Council  
SSSC  
Care Commission  
Relevant professional clinical and care bodies

## Annex 6 Consultation framework – ‘Consulting Edinburgh’

### Main features of ‘Consulting Edinburgh’

Presents the Consultation Charter based on the principles of integrity, visibility, accessibility, transparency, disclosure, fair interpretation and publication.

- Provides ability to evidence how views have been sought.
- Supports staff on how to undertake consultations.
- Acts as a benchmark for consistency and robust process and practice
- Provides a definition of consultation that incorporates ‘deliberative dialogue, i.e. decisions are taken **after** consultation.
- Offers an e-learning tool for officers to assess if a consultation is appropriate.
- Guides officers and stakeholders who are launching a consultation through all stages, including: preparation; pre-consultation; consultation and post-consultation. (The guidance includes the development of a communications strategy.)
- Defines the roles and responsibilities of officers who provide communications, research, data collection and analysis, equalities and rights and stakeholder mapping support.

There is other guidance for:

- when the consultation is out-sourced to an external agency
- setting up a consultation on the electronic ‘hub’ (which is open to the public to view and interact with) monitoring and evaluation.

24/02/15

Version 6

**DRAFT**  
**INTEGRATION SCHEME**  
**BETWEEN**  
**WEST LoTHIAN COUNCIL**  
**AND**  
**NHS LoTHIAN**

DRAFT

## INTRODUCTION TO THE INTEGRATION SCHEME

This document is in two parts.

This first part of the document is a general Introduction and explanation of the vision and intentions of the council and NHS Lothian. The legislation leaves many things to be decided by the Integration Authority when it is established. Nevertheless, building on the successful West Lothian Community Health and Care Partnership model and working arrangements which have been in place since 2005, the council and NHS Lothian have a joint vision of the arrangements which will assist the Integration Authority in developing its Strategic Plan and carrying out its statutory role, and this Introduction sets out some of that vision.

The second part is the formal Scheme which has been agreed between the council and NHS Lothian and approved by both for submission to the Scottish Government for approval in accordance with section 7 of the Public Bodies (Joint Working) (Scotland) Act 2014 (“the Act”). It contains the provisions required by the Act and associated regulations, and those are the provisions which will be approved and which will be binding on the council, NHS Lothian and the new Integration Authority.

It is though essential to understand that the contents of this Introduction are not part of the Scheme and so will not be binding on the Integration Authority – when it is constituted it will be entitled in law to make its own decisions.

### **Aims and Outcomes of the Integration Scheme**

The main purpose of integration is to improve the wellbeing of families, of communities and of people who use health and social care services, particularly those whose needs are complex and involve support from health and social care at the same time.

The Integration Scheme is intended to achieve the statutory National Health and Wellbeing Outcomes namely:-

1. People are able to look after and improve their own health and wellbeing and live in good health for longer.
2. People, including those with disabilities, long term conditions, or who are frail, are able to live, as far as reasonably practicable, independently and at home or in a homely setting in their community.
3. People who use health and social care services have positive experiences of those services, and have their dignity respected.
4. Health and social care services are centred on helping to maintain or improve the quality of life of service users.
5. Health and social care services contribute to reducing health inequalities.

6. People who provide unpaid care are supported to look after their own health and wellbeing, including to reduce any negative impact of their caring role on their own health and wellbeing.

7. People who use health and social care services are safe from harm.

8. People who work in health and social care services feel engaged with the work that they do, and are supported to continuously improve the information, support, care and treatment they provide.

9. Resources are used effectively and efficiently in the provision of health and social care services.

The vision of the Parties is to enhance and develop the delivery of integrated health and social care services to the population of West Lothian with the intended impact of increasing the wellbeing of West Lothian citizens and reducing health inequalities across all communities in West Lothian.

In order to achieve this vision the Parties are strongly committed to the development of a preventative outcomes-based approach focusing on effective early interventions to tackle health and social inequalities. They will assist the Integration Authority to develop such an approach through their Board members and the support services to be provided by them to the Integration Authority.

The work of the Integration Authority, and in particular the preparation of its Strategic Plan, will be guided by the integration delivery principles, namely:-

- that the main purpose of services which are provided in pursuance of integration functions is to improve the wellbeing of service users,
- that, in so far as consistent with the main purpose, those services should be provided in a way which, so far as possible:-
  - is integrated from the point of view of service users
  - takes account of the particular needs of different service users
  - takes account of the particular needs of service users in different parts of the area in which the service is being provided
  - takes account of the particular characteristics and circumstances of different service users
  - respects the rights of service users
  - takes account of the dignity of service users
  - takes account of the participation by service users in the community in which service users live
  - protects and improves the safety of service users
  - improves the quality of the service
  - is planned and led locally in a way which is engaged with the community (including in particular service users, those who look after service users and those who are involved in the provision of health or social care)

- best anticipates needs and prevents them arising
- makes the best use of the available facilities, people and other resources.

### **Name of the Integration Authority**

The legislation does not specify what name should be given to the new Integration Authority – it prescribes what form the body should take, but not the name to be used. The Parties have agreed that the name to be used for the Integration Authority in West Lothian should be “West Lothian Health and Social Care Partnership Board”. It is referred to in the rest of this Introduction and in the Scheme as “the Board”.

### **The Chief Officer, or Director**

The legislation requires the Board to appoint a Chief Officer who has responsibilities to the Board and for the management and operational delivery of the integrated functions. The Parties have chosen to use the word “Director” instead of Chief Officer – that designation fits better with terminology used within the Parties’ existing organisations and using the phrase “Chief Officer” risks confusion with the Chief Finance Officer to be appointed, the Chief Finance Officer of the council and even the Chief Executives of both Parties.

The Director has responsibilities which are set out in the legislation, and which will be contained in a separate document to be approved by the Scottish Ministers under section 10 of the Act.

As well as the responsibilities of the post in relation to the integrated functions, the post will carry additional responsibilities and duties in relation to council and health board functions and services that are not integrated. The Director is in addition responsible for ensuring that service delivery improves the agreed outcomes and any locally agreed responsibilities for health and wellbeing and for assisting the Board in measuring, monitoring and reporting on the underpinning measures and indicators that will demonstrate progress.

### **Role of the Board**

The Board is to be established as a separate and distinct legal entity from the council and the health board. All three bodies have their own roles to play under this Scheme and to deliver on agreed outcomes – the Board’s role is strategic and the council’s and health board’s roles are operational.

The legislation contains many legal requirements in relation to the Board’s membership and constitution, but allows for some voluntary additional rules to be put in place. As part of the support services to be provided to the Board prior to and after its establishment the Parties will co-operate in preparing a proposed structure and draft constitutional documents to assist the Board in meeting those legal requirements, and including any voluntary additional rules the Parties consider are appropriate. On its establishment, the Parties intend that the Board will adopt that structure and those constitutional documents, but they recognise that the Board has the ultimate legal power to make those decisions for itself.

The Board’s task is to set the strategic direction for the delegated functions through the Strategic Plan developed by its Strategic Planning Group in accordance with the

policy framework and direction set by the Parties, and which will inform the method of determining the budget contributions to be made by the Parties. It receives payments from the council and health board determined in accordance with this Scheme to enable it to deliver on local strategic outcomes. It gives directions to the council and health board as to how they must deliver carry out the delegated functions in pursuit of the Strategic Plan and allocates payments to them to permit them to do that.

The practical and day-to-day link amongst the three bodies is the Director. The Director reports to the Board on strategy, finance and performance, and is responsible to the council and health board for the management and delivery of the delegated functions in accordance with this Scheme and in accordance with the directions issued by the Board to the Parties.

As well as being responsible for the Strategic Planning Group and the Strategic Plan, the Board also requires to publish an annual financial statement and an annual performance report covering both service delivery and financial performance. The members of the Board therefore have a role to play in the strategic oversight and scrutiny of the performance by the council and the health board of their roles in complying with directions from the Board and in implementing the Scheme, and will be able to carry out those responsibilities through receipt of regular and detailed reports on service and financial performance at Board meetings and advice about them at those meetings from the Director and other senior advisers.

As well as the requirement for the Parties to provide service and performance information to the Board, the Parties recognise that it is important that they are given assurance about the Board's performance of its roles and responsibilities in relation to its financial management of the budget to which the Parties will have contributed and its strategic role within the policy framework set by the Parties. The Parties intend that arrangements will therefore be put in place to ensure that regular monitoring reports are made by the Director to the Parties to assist them in that regard.

### **Board Membership**

The legislation sets out the compulsory and additional Board membership but only requires the Scheme itself to say how many voting members will be appointed by the Parties. The Parties consider it is helpful in understanding the Scheme and how the Board will operate to set out those statutory rules about membership here in this Introduction.

Prior to the Board being constituted it will have the following members who will be appointed, will remain as members and will have their membership terminated in accordance with the Scheme and the governing legislation.

- There will be four West Lothian councillors as voting members on the Board, chosen by the council, and appointed for periods of three years unless their appointment is terminated earlier. The first period of appointment shall start on the date the Board is established. Members leaving their position at the end of a three year period are eligible for reappointment.
- There will be four health board members as voting members on the Board, chosen by the health board and appointed for periods of three years unless



their appointment is terminated earlier. The first period of appointment shall start on the date the Board is established. Members leaving position at the end of a three year period are eligible for reappointment.

- The council's Chief Social Work Officer will be a non-voting member.
- A registered medical practitioner chosen by the health board from its list of primary medical services performers will be a non-voting member.
- A registered medical practitioner chosen by the health board and employed by it otherwise than in the delivery of primary medical services will be a non-voting member.
- A registered nurse chosen by the health board and who is either employed by it or by a person or body with which the health board has entered into a general medical services contract will be a non-voting member.
- The Director will be a non-voting member.
- The Finance Officer shall be a non-voting member.

After it is constituted, the Board is to appoint in addition the following as non-voting members:-

- One member in respect of the combined staff of the Parties engaged in the provision of the delegated services covered by the Scheme.
- One member in respect of third sector bodies carrying out activities in West Lothian in relation to health or social care.
- One member in respect of service users in West Lothian.
- One member in respect of persons providing unpaid care in West Lothian.

In order to assist in the integration process, the Parties in preparing and agreeing their draft Scheme for consultation, agreed that it would be appropriate for there to be two Board members appointed in respect of the combined staff of the Parties engaged in the provision of the delegated services covered by the Scheme. That cannot be imposed on the Board as a requirement, since the Board must appoint its own additional Board members after it is established, but the Parties have agreed that they will co-operate in promoting that additional appointment after the Board is set up.

The Board has the legal power to appoint additional members if it wishes to do so, and the Parties recognise that the Board has the final decision-making powers about those additional members. The Parties however recognise the importance of close co-operation and working in securing the delivery of the outcomes and the success of the Board and so they have agreed that they will co-operate in securing the Board's agreement that it shall consult with them prior to making any such appointments and shall take their respective views into account in that process.

### **Corporate Governance**

Apart from a requirement for the Board to establish Standing Orders containing certain prescribed rules, the legislation does not require any content in the Scheme in relation to the important aspect of corporate governance. The Parties nevertheless consider it appropriate and a matter of good practice to set out their intentions. Although they cannot restrict the Board's ability to decide and make its own structures and rules, nevertheless the Parties have agreed an approach which recognises the place and importance of good corporate governance in any public body.

Corporate governance is a means of showing that the Board is properly run. It refers to the systems by which the an organisation directs and controls its functions and relates to the community. Good corporate governance will demonstrate to the Board's stakeholders and everyone interested in the delivery of the integrated functions that the Board is well organised to direct their delivery.

In accordance with principles of good corporate governance, on its establishment the Parties shall assist and encourage the Board to adopt and abide by sets of rules and procedures designed to ensure that:-

- the Board has a defined and effective decision-making structure
- decisions are taken by a body or person with the power to do so
- decisions are taken with regard to all relevant factors and circumstances, including access to health and social care professional advice, financial advice, risk advice and legal advice
- decisions are taken in a way which is open and transparent and with public access available unless in defined and exceptional circumstances
- decisions are properly recorded
- structures are in place to ensure decisions are acted upon and implemented
- legislation, rules and professional practice standards and guidelines about financial reporting and accounting practice are applied
- systems are in place to ensure performance and legal and financial compliance are monitored and scrutinised and any failures reported to the Board.

These are systems and procedures such as financial controls, decision-making procedures, standing orders, the risk register, internal audit service and codes of conduct.

They should cover matters such as the creation of committees and sub-committees, and their membership and remits; the calling of meetings and giving notice of meetings and meeting papers to members and to the public; the regulation and conduct of meetings and the keeping of a record of proceedings; wide public access to meetings and meeting papers and records; delegation of powers and authority to the Director and other officers of the Board; roles and responsibilities of Chair, Vice-Chair and Board members; payments to Board members; financial and performance monitoring and reporting; the management of risk; internal audit arrangements; and relationship with external auditors.

### **Audit**

In relation to internal and external audit of its accounts, the Board is subject to the recently introduced regime of internal and external audit and governance under the Local Authority Accounts (Scotland) Regulations 2014. The legislation does not call for the Scheme to contain provisions in relation to these important aspects of financial governance, but the Parties nevertheless consider that they should prepare the way for the Board to make appropriate arrangements and to comply with its statutory responsibilities.

The way in which it will comply with those requirements is ultimately for the Board to determine when it is established but the Parties have agreed to encourage the Board to establish a Risk, Audit and Governance Committee to take a pro-active approach

to risk, audit and governance and to have a scrutiny and advisory role in relation to those matters. It should not be a decision-making committee – it will have a scrutiny function and will be able to make recommendations to the Board about the matters within its remit. It will however be for the Board to accept or reject its recommendations and take whatever action it considers appropriate.

The functions of the committee will be carried out with the support of the Parties, and the Board and the Parties shall co-operate in ensuring the committee operates as an effective tool of corporate governance. The Parties shall make arrangements for the provision of the professional services and advice the Board needs in relation to the keeping of its accounting records and financial statements and their audit as it will for other more general support services which the Board will require in order for it to function.

### **Business Continuity and Emergency Planning**

Although the legislation does not require the Scheme to make express provision for business continuity planning, the Parties nevertheless consider that appropriate and adequate arrangements should be made and that they are reviewed periodically and monitored for their effectiveness. The Parties shall therefore build on the existing arrangements in place through the West Lothian Community Health and Care Partnership, and shall develop those in the context of the statutory integration process and structure, under the control of the Director as part of the management arrangements applying to that post.

The Board will be able to seek assurance from the Director and from the Parties that appropriate business continuity and emergency planning arrangements are in place.

### **Procurement & Contracts**

The Board does not have specific powers in relation to public procurement, only the general power to enter into contracts for any goods and services it requires to enable it to carry out its statutory role and functions. Any advice required in relation to future procurement or contract needs shall be provided by the Parties in accordance with the agreement they will put in place in relation to general support services the Board shall require to allow it to operate.

### **Strategic Plan**

The Board is to approve a Strategic Plan through its Strategic Planning Group in accordance with legislation. The Board has the legal authority to develop and approve a Plan of its own making. However, the Parties have agreed that the Board should be encouraged to develop and approve a Strategic Plan to cover the next decade, and that it should detail the high level outcomes to be achieved; the performance management approach to monitor progress against these; the strategic commissioning priorities for the Board; and a rolling three year action plan which will be reviewed and updated on an annual basis. Development of an approach like that will assist the Parties and the Board in financial planning and policy making and assist in the achievement of goals, aims and outcomes.

## **Community Planning and Localities**

Upon the enactment of the Community Empowerment (Scotland) Bill the Board will be a strategic partner within West Lothian's community planning arrangements and the Board's Strategic Plan will require to support wider community planning processes, in particular in delivering the agreed outcomes as defined in the West Lothian Community Planning Partnership Single Outcome Agreement.

The high level outcomes will be set within the context of West Lothian's Community Plan and Single Outcome Agreement and the Parties intend that reporting arrangements will include a commitment to report on progress against these to the Community Planning Partnership.

The legislation requires that the Strategic Plan includes arrangements for the area of West Lothian to be divided into at least two localities, and for the Plan to include measures for strategic aspects of services to be delivered to those different localities. As an important partner in the Community Planning Partnership, the Parties will work to ensure that the Strategic Plan has regard to and is consistent with the overall approach to community planning amongst the community planning partners in West Lothian.

## **Clinical and Care Governance**

The Council is required by law to appoint a Chief Social Work Officer to oversee and make decisions in relation to specified social work services, some of which are delegated in relation to integration functions, and to report to and alert the council and councillors of any matters of professional concern in the management and delivery of those functions. The Chief Social Work Officer has a duty to make an annual report to the council in relation to the discharge of the role and responsibilities. The Chief Social Work Officer is to be a non-voting member of the Board but the Parties consider it is important that the Board's Standing Orders and other constitutional documents shall make provision for the Chief Social Work Officer to be given the same rights and privileges of access to the Board and Board members as they have in relation to the council and councillors. They also consider it to be a requirement of good corporate and care governance that the Board should adopt, that the Chief Social Work Officers shall also be required to make an annual report to the Board in relation to the aspects of their position which relate to the delivery of the delegated functions.

The Chief Social Work Officer will retain all of the statutory decision making and advisory powers they are given by statute and guidance, and the Director shall not be entitled to countermand or over-rule any decisions or instructions given by the Chief Social Work Officer in carrying out that statutory role.

The West Lothian Community Health and Care Partnership has as part of its arrangements in relation to clinical and care governance appointed a Clinical Director to advise and report to that Partnership Board. That arrangement will continue, with the Clinical Director being appointed by NHS Lothian to that role. The Parties consider it is important that the Board's Standing Orders shall ensure that the Clinical Director is given the same rights and privileges of access as are to be afforded to the Chief Social Work Officer, and that the Clinical Director shall also be

required to make an annual report to the Board in relation to the aspects of their position which relate to the delivery of the delegated functions.

The Clinical Director and Chief Social Work Officer will also have roles in providing regular reports and professional advice to the Board, to its Risk Audit and Governance Committee should it establish such a committee, and to the Strategic Planning Group in addition to reporting into the committees established by the Parties in relation to risk, audit and governance matters.

### **Staff**

The employment status of staff will not change as a result of this integration scheme ie staff will continue to be employed by their current employer and retain their current terms and conditions of employment and pension status.

### **Review**

The Act calls for the Scheme to be reviewed by the Parties jointly within five years of it being approved. In addition, one or both of the Parties can require that the Scheme is reviewed at any time, or that a new Scheme is put in place, and that review is to be carried out jointly by the Parties. When the Scheme is reviewed, the Parties will carry out a consultation process as required by the Act prior to obtaining approval.

The Act also calls for the Strategic Plan to be reviewed every three years, or for a new Plan to be made at any time when called for by both the Parties where they feel the present Plan is or is likely to prevent them from carrying out any of their functions appropriately.



## INTEGRATION SCHEME

### 1.0 The Parties

#### The Parties

- a. The West Lothian Council, a local authority constituted under the local Government etc. (Scotland) Act 1994 and having its headquarters at West Lothian Civic Centre, Howden South Road, Livingston, West Lothian EH54 6FF (“the Council”) and
- b. Lothian Health Board, established under section 2(1) of the National Health Service (Scotland) Act 1978 (operating as “NHS Lothian”) and having its principal offices at Waverley Gate, 2-4 Waterloo Place, Edinburgh (“NHS Lothian”) together referred to as “the Parties”

### 2.0 Definitions and Interpretation

“West Lothian Health and Social Care Partnership Board” is the Integration Authority in terms of the Act, and is referred to as “the Board”

“The Act” means the Public Bodies (Joint Working) (Scotland) Act 2014

“The Parties” means the Council and NHS Lothian

“The Scheme” means this Integration Scheme (but not the Introduction)

“Integration functions” means the functions delegated by the Parties to the Integration Joint Board

“Integration Joint Board” or “IJB” means the Integration Joint Board to be established by Order under section 9 of the Act

“Director” means the “Chief Officer” as referred to in section 10 of the Act

“Finance Officer” and “Proper Officer” mean the officer appointed under the finance and audit requirements in section 13 of the Act and section 95 of the Local Government (Scotland) Act 1973

“IJB Budget” means the total funding available to the Board in the financial year as a consequence of

- The payment for delegated functions from NHS Lothian under section 1(3) (e) of the Act;
- The payment for delegated functions from the Council under section 1(3) (e) of the Act; and
- The amount “set aside” by NHS Lothian for use by the Board for functions carried out in a hospital and provided for the areas of two or more local authorities under section 1(3) (d) of the Act

“Operational Budget” means the amount of budget delegated by one of the Parties to one of their managers in a financial year in order to carry out defined functions or services

“Strategic Plan” means the plan which the Board is to be prepared and implemented in relation to the delegated provision of health and social care services to adults in accordance with section 29 of the Act

“Outcomes” means the Health and Wellbeing outcomes prescribed in Regulations under section 5(1) of the Act and local outcomes set by the Parties and the Board, and set out in its Strategic Plan.

### **3.0 Integration Model and Integration Functions**

This Scheme has been produced in accordance with the requirements of the Public Bodies (Joint Working) (Scotland) Act 2014.

In accordance with section 1(2) of the Act, the Parties have agreed that the integration model set out in section 1(4) (a) of the Act will be put in place, namely the delegation of functions by the Parties to an Integration Joint Board, a body corporate that is to be established by Order under section 9 of the Act.

The prescribed functions stated in the Act will be delegated. A list of functions delegated by the Parties to the Board, and of the services related to these functions, is appended at Annexes 1 and 2.

This Scheme comes into effect on the date the Parliamentary Order to establish the Integration Joint Board comes into force and the integration functions shall be delegated with effect from 1 April 2016.

### **4.0 Local Governance Arrangements**

#### **Membership**

The IJB shall have the following voting members:

- a) **4** councillors nominated by the Council; and
- b) **4** non-executive directors nominated by NHS Lothian, in accordance with articles 3(4) and 3(5) of the Integration Joint Boards Order.

The Parties may determine their own respective processes for deciding who to nominate as voting members of the IJB.

Non-voting members of the IJB will be appointed in accordance with article 3 of the Integration Joint Boards Order.

The term of office of members shall be the maximum of three years prescribed by regulation 7 of the Integration Joint Boards Order. Members can be reappointed after this period.

#### **Chairperson and Vice Chairperson**

The IJB shall have a chairperson and vice-chairperson who will both be voting members of the IJB.

The Council will hold the Chair for the first year of the IJB. After that the Chair will rotate to the Health Board and then back to the Council on a two year basis.

The term of office of the vice chairperson will mirror the arrangements for the Chair, with the holders of the posts alternating between the Parties accordingly. The provisions set out above under which the power of appointment of the chairperson will alternate between the Parties will apply in relation to the power to appoint the vice chairperson, and on the basis that during any period when the power to appoint the chairperson is vested in one Party, the other Party shall have power to appoint the vice-chairperson.

The Parties may determine their own processes for deciding who to appoint as chairperson or vice-chairperson.

Each Party may change its appointment as chairperson (or, as the case may be, vice chairperson) at any time; and it is entirely at the discretion of the Party which is making the appointment to decide who it shall appoint.

### **Support Services**

The Parties shall provide or shall ensure the provision to the Board of the professional, technical, administrative and support services it reasonably requires. In the short term the Parties will maintain the arrangements already in place in relation to the provision of such services to the existing West Lothian Community Health and Care Partnership. In the period between approval of this Scheme and the formal delegation of functions, a sustainable longer-term solution will be developed by the Parties and the Board amongst themselves and in conjunction with the other integration authorities in the area of NHS Lothian. They shall identify the services and the extent of the support required by the Board and shall consider and have regard to the needs of the Board as well as the continuing needs of the Parties (in particular concerning financial and budgetary constraints). The provision of services shall be kept under review by the Parties and the Board to ensure adequate provision to meet the Board's needs. The cost of that service provision will be agreed by the Parties as part of the process set out in the Scheme for budget setting and the determination of the payments to be made by the Parties to the Board.

The Parties shall agree prior to the date when the Board is established the arrangements for the provision of those, and other similar services, and the way in which the cost of their provision will be borne amongst the Parties and the Board. After the establishment of the Board, the Board and the Parties shall keep under review the arrangements for the provision of support services and the costs of providing them, and shall agree amongst them such adjustments to the initial arrangements as are deemed by them to be appropriate to reflect experience and any changes in circumstances.

### **5.0 Delegation of Functions**

The functions that are to be delegated by the NHS Board to the Board are set out in Part 1 of Annex 1. The services to which these functions relate, which are currently provided by the NHS Board and which are to be integrated, are set out in Part 2 of Annex 1.



The functions that are to be delegated by the Council to the Board are set out in Part 1 of Annex 2. The services to which these functions relate, which are currently provided by the Council and which are to be integrated, are set out in Part 2 of Annex 2.

In addition to the functions that must be delegated in accordance with the legislation, the Parties have chosen to delegate the following health functions to the IJB:

- The following health services as they relate to provision for people under the age of 18:
  - i. Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
  - ii. General Dental Services, Public Dental Services and the Edinburgh Dental Institute
  - iii. General Ophthalmic Services
  - iv. General Pharmaceutical Services
  - v. Out of Hours Primary Medical Services
  - vi. Learning Disabilities.

## **6.0 Local Operational Delivery Arrangements**

### **Management Arrangements**

The Director shall be employed by one of the Parties and shall be seconded to the Board as its Chief Officer and a member of its staff. The Director will nevertheless be responsible and accountable to the Parties for the management and delivery of the integration functions in accordance with the directions issued by the Board to the Parties. They will be directed and managed by the Chief Executives of both Parties in that regard.

The Director is responsible to the Board for the delivery of the Strategic Plan.

The Parties and the Director shall secure the operational delivery of the integration functions in accordance with the Directions issued to the Parties by the Board.

They shall put in place a management structure, headed by the Director, to manage the delivery of and performance by them of the integration functions, and to manage the staff employed by the Parties in doing so. The integration services will be managed and delivered through close partnership working and protocols, and in conjunction with the health and social care and other functions of the Parties which are not integration functions.

The Parties shall provide the Board with information and performance management information required by it in terms of the powers conferred by the Act. The Parties recognise the importance of close co-operation and working in securing the delivery of the outcomes. The Board will therefore consult with and take account of the views of the Parties in decisions regarding the information to be provided and the dates and regularity to apply to its provision. The Director shall use that information to provide regular reports to the Board on at least a quarterly basis, and including sufficient information to ensure that the membership of the Board is able to

adequately oversee the carrying out of the integration functions by the Parties. The Board shall have the ability to request and receive such additional information in relation to service performance and financial performance as is reasonably required by them to perform that duty.

In the interests of efficient governance, the relevant committees of NHS Lothian and the Council will continue to discharge their existing remits for assurance and scrutiny of the carrying out of NHS Lothian and the Council functions, regarding matters such as internal control, quality and professional standards, and compliance with the law. The Integration Joint Board will not duplicate the role carried out by those committees other than in exceptional circumstances where the IJB considers that direct engagement by the IJB (or by a committee established by the IJB) is appropriate in order to secure the proper discharge by the IJB of its statutory responsibilities.

Each of the Parties shall use reasonable endeavours to procure that in the event that one of its committees identifies an issue which is of direct and material relevance to the Integration Joint Board, the Council will advise the Chair of the Integration Joint Board and the Director of that matter and will co-operate with the IJB in supplying such further information and evidence in respect of that matter as the IJB may reasonably request.

The Parties shall ensure that their respective standing orders, schemes of delegation and other governance documents are amended (if required) to reflect the IJB's powers and remit, and its place as a common decision-making body within the framework for delivery of health and social care within the West Lothian Area.

The Parties acknowledge that the Director's role in operational delivery will represent an important means by which closer integration of services, in accordance with the integration delivery principles specified in the Act, can be achieved. For the avoidance of doubt, the Director's role in operational delivery shall not displace:

- a) the responsibilities of each Party regarding compliance with directions issued by the Integration Joint Board; or
- b) the principle that each Party's governance arrangements must allow that Party to manage risks relating to service delivery.

In addition to the specific commitments set out above and the obligations regarding provision of information attaching to the Parties under the Act, each of the Parties will use reasonable endeavours to provide the Integration Joint Board with any information which the Integration Joint Board may require from time to time to support its responsibilities regarding strategic planning, performance management, and public accountability.

### **Strategic Planning**

The Board is required to establish a strategic planning group to develop a strategic plan in accordance with the legislation describing the strategic vision and direction

for the Board over the next decade, within the policy framework and direction of the Parties. The Parties intend that the Strategic Plan will amongst other things to be determined by the Board when it approves the Strategic Plan detail the high level outcomes to be achieved; the performance management approach to monitor progress against these; the strategic commissioning priorities for the Board; and a rolling three year action plan which will be reviewed and updated on an annual basis.

The Board is one of four Boards in the area of the Health Board and the Parties and the Board require to work in co-operation amongst themselves and with those other local authorities and Boards in preparing their Integration Schemes, in developing their respective Strategic Plans, in the delivery of the integration functions, and in the interaction with health and social care functions which are not integrated.

In developing this Scheme the Parties have taken into account the other Schemes being developed between the health board and other councils in its area, and the effects that all of those Schemes, and this one, may have on the others.

The Board also requires to have regard to the impact its Strategic Plan will have on services, facilities and resources to be used in relation to the Strategic Plans after their adoption or whilst they are being developed in those other areas. The Parties' intention is that the Board shall, with the support and co-operation of the Parties, put in place a process and system to secure close collaboration, co-operation and the sharing of relevant information amongst the Chief Officers of the four integration authorities and amongst the Strategic Planning Groups of those integration authorities. The Parties shall ensure through the line management arrangements for the Director set out in the Scheme, that the Director provides information to the other integration authorities where the Board's Strategic Plan is likely to have a significant impact on the Strategic Plans of those other integration authorities, and makes representations on behalf of the Board to those other integration authorities where the interests and objectives of the Board and its Strategic Plan may be affected by the Strategic Plans elsewhere .

In particular, the Parties' intention is that the Board shall adopt reporting arrangements and processes which ensure that the strategic impacts on the other integration authorities and their strategic plans are brought to the attention of the Board in its decision making, both in regard to integration functions and other functions and services which are not integrated or delegated.

### **Lothian Hospitals Strategic Plan**

NHS Lothian will develop a plan (the 'Lothian Hospitals Strategic Plan') to support the IJBs to fulfil their duties. The Lothian Hospitals Strategic Plan will not bind the IJB and the strategic plan of the IJBs will inform the Lothian Hospitals Strategic Plan.

The Lothian Hospitals Strategic Plan will be developed in partnership with the Lothian IJBs whose integrated functions are delivered by NHS Lothian in a hospital. The first Lothian Hospitals Strategic Plan will be published by 1 December 2015.

The purpose of the Lothian Hospital Strategic Plan is to ensure that planning for hospital functions and use of hospital facilities is:

- Responsive to and supports each IJB Strategic Plan; and
- Supports the requirement of NHS Lothian to deliver hospital services required by the IJB and other hospital services that are not the responsibility of the IJB (e.g. tertiary, trauma, surgical, planned and children's services).

The Lothian Hospitals Strategic Plan will be a plan developed jointly by NHS Lothian and the Lothian IJBs. The elements of the Lothian Hospitals Strategic Plan addressing non delegated functions can only be agreed by the NHS Lothian Board after the four Lothian IJBs have been consulted and their views and requirements appropriately considered. Elements of the Lothian Hospitals Strategic Plan which cover functions delegated to the respective Lothian IJBs will be signed off by relevant Lothian IJBs in consultation with NHS Lothian and all Lothian IJBs.

The Lothian Hospitals Strategic Plan will be updated at least every three years; the process to update the plan will be led by NHS Lothian.

### **Performance Targets and Reporting Arrangements**

The Parties shall develop and agree between them a list of the targets, measures and arrangement in relation to the performance of the integration functions, and shall do so prior to the constitution of the Board. After the constitution of the Board, the Parties shall agree with the Board and, prior to the date of delegation of functions, a final list of such targets, measures and arrangements and the frequency with which information about them is to be provided.

The targets, measures and arrangements developed and approved through that process, shall include and shall reflect targets, measures and arrangements in relation to health and social care functions which have not been integrated and which are to be taken into account by the Board in its preparation of the strategic plan.

In developing and agreeing those matters, the Parties shall build on the successful performance measuring, monitoring and reporting systems operated through the West Lothian Community Health and Care Partnership. They shall through officers of both Parties develop those systems further by identifying those performance indicators and outcomes for which responsibility shall pass to the Board in relation exclusively to integration functions and those for which responsibility shall be shared where they relate to both integration functions and functions and services which have not been integrated or delegated. Those outcomes and indicators will be refined to reflect and support the priorities set out in the Board's Strategic Plan. The Parties and the Board shall ensure that the systems, outcomes and indicators put in place are regularly reviewed, refreshed and updated to reflect changes to those priorities, to the Strategic Plan and other changes in circumstances.

After it is established, the Board will be responsible for the development of its own performance management approach to enable the Board to monitor progress against quality improvement and service delivery required to achieve the high level outcomes in the strategic plan. To continue the development work of the Parties to be carried out prior to the establishment of the Board, the Parties will encourage that Board to adopt an approach to performance management which will detail the suite

of performance indicators to be used to monitor progress against the high level outcomes and will confirm the reporting arrangements on performance.

## **7.0 Clinical and Care Governance**

### **Introduction**

The Parties are to delegate certain of their respective clinical and care functions to the IJB, in accordance with section 4 of this Scheme. The Parties have had regard to their continuing duties regarding clinical and care governance as well as the integration planning principles (as set out in the Act) and the Outcomes when preparing this Scheme.

This section of the Scheme sets out the arrangements that will be put in place to allow the IJB to fulfil its role with professional advice and with appropriate clinical and care governance in place.

The Parties have well established systems to provide clinical and care governance as well as assurance for professional accountabilities. Those systems will continue following the establishment of the IJB and the scope of these systems will extend to provide the IJB with the requirements to fulfil their clinical and care governance responsibility.

Continuous improvement and the quality of service delivery (and its impact on outcomes) will be addressed through the development of the IJB's performance management framework (pursuant to section 6 of this Scheme).

The Integration Joint Board will not duplicate the role carried out by the Parties existing governance arrangements other than in exceptional circumstances where the IJB considers that direct engagement by the IJB is appropriate in order to secure the proper discharge by the IJB of its statutory responsibilities.

The Parties agree that in the event that one of its committees within its governance arrangements identifies an issue which is of direct and material relevance to the Integration Joint Board, the committee will advise the chairperson of the Integration Joint Board and the Director of that matter and will co-operate with the IJB in supplying such further information and evidence in respect of that matter as the IJB may reasonably request.

The Parties shall ensure that its standing orders, schemes of delegation and other governance documents are amended (if required) to reflect the IJB's powers and remit, the IJB's place as a common decision-making body within the framework for delivery of health and social care within the West Lothian Area and the Parties role in supporting the IJB to discharge its duties.

The voting members of the Integration Joint Board are engaged in the governance of their respective Party, and it is likely that they will be members of one or more committees of the relevant Party.



The Parties will use reasonable endeavours to appoint voting members of the Integration Joint Board (regardless of which party nominated the voting members) onto the NHS Lothian and Council governance arrangements with a remit relevant to the clinical and care governance of integration functions.

Within its existing governance framework, NHS Lothian has :

- A healthcare governance committee, the remit of which is to provide assurance to the Board that the quality of all aspects of care in NHS Lothian is person-centred, safe, effective, equitable and maintained to a high standard and to provide assurance to the Board of NHS Lothian that the Lothian NHS Board meets its responsibilities with respect to:-
  - NHS Lothian Participation Standards
  - Volunteers/Carers
  - Information Governance
- Protection of Vulnerable People including children, adults, offenders
  - Relevant Statutory Equality Duties

And

- A staff governance committee, the remit of which is to support and maintain a culture within Lothian NHS Board where the delivery of the highest possible standard of staff management is understood to be the responsibility of everyone working within NHS Lothian and is built upon partnership and collaboration. The Staff Governance Committee must ensure that robust arrangements to implement the (NHS Scotland) Staff Governance Standard are in place and monitored

The staff governance committee has the primary role on staff governance matters, but can and does refer matters of relevance to the healthcare governance committee.

The healthcare governance committee can request assurance from the staff governance committee on matters of direct relevance to its remit, e.g. quality of recruitment, learning and development, completion of mandatory training.

Within the Council, the Chief Social Work Officer has overall responsibility for the professional standards of the Council's social work and social care staff. The workforce is also regulated by the Scottish Social Services Council (SSSC), and all professional staff must by law be registered with the SSSC. This registration requirement will, in due course, extend to all social care staff employed by the Council and the voluntary and independent sectors.

The Chief Social Work Officer reports annually to the Council on the registration of the workforce and on training, including mandatory training and post-qualifying learning and development. The Chief Social Work Officer will provide a copy of this annual report to the Integration Joint Board.

The Chief Social Work Officer also reports annually to the Council on standards achieved, governance arrangements including supervision and case file audits and volume/quantity of statutory functions discharged. This report must comply with national guidance issued by the Scottish Government. The Chief Social Work Officer will also provide a copy of this annual report to the integration joint board.

The intention of using the existing NHS Lothian and Council committees as a primary source of assurance is to recognise that the parties will have continuing governance responsibilities for both integration and non-delegated functions, and that the parties wish to minimise unnecessary bureaucracy. The Integration Joint Board will be engaged through its membership being on these committees, and its relationship with the committee chairs. The Integration Joint Board will be in a position to holistically consider the information/ assurance received from the Parties, and arrive at a determination for all of its functions. If the integration joint board is in any way dissatisfied with the information or assurance it receives from the parties, or the effectiveness of the parties committees, it may give a direction to the parties to address the issue, or revise its own system of governance.

### **Clinical and Care Governance Risk**

There is a risk that the plans and directions of the Integration Joint Board could have a negative impact on clinical and care governance, and professional accountabilities. This section of the Scheme sets out the arrangements that will be put in place to avoid this risk.

### **Professional Advice**

NHS Lothian has within its executive membership three clinical members (referred to below as '**Executive Clinical Directors**'); a Medical Director, a Nurse Director, and a Director of Public Health. Their roles include responsibility for the professional leadership and governance of the clinical workforce (medical, nursing, allied health professionals, healthcare scientists, psychology, pharmacy), as well as clinical governance within NHS Lothian generally. The creation of the IJB does not change their roles in respect of professional leadership, and they remain the lead and accountable professionals for their respective professions.

The Council has a Chief Social Work Officer who reports to the Chief Executive and councillors. The Chief Social Work Officer monitors service quality and professional standards in social care and social work, for staff employed in both adult and children's services, together with standards in relation to the protection of people at risk. The Chief Social Work Officer role also includes quality assurance of decision-making with regard to adult social care, mental health criminal justice and children's services, in particular in relation to public protection and the deprivation of liberty.

The creation of an IJB does not change the Chief Social Work Officer's role in respect of professional leadership and he or she will remain the lead and accountable professional for his or her profession.

The Chief Social Work Officer must be a non-voting member of the IJB. The IJB may elect to appoint one or both of the Medical Director and the Nurse Director as additional non-voting members of the IJB. The Order requires NHS Lothian to fill the following non-voting membership positions on the IJB:

- A registered medical practitioner whose name is included in the list of primary medical services performers prepared by NHS Lothian in accordance with Regulations made under section 17P of the National Health Service (Scotland) Act 1978;
- A registered nurse who is employed by NHS Lothian or by a person or body with which NHS Lothian has entered into a general medical services contract; and
- A registered medical practitioner employed by NHS Lothian and not providing primary medical services.

NHS Lothian will consider the advice of the Executive Clinical Directors, and any other relevant officer it deems fit before making appointments to fill the membership positions referred to above. The appointees will be professionally accountable to the relevant executive clinical director. NHS Lothian will develop a role description for the appointments referred to above, to ensure that their role on the IJB with regard to professional leadership and accountability is clearly defined and understood.

The three health professional representatives referred to above will each also be:

- A member of an integrated professional group (should it be established); and/or
- A member of a NHS Lothian committee; and/or
- A member of a consultative committee established by NHS Lothian.

If a new “integrated professional group” is established, the Chief Social Work Officer must also be a member.

The three health professional representative set out above and the Chief Social Work Officer will be expected by the Parties to play a lead role in:

- Communicating and having regard to their duties to NHS Lothian or the Council as the case may be whilst discharging their role as a member of the IJB;
- Communicating and having regard to the interests of the IJB whilst discharging their duties as professionals employed by NHS Lothian or (as the case may be) the Council.
- The members will be expected to communicate regularly with the Executive Clinical Directors, and the Council’s Chief Executive as and when appropriate.

The presence of these four members will ensure that the decisions of the IJB are informed by professional advice from within the membership of the IJB.

The Chief Social Work Officer reports annually to the Council on the registration of the workforce and on training, including mandatory training and post-qualifying learning and development.

NHS Lothian includes a governance statement in its annual accounts, the content of which is informed by the annual reports of its governance committees (such as healthcare governance and staff governance) and certificates of assurance from its Executive Clinical Directors. The IJB may place reliance on these existing



processes, and the Parties will provide any such reports from those processes as the IJB may require.

The Executive Clinical Directors shall be entitled to raise issues directly with the IJB in writing. The IJB shall be required to respond in writing when issues are raised in this way. The Chief Social Work Officer will be a non-voting member of the IJB, and can therefore raise any issues directly at the IJB.

The engagement of professionals throughout the process to develop and consult on the Strategic Plan is intended to ensure that the IJB has all the required information to prepare a Strategic Plan, which will not compromise professional standards.

In the unlikely event that the IJB issues a direction to NHS Lothian, which is reasonably likely to compromise professional standards, then in the first instance, the relevant Executive Clinical Director will write to the IJB.

If the issue is not resolved to their satisfaction, they must inform the board of NHS Lothian before it takes action to implement the direction, and the following measures will apply:

- The relevant Executive Clinical Director must ensure that appropriate advice is tendered to the board of NHS Lothian on all matters relating to professional standards;
- The relevant Executive Clinical Director must set out in writing to NHS Lothian any objections they may have on a proposal that may compromise compliance with professional standards;
- The board of NHS Lothian will inform the IJB that it has received such objections, along with a statement of the views of the board of NHS Lothian on those objections;
- If board of NHS Lothian decides to proceed with a proposal despite those objections, the relevant executive clinical director will be provided with written authority from the board of NHS Lothian to act on the proposal. NHS Lothian must inform the Scottish Government Health and Social Care Directorate if a request for such a written authority is made. A copy of that authority must be sent to the appropriate regulatory body, e.g. General Medical Council;
- Once the relevant executive clinical director has received that written authority, they must comply with it.

The three professional clinical members on the IJB (two medical practitioners, one nurse) are non-voting members. They will be expected by the Executive Clinical Directors to raise any concerns in relation to matters which may compromise professional standards with the IJB.

If any of the three professional clinical members becomes aware of a matter arising from the conduct of IJB business, which may compromise professional standards, they must immediately notify the relevant executive clinical director(s) of their concerns.

The Chief Social Work Officer will be a non-voting member of the Integrated Joint Board, and as such, will contribute to decision making, and will provide relevant professional advice to influence service development.

In the event that the Integrated Joint Board issues a direction to the Council or NHS Lothian, which in the view of the Chief Social Work Officer compromises professional social work standards or the discharge of statutory functions, the Chief Social Work Officer must immediately notify the Director of their concerns and if their concerns are not resolved by the Director to their satisfaction must then raise the matter with the Chief Executive of the Council.

### **Professionals Informing the IJB Strategic Plan**

With regard to the development and approval of its Strategic Plan, the IJB is required to:

- establish a strategic planning group (which will review the draft Strategic Plan). This strategic planning group must include a nominee from both NHS Lothian and the Council in its membership, as well as representation from health professionals and social care professionals. NHS Lothian and the Council will make recommendations to the IJB with regard to the representation from health professionals and social care professionals;
- consult both NHS Lothian and the Council on its Strategic Plan, and take into account their views before it finalises the Strategic Plan.

There will be three opportunities within these arrangements for professional engagement in the planning process;

- at the IJB;
- in the context of the work of the strategic planning group; and
- as part of the consultation process with the Parties associated with the Strategic Plan.

The membership of the IJB will not be the only source of professional advice available to the IJB. In advance of the establishment of the IJB the Parties agree that the chairs of all appropriate committees and groups will be informed that they are able to, and expected to, directly provide advice to the IJB. Those committees and groups may also advise an integrated professional group that provides advice to the IJB. Those committees and groups include, but are not limited to:

- Area Clinical Forum;
- Local consultative committees that have been established under section 9 of the National Health Service (Scotland) Act 1978;
- Managed Clinical/ Care Networks;
- West Lothian Public Protection Committee (adult and child protection, drug and alcohol, violence against women, offender management etc). The IJB will consult this committee on any plans that may impact on the protection of children or vulnerable adults or people who are assessed as posing a risk;
- Any integrated professional group established.

NHS Lothian and the Council will ensure that the draft Strategic Plan is sent to the following senior professionals in order to secure their input and advice:

- NHS Lothian Medical Director;

- NHS Lothian Nurse Director;
- NHS Lothian Director of Public Health & Health Policy;
- NHS Lothian Allied Health Professions Director;
- Chief Social Work Officer.

The engagement of the Council's professionals will not be limited to social work staff, but will extend to related professionals within social care, such as, but not exclusively, occupational therapists, home care and social care staff.

The approach to locality planning and delivery including the arrangements for clinical and social care governance will be developed through the strategic planning process in a collaborative manner by the IJB.

### **External scrutiny of clinical and care functions**

NHS Lothian seeks assurance for internal control/quality through its Healthcare Governance Committee, which includes reports by external bodies such as Healthcare Improvement Scotland.

The Care Inspectorate (Social Care and Social Work Improvement Scotland) regulates, inspects and supports improvement of adult and children's social work and social care, and their reports feed into the Council's system of governance.

The IJB will consequently be informed of any relevant issues from external scrutiny, as a consequence of drawing from the systems already established by the Parties.

### **IJB Strategic Planning Group**

The Chairperson of the IJB will ensure that the Strategic Planning Group is provided with all information that it requires to discharge its role. This will be done through exercising the powers the IJB has to require information from the Parties for planning purposes, as well as sharing information the IJB has already acquired through the conduct of its normal business.

### **Service User and Carer Feedback**

The Parties have a range of systems already in place to capture and respond to service users' experience, and these will continue to be used as the Parties implement the directions of the IJB.

## **8.0 Director**

### **Appointment**

The first Director will be appointed to the post by the Board as required by the Act, but, to reflect the significance of the post to the Parties and the Director's duties and responsibilities, it is expected that the appointment shall be made after consultation by the Board with the Parties and of the jointly agreed holder of the shadow Director post.

Prior to the establishment of the Board the Director's job description, person specification, terms and conditions, salary, pension, responsibilities and powers shall be agreed jointly between the Parties, and appropriate approval obtained under the

separate mechanism contained in the Act. Those will reflect and include the responsibilities the Director will have, by agreement between the Parties, to the Parties in relation to matters other than those affecting the integration functions.

Upon the appointment by the Board of the Director, the Parties shall at the same time confirm the appointment of the Director in relation to their own organisations and shall ensure that appropriate powers are delegated to him/her by the Parties to enable him/her to meet the requirements of the post.

Any future appointment to the post of Director shall follow an open and transparent process, except that the recruitment, selection and appointment process shall be carried out by the Board, in reliance on professional advice to be provided to the Board as part of the agreed support services. The Parties shall ensure the availability of appropriate technical, legal and human resources advice through the arrangements to be put in place for the provision of support services as set out in the Scheme, and through an appointment process designed by the Board to reflect the significance to the Parties of the post.

If an interim replacement for the Director of the Board is required, in line with a request from the Board to that effect (on the grounds that the Director is absent or otherwise unable to carry out their functions), the Chief Executives of the Parties will initiate a joint selection process, identifying a list of potential replacements; and selection of a suitable candidate will be undertaken against a set of agreed criteria. The interim replacement will be employed by one of the Parties and will be seconded to the Board on an interim basis.

### **Operational Role**

In terms of the Act the Director will report to and advise the Board in relation to its role and powers over the integrated functions, and they will also be accountable to the Chief Executives of the Parties in relation to operational and service delivery matters.

The Director will be a member of each of the council and health board senior management teams and together with the Chief Social Work Officer will have appropriate delegated powers to enable them to discharge their duties and to manage the two services and secure the operational delivery of the integration functions jointly and in an integrated manner.

The Director will be the senior manager in each of the Parties responsible for delivery of the delegated functions in accordance with directions from the Board, and for the delivery of other health and social care functions which have not been delegated to the Board.

### **9.0 Workforce**

The Parties will provide for workforce development in relation to the staff employed in the delivery of the integration functions and will develop an integrated Workforce Development and Support Plan, and an Organisational Development Plan in relation to teams delivering services. The Parties shall ensure the completion of those Plans prior to the constitution of the Board and they shall be put in place at the date of delegation of the integration functions.

## 10.0 Finance

### Finance Officer

In relation to the preparation of its accounts and their audit, the Board is governed by the same legislation applying to local authorities and will require to make arrangements for the proper administration of its financial affairs; this will include the appointment of a Finance Officer with this responsibility. The Finance Officer will be employed by the Council or NHS Lothian and seconded to the Board. The holder of the post should be a CCAB-qualified accountant, and the Board should have regard to the current CIPFA Guidance on the role.

In the event that the Finance Officer position is vacant or the holder is unable to act, the Director shall secure, in consultation with the Board Chair, and through agreement with both the council section 95 officer and the NHS Lothian Director of Finance, an appropriate interim dedicated resource to discharge the role.

### Financial Management of the Board

The Board will determine its own internal financial governance arrangements; and the Finance Officer will be responsive to the decisions of the Board, and the principles of financial governance set out in this Scheme.

### Principles of Financial Governance

The following principles of financial governance shall apply:

- NHS Lothian and the Council have agreed to establish the Board as a “joint operation” as defined by IFRS 11
- NHS Lothian and the Council will work together in a spirit of openness and transparency
- NHS Lothian and the Council will ensure their payments to the Board are sufficient to fund the delegated functions in line with the financial elements of the Strategic Plan
- NHS Lothian and the Council payments to the Board derive from a process that recognises that both organisations have expenditure commitments that cannot be avoided in the short to medium term. The Board, through its Strategic Plan and through the directions issued by it, may, however, be able to influence such commitments over time; and both Parties will work with the Board on service redesign proposals in relation to integration functions.

### Financial Governance

The Parties will contribute to the establishment of a Board budget. The Director will manage the Board budget.

The Parties are required to implement the Directions of the Board in carrying out the integrated functions in line with the strategic plan, provided that the Board delegates the required level of resources to meet the anticipated cost of the integrated functions. The Parties will apply their established systems of financial governance to the payments they receive from the Board. The NHS Lothian Accountable Officer and the Council section 95 Officer have legally defined responsibilities and accountability for the financial governance of their respective bodies.



The Director in their operational role within NHS Lothian and the Council is responsible for the financial management of any operational budgets (as defined in section 10 of this Scheme) that may be delegated to them by the Parties, and is accountable for this to the NHS Lothian Chief Executive and WLC section 95 officer.

The Board will develop its own financial regulations. The Finance Officer will periodically review these financial regulations and present any proposed changes to the Board for its approval.

The Council will host the Board Financial Accounts and will be responsible for recording the Board financial transactions through its existing financial systems. This will include the ability to establish reserves.

The Board's Finance Officer will be responsible for preparing the Board's accounts and ensuring compliance with statutory reporting requirements as a body under the relevant legislation.

The Finance Officer will also be responsible for preparing a medium-term financial plan to be incorporated into the Board's Strategic Plan. The Finance Officer will also be responsible for preparing the annual financial statement that the Board must publish under section 39 of the Act, which sets out what the Board intends to spend in implementation of its Strategic Plan.

The Finance Officer will be responsible for producing finance reports to the Board, ensuring that those reports are comprehensive.

The Finance Officer will liaise closely with the Council s95 officer and the NHS Lothian Director of Finance and their teams in order to discharge all aspects of their role section 6 of this scheme has set out the process the Parties will undertake to determine how professional, technical and administrative services will be provided to the Board. The initial focus of this work includes finance support.

### **Payments to the Board (made under section 1(3) (e) of the Act)**

The legislation on Integration uses the term 'payment' to describe the budget contributions that the Parties will delegate to the Board. In the interests of clarity, whilst the term 'payment' is used in this document to remain consistent with the legislation, it is not anticipated that cash transfers will take place between Parties and the Board. Rather, the term 'payment' can be taken to mean the budget contributions of the partner organisations that have been agreed as resources delegated to the Board.

Prior to the start of each financial year, the Parties will agree a schedule of payments to the Board (covering their initial calculated payment for the financial year and the dates for transactions).

Any difference between payments into and out from the Board will result in a balancing payment between the Council and NHS Lothian which reflects the effect of the directions of the Board.

### **Initial Payments to the Board**

The Council and NHS Lothian will identify a core baseline operational budget for each function that is delegated to the Board. This will be used as the basis to calculate their respective payments into the Board budget.

The Council and NHS Lothian already have established financial planning processes which take into account the financial settlements they have received, and identified and assumed expenditure pressures, to arrive at opening budgets for the forthcoming financial year. These same processes will be applied to the core baseline operational budgets for the delegated functions in order to arrive at the initial payments to the Board.

### **Resource Transfer**

The “resource transfer” payments from NHS Lothian to the Council will continue to be made after the Board is established, as these payments are effectively core funding of functions that will be delegated by the Council. Taking account of the process above, the resource transfer payment from NHS Lothian to the Council will be reviewed on an annual basis.

### **Hosted Services**

NHS Lothian carries out functions across four local authority areas. Some of the functions that will be delegated to all four Integration Joint Boards in the NHS Lothian boundary are currently provided as part of a single Lothian-wide service, commonly referred to as “hosted services”. As such there is not currently a separately identifiable budget for those services by local authority area.

In order to identify the core baseline budget for each of the hosted services in each local authority area, NHS Lothian will initially determine which of the following methodologies is the most appropriate in representing the distribution of the delivery of those services in each local authority area and their respective populations at a given point in time:-

- Local activity and cost data for each service within each local authority area
- Population distribution across the local authority areas
- Patient level activity and cost data
- Historically applied and recognised percentages.

The Council and the Board will review the proposals from NHS Lothian as part of a due diligence process, and the core baseline budget will be collectively agreed.

### **Due Diligence**

The Parties will share information on the financial performance over the previous two financial years of the functions and associated services which will be delegated to the Board. This will allow the Parties to undertake appropriate reviews to gain assurance that the services are currently being delivered sustainably within approved resources, and that the anticipated initial payments will be sufficient for the Board to carry out its integration functions.

If any such review indicates that the projected expenditure is likely to exceed the initial payments to the Board, then the relevant Party will be notified. The relevant Party will be required to take action to ensure that services can be delivered within the available operational budget

The Parties recognise that of the functions which are to be delegated to the Board, there are some where there is greater potential for the actual expenditure to vary

significantly from projections. The Parties will identify what those functions are, and will ensure that information is provided to the Board so that it may build up its working knowledge of the issues, and focus on those functions within their systems for risk management and financial reporting. This will help the Board and the Parties determine how any particular variances (should they arise) should be handled (see section below), as well as how the Board decides to direct the use of the Board budget in the future.

This process of due diligence will be applied in future years, and this will be informed by, amongst other things, the intelligence within the financial performance reports covering all integration functions that the Board will routinely receive.

### **Determining the schedules for the Initial Payments**

The Council section 95 officer and the NHS Lothian Director of Finance are responsible for preparing the schedules for their respective party. The amounts to be paid will be the outcome of the above processes. They will consult with the Director and officers in both Parties as part of this process.

- The Council section 95 officer and the NHS Lothian Director of Finance will each prepare a schedule outlining the detail and total value of the proposed payment from each party, and the underlying methodology and assumptions behind that payment. These draft schedules will identify any amounts included in the payments that are subject to separate legislation or subject to restrictions stipulated by third party funders. The schedules will also contain the detail and total value of set aside resources for hospital services, made under section 1(3) (d) of the Act.
- The Council section 95 officer and the NHS Lothian Director of Finance will refer the draft schedules to the Director so that they may have an opportunity to formally consider it.
- The Council section 95 officer and the NHS Lothian Director of Finance will thereafter present the final draft schedules to the Parties. This schedule must be approved by the Director of Finance of NHS Lothian, the Council section 95 officer and the Director.
- The Council and NHS Lothian must approve their respective payments, in line with their governing policies.

### **Subsequent section 1(3) (e) Payments to the Board**

The calculation of payments in each subsequent financial year will essentially follow the same processes as has been described for the initial payment. This section highlights the key differences from the process of calculating the initial payment.

The starting position will be the payments made to the Board in the previous financial year. The Parties will then review the payments, having due regard to any known factors that could affect core baseline budgets, available funding, their existing commitments, the results of their own financial planning processes, the previous year's budgetary performance for the functions delegated to the Board, the Board's performance report for the previous year, and the content of the Board's Strategic Plan.



The Parties will also have due regard to the impact of any service re-design activities that have been direct consequence of Board directions.

In all subsequent financial years, the Board will be established and the Director and Finance Officer will have been appointed to their posts. The Parties will engage the Board, Director, and Finance Officer in the process of calculating subsequent payments through:

- Both Parties will provide indicative three year allocations to the Board, subject to annual approval through their respective budget setting processes.
- The Parties will ensure the Director and Finance Officer are actively engaged in their financial planning processes. The Director will be expected to feed into the planning processes with any intelligence that is relevant, e.g. the aims of the Strategic Plan, the effect of previous directions on activity and expenditure, projected changes in activity and expenditure. The Director of Finance of NHS Lothian, the section 95 Officer of the Council and the Board Finance Officer will ensure a consistency of approach and consistent application of processes in considering budget assumptions and proposals.

#### **The set-aside of resources for use by the IJB under section 1(3) (d) of the Act**

In addition to the section 1(3)(e) payments to the IJB, Lothian NHS Board will identify a set aside budget for delegated functions in large hospitals. The set aside budget for delegated hospital services will be based on an apportionment of the relevant Lothian NHS Board budgets for the delegated hospital services (excluding overheads).

In order to identify the core baseline budget for the set-aside functions in each council area, the Health Board shall initially determine which of the following methodologies is the most appropriate in representing the distribution of the delivery of services in each council area, and their respective populations at a given point in time:-

- Local activity and cost data for each service within each council area
- Population distribution across the council area
- Patient level activity and cost data
- Historically applied and recognised percentages.

The Parties and the IJB will review the proposals from Lothian NHS Board referred to above, as part of a due diligence process, and the core baseline budget will be jointly agreed.

#### **Process to agree payments from the Board to the Parties**

The Board will determine and approve, in accordance with the Strategic Plan, the payments to the Parties which will accompany its directions to them for carrying out the functions delegated to the Board. The Party receiving a direction from the Board shall implement it, having agreed with the Board the level of resources required to do so.

The Finance Officer is responsible for providing the Board with appropriate information and advice, so that it may determine what those payments should be.

Each direction from the Board to the Parties will take the form of a letter from the Director referring to the arrangements for delivery set out in the Strategic Plan and will include information on:

- the delegated function(s) that are to be carried out
- the outcomes to be delivered for those delegated functions
- the amount of and method of determining the payment to be made, in respect of the carrying out of the delegated functions.

Once issued, directions can be amended by a subsequent direction by the Board.

Where amounts paid to the Board are subject to separate legislation or subject to restrictions stipulated by third party funders, the Board must reflect these amounts in full, in determining the level of the payments to be made to the Parties in respect of the carrying out of the relevant function or functions. However, the Board is not precluded from increasing the resource allocated to the relevant services.

### **Financial Reporting to the Board**

Budgetary control and monitoring reports (in such form as the Board may request from time to time) will be provided to the Board as and when it requires. The reports will set out the financial position and outturn forecast against the payments by the Board to the Parties in respect of the carrying out of integration functions and against the amount set aside by NHS Lothian for hospital services. These reports will present the actual and forecast positions of expenditure compared to operational budgets for delegated functions and highlight any financial risks and areas where further action is required to manage budget pressures.

NHS Lothian will provide information on the set-aside budgets which will be contained in financial reports to the Board.

Through the process of reviewing the professional, technical and administrative support to the Board and the development of accounting for the set-aside, the Parties will devise a sustainable model to support financial reporting to the new Board. Until that model is in place, both Parties will provide the required information on operational budgetary performance from their respective finance systems, and this will be co-ordinated and consolidated by the Finance Officer to provide reports to the Board on all the Board's integration functions.

### **Process for addressing variance in the spending of the Board**

#### **Treatment of forecast over- and under-spends against the Operational Budget**

The Board is required to deliver its financial out-turn within approved resources.

Section 15 of this scheme sets out the arrangements for risk management, and financial risk (within the Board and both Parties) will be managed in line with those arrangements.

The Parties will make every effort to avoid variances arising. A key measure in this regard will be the due diligence activities, and the sharing of information with the

Board, so that the Board has the best opportunity to allocate resources effectively. The Parties will also ensure that the systems that are already applied to delivering public services within fixed and limited resources will continue.

Where financial monitoring reports indicate that an overspend is forecast on the NHS Lothian or the Council operational budget for delegated functions, it is agreed by the Parties that the relevant party should take immediate and appropriate remedial action to prevent the overspend. The manager leading this remedial action could be the Director in his or her operational capacity within the affected party.

In the event that such remedial action will not prevent the overspend, then Finance Officer will, together with the relevant Party, develop a proposed recovery plan to address the forecast overspend. The Finance Officer will then present that recovery plan to the Board as soon as practically possible. The Board has to be satisfied with the recovery plan, and the plan is subject to its approval.

### **Additional Payments by the Parties to the Board**

Where such a recovery plans is projected to be unsuccessful and an overspend occurs at the financial year end, and where there are insufficient reserves held by the Board to meet the overspend, then the Parties may make additional payments to the Board. The Finance Officer and the Parties shall engage in discussion and negotiation about the amounts to be paid by each Party and the date or dates upon which any such payments are to be made.

The Parties recognise that the delivery of integrated functions in accordance with the Strategic Plan depends on their co-operation between each other and with the Board and that all three parties must approach such discussions in good faith, recognising the pressures and constraints on their respective budgets and services. In such discussions the Parties recognise and accept that an overspend is at the risk of the Party incurring the overspend and the residual amount of overspend after usage of reserves must, in the absence of any other agreement, be met by that Party.

Recurring overspends will be considered as part of the following year's budget process. If a solution to the overspend cannot be agreed by the Parties, or is not agreed by the Board, then the dispute resolution mechanism in this Scheme may require to be implemented.

### **Underspends**

As part of their normal financial management systems, the Parties conduct in-year reviews of financial performance, and occasionally this may lead to a forecast of an underspend at the year-end on one or more budgets.

In the event that this happens within the operational budgets, any underspend shall be returned to the integration Party delivering that service for the Board, except where the Parties agree that the underspend should be retained by the Board for future use. For example, this could relate to specific management action planned to result in an underspend.

The Board may hold reserves, as determined by its Reserves Policy.

### **Treatment of variations against the amounts set aside for use by the Board**

At the time of preparing this consultation draft, the Scottish Government is developing guidance on how the set-aside will work in practice. The Parties will therefore develop this part of the Scheme at a later date.

### **Redetermination of payments (made under section 1(3) (e)) to the Board**

Redeterminations of payments made by the Parties for the carrying out of integration functions would apply under the following circumstances:

- Additional one off funding is provided to a Party or Parties by the Scottish Government, or some other body, for expenditure in respect of a function delegated to the Board
- The Parties agree that an adjustment to the payment is required to reflect changes in demand and/or activity levels
- Transfer of resources between set aside hospital resources and integrated budget resources delegated to the Board and managed by the Director.
- The Parties need to recover funds to offset a material overspend in their non delegated health and social care budgets subject to availability of funds.

In all cases full justification for the proposed change would be required and both Parties and the Board would be required to agree to the redetermination. The Parties would apply the process used to calculate the payment to the Board (described earlier) to the affected functions.

Any required additional payments will be added to the schedule of payments for the financial year.

### **Redetermination of payments (made under section 1(3) (d)) to the Board**

Redetermination of set-aside payments will be carried out on the same basis as under section 1(3)(e), above.

### **Use of Capital Assets**

The Board, NHS Lothian and the Council will identify all capital assets which will be used in the delivery of the Strategic Plan.

Changes in use of capital assets will flow from the Strategic Plan and the directions issued by the Board to the Parties. The Strategic Plan process will outline any implications or requirements for capital assets.

The Parties will ensure that their capital asset planning arrangements take due cognisance of the above implications and requirements.

The Director of the Board will consult with the Parties to identify the specific need for improvements/changes to assets owned by each which may be required in connection with the carrying out of integration functions. Where a capital investment need is identified, the Director will present a business case to the Parties to make best use of existing resources and develop capital programmes. Any business case will set out how the investment will meet the strategic objectives set out in the Strategic Plan and identify the ongoing revenue costs/savings associated with implementation of the proposals.

The Board, the Council and NHS Lothian will work together to ensure assets required in connection with the carrying out of integration functions are used as effectively as possible and in compliance with the relevant legislation relating to use of public assets.

## **Audit and Financial Statements**

### **Financial Statements and External Audit**

The legislation requires that the Board is subject to the audit and accounts provisions of a body under section 106 of the Local Government (Scotland) Act 1973 (section 13). This will require audited annual accounts to be prepared with the reporting requirements specified in the relevant legislation and regulations (section 12 of the Local Government in Scotland Act 2003, the Local Authority Accounts (Scotland) Regulations 2014 and other regulations under section 105 of the Local Government (Scotland) Act 1973). These will be proportionate to the limited number of transactions of the Board whilst complying with the requirement for transparency and true and fair reporting in the public sector.

The reporting requirements for the annual accounts are set out in legislation and regulations and will be prepared following the CIPFA Local Authority Code of Practice. The Parties will agree a clear timetable for the preparation of the Board's annual accounts which will incorporate a process to agree any balances between the Board and the Parties.

The Finance Officer of the Board will supply any information required to support the development of the year-end financial statements and annual report for both Parties. Both Parties will need to disclose their interest in the Board as a joint arrangement under IAS 31 and comply in their annual accounts with IAS 27. Both Parties will report the Board as a related party under IAS 24.

The Board financial statements must be completed to meet the audit and publication timetable specified in the regulations (Regulations under section 105 of the Local Government (Scotland) Act 1973).

The Accounts Commission will appoint the external auditors to the Board.

The financial statements will be signed in line with the governance arrangements for the Board and as specified in the Local Authority Accounts (Scotland) Regulations 2014, made under section 105 of the Local Government (Scotland) Act 1973.

In all forms of audit, the Parties are expected to comply with related requests and to aid the audit process.

### **11.0 Participation and Engagement**

Consultation on this Integration Scheme was undertaken in accordance with the requirements of the Act.

The stakeholders consulted in the development of this scheme were

- All prescribed consultees
- Staff of Parties.



The draft scheme was also posted on the West Lothian Community Health and Care Partnership website to allow wider exposure and comment from the general public.

All responses received during the consultation have been reviewed and taken into consideration in the production of the final version of this scheme.

The Parties jointly agree to provide the following support to the Board

- A participation and engagement strategy will be developed within one year of the establishment of the Board
- This strategy will be subject to regular review by the Board.

## **12.0 Information Sharing and Confidentiality**

There is an existing and long standing Pan-Lothian and Borders General Information Sharing Protocol, to which NHS Lothian, City of Edinburgh Council, East Lothian Council, Midlothian Council and West Lothian Council are all signatories. This Protocol is currently being reviewed by a sub group on behalf of the Pan-Lothian Data Sharing Partnership for any minor modifications required to comply with the Regulations. The final Protocol, following consultation, will be recommended for signature by Chief Executives of respective organisations, and the Chief Officers of the Integration Joint Boards, once they have been appointed by the IJB, on behalf of the Pan-Lothian Data Sharing Partnership.

The Pan-Lothian and Borders General Information Sharing Protocol update will be agreed by 31 March 2015.

Procedures for sharing information between the Council, NHS Lothian, and, where applicable, the Integration Joint Board will be drafted as Information Sharing Agreements and procedure documents. This will be undertaken by a sub group on behalf of the Pan-Lothian Data Sharing Partnership, who will detail the more granular purposes, requirements, procedures and agreements for each of the Lothian Integration Joint Boards and the functions respectively delegated to them.

The Council and NHS Lothian will continue to be Data Controller for their respective records (electronic and manual), and will detail arrangements for control and access. The Integration Joint Board may require to be Data Controller for personal data if it is not held by either by the Council or NHS Lothian.

Arrangements for Third Party organisations access to records will be jointly agreed by all contributing partners prior to access.

Procedures will be based on a single point of governance model. This allows data and resources to be shared, with governance standards, and their implementation, being the separate responsibility of each organisation. Shared datasets governance will be agreed by all contributing partners prior to access.

Following consultation, Information Sharing Protocols and procedure documents will be recommended for signature by the Chief Executives of respective organisations, and the Chief Officers of the Lothian Integration Joint Boards.

Once established, agreements and procedures will be reviewed bi-annually by the sub group of the Pan-Lothian Data Sharing Partnership, or more frequently if required.

The information sharing agreements and procedures applicable to the IJB will be agreed by 31 March 2015.

### **13.0 Complaints**

There are separate complaints regimes and procedures which apply to councils and health boards, statutory and otherwise. The Parties are not able to dictate arrangements that the Board may wish to put in place in relation to the handling of complaints which may be directed at the Board, but the Parties shall ensure that a single gateway is provided for complaints to be made which relate to their performance of the integrated functions, to be managed by the Director as part of the management arrangements to be made by the Parties.

Complaints made to the Board or to one or both of the Parties in relation to the integration functions shall be allocated by the Director to one of the Parties to address, having regard in particular to the statutory social work services complaints procedure.

The Parties shall co-operate with each other and with the Board in the investigation and handling of complaints in relation to the integrated functions.

### **14.0 Claims Handling, Liability & Indemnity**

The Parties agree that the Parties will manage and settle claims arising from the exercise of integration functions in accordance with common law and statute.

### **15.0 Risk Management**

The Parties already operate an agreed Risk Management Strategy through the past successful operation of the West Lothian Community Health and Care Partnership. The Parties shall carry that strategy forward prior to and after the establishment of the Board. Each Party has in that strategy identified the risks relevant to existing partnership working arrangements and the Parties shall develop that list to take account of legislative requirements and risks arising from new integrated delivery of the integration functions. They will produce and agree a list of the risks proposed to be monitored and reported by them under the risk management strategy.

The Parties shall provide the support and expertise of their own risk officers in developing and implementing the Board's strategy and risk management measures and procedures. Risk management resources within each partner body will continue to be available to support risk areas that have been delegated to the Board and the development of the Board risk strategy.

An integrated Health and Social Care Risk Register, based on an agreed methodology for the assessment of risk, will be maintained and reviewed at regular intervals.

The Parties shall make arrangements to ensure that the Board will receive regular reports on the risk management strategy.

These arrangements shall be put in place by the Board, supported by the Parties, prior to the date of delegation of the integration functions.

## **16.0 Dispute Resolution Mechanism**

In the event of a failure by the Parties and the Board to reach agreement between or amongst themselves in relation to any aspect of the Scheme or the integration functions, the Director shall use their best endeavours to reach a resolution through discussion and negotiation with the Parties and the Board.

In the event that the matter remains unresolved, a meeting to seek a resolution shall take place amongst the Chief Executives of the Parties, the Chair of the health board, the Leader of the council, the Director and the Chair and Vice-Chair of the Board.

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**ANNEX 1****Part 1 Functions delegated by the health board to the Board****Functions prescribed for the purposes of section 1(6) of the Act**

<i>Column A</i>	<i>Column B</i>
<p><b>The National Health Service (Scotland) Act 1978</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the National Health Service (Scotland) Act 1978</p>	<p>Except functions conferred by or by virtue of –</p> <ul style="list-style-type: none"> <li>section 2(7) (Health Boards);</li> <li>section 9 (local consultative committees);</li> <li>section 17A (NHS contracts);</li> <li>section 17C (personal medical or dental services);</li> <li>section 17J (Health Boards' power to enter into general medical services contracts);</li> <li>section 28A (remuneration for Part II services);</li> <li>section 48 (residential and practice accommodation);</li> <li>section 57(accommodation and services for private patients);</li> <li>section 64(permission for use of facilities in private practice);</li> <li>section 79(purchase of land and moveable property);</li> <li>section 86 (accounts of Health Boards and the Agency);</li> <li>section 88 (payment of allowances and remuneration to members of certain bodies connected with the health services);</li> </ul>

	<p>paragraphs 4, 5, 11A and 13 of Schedule 1 (Health Boards);</p> <p>and functions conferred by—</p> <p>The National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000;</p> <p>The Health Boards (Membership and Procedure) (Scotland) Regulations 2001,</p> <p>The National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004;</p> <p>The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004</p> <p>The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006;</p> <p>The National Health Service (Discipline Committees) (Scotland) Regulations 2006(i);</p> <p>The National Health Service (Appointment of Consultants) (Scotland) Regulations 2009;</p> <p>The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009; and</p> <p>The National Health Service (General Dental Services) (Scotland) Regulations 2010</p>
<p><b>Disabled Persons (Services, Consultation and Representation) Act 1986(a)</b></p> <p>Section 7</p>	

(persons discharged from hospital)	
<p><b>Community Care and Health (Scotland) Act 2002(b)</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Community</p>	
<p><b>Mental Health (Care and Treatment) (Scotland) Act 2003(c)</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Mental Health (Care and Treatment) (Scotland) Act 2003.</p>	Except functions conferred by section 22 (approved medical practitioners).
<p><b>Education (Additional Support for Learning) (Scotland) Act 2004(d)</b></p> <p>Section 23 (other agencies etc. to help in exercise of functions under this Act)</p>	
<p><b>Public Health etc. (Scotland) Act 2008(e)</b></p> <p>Section 2 (duty of Health Boards to protect public health)</p> <p>Section 7 (joint public health protection plans)</p>	
<p><b>Public Services Reform (Scotland) Act 2010(f)</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Public Services Reform (Scotland) Act 2010</p>	<p>Except functions conferred by –</p> <p>section 31(Public functions: duties to provide information on certain expenditure etc.); and</p> <p>section 32 (Public functions: duty to provide information on exercise of functions).</p>
<p><b>Patient Rights (Scotland) Act 2011(g)</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Patient Rights (Scotland) Act 2011.</p>	

**Functions prescribed for the purposes of section 1(8) of the Act**

<i>Column A</i>	<i>Column B</i>
<p><b>The National Health Service (Scotland) Act 1978(a)</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the National Health Service (Scotland) Act 1978</p>	<p>Except functions conferred by or by virtue of –</p> <p>section 2(7) (Health Boards);</p> <p>section 2CA (functions of Health Boards outside Scotland);</p> <p>section 9 (local consultative committees);</p> <p>section 17A (NHS contracts);</p> <p>section 17C (personal medical or dental services);</p> <p>section 17I (use of accommodation);</p> <p>section 17J (Health Boards' power to enter into general medical services contracts);</p> <p>section 28A (remuneration for Part II services);</p> <p>section 38 (care of mothers and young children);</p> <p>section 38A (breastfeeding);</p> <p>section 39 (medical and dental inspection, supervision and treatment of pupils and young persons);</p> <p>section 48 (residential and practice accommodation);</p> <p>section 55 (hospital accommodation on part payment);</p> <p>section 57 (accommodation and services for</p>

	<p>private patients);</p> <p>section 64 (permission for use of facilities in private practice);</p> <p>section 75A (remission and repayment of charges and payment of travelling expenses);</p> <p>section 75B (reimbursement of the cost of services provided in another EEA state);</p> <p>section 75BA (reimbursement of the cost of services provided in another EEA state where expenditure is incurred on or after 25th October 2013);</p> <p>section 79 (purchase of land and moveable property);</p> <p>section 82 use and administration of certain endowments and other property held by Health Boards);</p> <p>section 83 (power of Health Boards and local health councils to hold property on trust);</p> <p>section 84A (power to raise money, etc., by appeals, collections etc.);</p> <p>section 86 (accounts of Health Boards and the Agency);</p> <p>section 88 (payment of allowances and remuneration to members of certain bodies connected with the health services);</p> <p>section 98 (charges in respect of non residents);</p> <p>and paragraphs 4, 5, 11A and 13 of Schedule 1 to the Act (Health Boards);</p> <p>and functions conferred by—</p> <p>The National Health Service (Charges to</p>
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	<p>Overseas Visitors) (Scotland) Regulations 1989;</p> <p>The Health Boards (Membership and Procedure) (Scotland) Regulations 2001/302;</p> <p>The National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000;</p> <p>The National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004;</p> <p>The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004;</p> <p>The National Health Service (Discipline Committees) (Scotland) Regulations 2006;</p> <p>The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006;</p> <p>The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009;</p> <p>The National Health Service (General Dental Services) (Scotland) Regulations 2010; and</p> <p>The National Health Service (Free Prescription and Charges for Drugs and Appliances) (Scotland) Regulations 2011.</p>
<p><b>Disabled Persons (Services, Consultation and Representation) Act 1986</b></p> <p>Section 7 (persons discharged from hospital)</p>	
<p><b>Community Care and Health (Scotland) Act 2002</b></p>	

<p>All functions of Health Boards conferred by, or by virtue of, the Community Care and Health (Scotland) Act 2002.</p>	
<p><b>Mental Health (Care and Treatment) (Scotland) Act 2003</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Mental Health (Care and Treatment) (Scotland) Act 2003.</p>	<p>Except functions conferred by—</p> <p>section 22 (approved medical practitioners);</p> <p>section 34 (inquiries under section 33: cooperation);</p> <p>section 38 (duties on hospital managers: examination, notification etc.);</p> <p>section 46 (hospital managers' duties: notification);</p> <p>section 124 (transfer to other hospital);</p> <p>section 228 (request for assessment of needs: duty on local authorities and Health Boards);</p> <p>section 230 (appointment of patient's responsible medical officer);</p> <p>section 260 (provision of information to patient);</p> <p>section 264 (detention in conditions of excessive security: state hospitals);</p> <p>section 267 (orders under sections 264 to 266: recall);</p> <p>section 281 (correspondence of certain persons detained in hospital);</p> <p>and functions conferred by—</p> <p>The Mental Health (Safety and Security) (Scotland) Regulations 200);</p> <p>The Mental Health (Cross border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2005;</p>

	<p>The Mental Health (Use of Telephones) (Scotland) Regulations 2005; and</p> <p>The Mental Health (England and Wales Crossborder transfer: patients subject to requirements other than detention) (Scotland) Regulations 2008.</p>
<p><b>Education (Additional Support for Learning) (Scotland) Act 2004</b></p> <p>Section 23 (other agencies etc. to help in exercise of functions under this Act)</p>	
<p><b>Public Services Reform (Scotland) Act 2010</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Public Services Reform (Scotland) Act 2010</p>	<p>Except functions conferred by— section 31 (public functions: duties to provide information on certain expenditure etc.); and</p> <p>section 32 (public functions: duty to provide information on exercise of functions).</p>
<p><b>Patient Rights (Scotland) Act 2011</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Patient Rights (Scotland) Act 2011</p>	<p>Except functions conferred by The Patient Rights (Complaints Procedure and Consequential Provisions) (Scotland) Regulations 2012/36.</p>



**Part 2 Services currently provided by the Health Board which are to be integrated**

- accident and emergency services provided in a hospital
- inpatient hospital services relating to the following branches of medicine—
  - general medicine
  - geriatric medicine
  - rehabilitation medicine
  - respiratory medicine
  - psychiatry of learning disability,
- palliative care services provided in a hospital
- inpatient hospital services provided by general medical practitioners
- services provided in a hospital in relation to an addiction or dependence on any substance
- mental health services provided in a hospital, except secure forensic mental health services
- district nursing services
- services provided outwith a hospital in relation to an addiction or dependence on any substance
- services provided by allied health professionals in an outpatient department, clinic, or outwith a hospital
- the public dental service
- primary medical services provided under a general medical services contract, and arrangements for the provision of services made under section 17C of the National Health Service (Scotland) Act 1978, or an arrangement made in pursuance of section 2C(2) of the National Health Service (Scotland) Act 1978
- general dental services provided under arrangements made in pursuance of section 25 of the National Health (Scotland) Act 1978
- ophthalmic services provided under arrangements made in pursuance of section 17AA or section 26 of the National Health Service (Scotland) Act 1978
- pharmaceutical services and additional pharmaceutical services provided under arrangements made in pursuance of sections 27 and 27A of the National Health Service (Scotland) Act 1978
- services providing primary medical services to patients during the out-of-hours period
- services provided outwith a hospital in relation to geriatric medicine
- palliative care services provided outwith a hospital
- community learning disability services
- mental health services provided outwith a hospital
- continence services provided outwith a hospital
- kidney dialysis services provided outwith a hospital
- services provided by health professionals that aim to promote public health.

**ANNEX 2****Part 1 Functions delegated by the council to the Board**

<i>Column A Enactment conferring function</i>	<i>Column B Limitation</i>
<p><b>National Assistance Act 1948</b> Section 48 (duty of councils to provide temporary protection for property of persons admitted to hospitals etc.)</p> <p><b>The Disabled Persons (Employment) Act 1958</b> Section 3 (provision of sheltered employment by local authorities)</p> <p><b>The Social Work (Scotland) Act 1968</b> Section 1 (local authorities for the administration of the Act)</p> <p>Section 4 (provisions relating to performance of functions by local authorities)</p> <p>Section 8 (research)</p> <p>Section 10 (financial or other assistance to voluntary organisations etc for social work)</p> <p>Section 12 (general social welfare services of local authorities.)</p> <p>Section 12A (duty of local authorities to assess needs)</p> <p>Section 12AZA (assessments under section 12A - assistance)</p> <p>Section 12AA (assessment of ability to provide care)</p>	<p>So far as it is exercisable in relation to another integration function.</p> <p>So far as it is exercisable in relation to another integration function.</p> <p>So far as it is exercisable in relation to another integration function.</p> <p>So far as it is exercisable in relation to another delegated function.</p> <p>Except in so far as it is exercisable in relation to the provision of housing support services.</p> <p>So far as it is exercisable in relation to another delegated function.</p> <p>So far as it is exercisable in relation to another delegated function.</p>

<p>Section 12AB (duty of local authority to provide information to carer.)</p> <p>Section 13 (power of local authorities to assist persons in need in disposal of produce of their work.)</p> <p>Section 13ZA (provision of services to incapable adults)</p> <p>Section 13A (residential accommodation with nursing)</p> <p>Section 13B (provision of care or aftercare.)</p> <p>Section 14 (home help and laundry facilities)</p> <p>Section 28 (The burial or cremation of the dead)</p> <p>Section 29 (power of local authority to defray expenses of parent, etc., visiting persons or attending funerals)</p> <p>Section 59 (provision of residential and other establishments by local authorities and maximum period for repayment of sums borrowed for such provision)</p>	<p>So far as it is exercisable in relation to another delegated function.</p> <p>So far as it is exercisable in relation to another delegated function.</p> <p>So far as it is exercisable in relation to another delegated function.</p>
<p><b>The Local Government and Planning (Scotland) Act 1982</b></p> <p>Section 24(1) (The provision of gardening assistance for the disabled and the elderly)</p>	
<p><b>Disabled Persons (Services, Consultation and Representation) Act 1986(b)</b></p> <p>Section 2 (rights of authorised representatives of disabled persons)</p>	

<p>Section 3 (assessment by local authorities of needs of disabled persons)</p> <p>Section 7 (persons discharged from hospital)</p> <p>Section 8 (duty of local authority to take into account abilities of carer)</p>	<p>In respect of the assessment of need for any services provided under functions contained in welfare enactments within the meaning of section 16 and which are integration functions.</p> <p>In respect of the assessment of need for any services provided under functions contained in welfare enactments (within the meaning set out in section 16 of that Act) which are integration functions.</p>
<p><b>The Adults with Incapacity (Scotland) Act 2000(c)</b></p> <p>Section 10 (functions of local authorities)</p> <p>Section 12 (investigations)</p> <p>Section 37 (residents whose affairs may be managed)</p> <p>Section 39 (matters which may be managed)</p> <p>Section 41 (duties and functions of managers of authorised establishment)</p> <p>Section 42 (authorisation of named manager to withdraw from resident's account)</p> <p>Section 43 (statement of resident's affairs)</p> <p>Section 44 (resident ceasing to be resident of authorised establishment)</p> <p>Section 45 (appeal, revocation etc)</p>	<p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p>

	under integration functions.
<p><b>The Housing (Scotland) Act 2001</b></p> <p>Section 92 (assistance to a registered for housing purposes)</p>	Only in so far as it relates to an aid or adaptation
<p><b>The Community Care and Health (Scotland) Act 2002</b></p> <p>Section 5 (local authority arrangements for residential accommodation outwith Scotland)</p> <p>Section 14 (payments by local authorities towards expenditure by NHS bodies on prescribed functions)</p>	
<p><b>The Mental Health (Care and Treatment) (Scotland) Act 2003</b></p> <p>Section 17 (duties of Scottish Ministers, local authorities and others as respects Commission)</p> <p>Section 25 (care and support services etc)</p> <p>Section 26 (services designed to promote well-being and social development)</p> <p>Section 27 (assistance with travel)</p> <p>Section 33 (duty to inquire)</p> <p>Section 34 (inquiries under section 33: Co-operation)</p> <p>Section 228 (request for assessment of needs: duty</p>	<p>Except in so far as it is exercisable in relation to the provision of housing support services.</p> <p>Except in so far as it is exercisable in relation to the provision of housing support services.</p> <p>Except in so far as it is exercisable in relation to the provision of housing support services.</p>

<p>on local authorities and Health Boards) Section 259 (advocacy)</p>	
<p><b>The Housing (Scotland) Act 2006</b></p> <p>Section 71(1)(b) (assistance for housing purposes)</p>	<p>Only in so far as it relates to an aid or adaptation.</p>
<p><b>The Adult Support and Protection (Scotland) Act 2007</b></p> <p>Section 4 (council's duty to make inquiries)</p> <p>Section 5 (co-operation)</p> <p>Section 6 (duty to consider importance of providing advocacy and other services)</p> <p>Section 11 (assessment Orders)</p> <p>Section 14 (removal orders)</p> <p>Section 18 (protection of moved persons property)</p> <p>Section 22 (right to apply for a banning order)</p> <p>Section 40 (urgent cases)</p> <p>Section 42 (adult Protection Committees)</p> <p>Section 43 (membership)</p>	
<p><b>Social Care (Self-directed Support) (Scotland) Act 2013</b></p> <p>Section 3 (support for adult carers)</p> <p>Section 5</p>	<p>Only in relation to assessments carried out under integration functions.</p>

<p>(choice of options: adults)</p> <p>Section 6 (choice of options under section 5: assistances)</p> <p>Section 7 (choice of options: adult carers)</p> <p>Section 9 (provision of information about self-directed support)</p> <p>Section 11 (local authority functions)</p> <p>Section 12 (eligibility for direct payment: review)</p> <p>Section 13 (further choice of options on material change of circumstances)</p> <p>Section 16 (misuse of direct payment: recovery)</p> <p>Section 19 (promotion of options for self-directed support)</p>	<p>Only in relation to a choice under section 5 or 7 of the Social Care (Self-directed Support) (Scotland) Act 2013.</p>
<p><b>PART 2</b> Functions, conferred by virtue of enactments, prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014</p>	
<p><b>The Community Care and Health (Scotland) Act 2002</b></p> <p>Section 4 The functions conferred by Regulation 2 of the Community Care (Additional Payments) (Scotland) Regulations 2002</p>	

**Part 2 Services currently provided by the Local Authority which are to be delegated**

- Social work services for adults and older people
- Services and support for adults with physical disabilities, learning disabilities
- Mental health services
- Drug and alcohol services
- Adult protection and domestic abuse
- Carers support services
- Community care assessment teams
- Support services
- Care home services
- Adult placement services
- Health improvement services
- Housing support services, aids and adaptations
- Day services
- Local area co-ordination
- Respite provision
- Occupational therapy services
- Re-ablement services, equipment and telecare.



### ANNEX 3

The provisions within this annex are not intended to create legally binding obligations. They are intended to be illustrative of the proposed management arrangements for the functions delegated to the IJB.

The IJB will issue directions to the Parties via its Chief Officer. Those directions will in the main require that the Chief Officer take forward the development of the IJB's Strategic Plan, and lead on ensuring that the plan is delivered. As the Chief Officer will not be personally managing all of the integration functions, ensuring the Strategic Plan is being delivered will include getting assurance from other chief officers (for hosted services – see below) and other managers in NHS Lothian and the Council.

The Chief Officer will have direct management responsibility for the following services:

- All Council services described in Annex 2, Part 2.
- All NHS Lothian services describe in Annex 1, Part 2 with the exception of the following:

#### Hosted Services

There are NHS Lothian services for which it would not be suitable for the Chief Officer to have operational management responsibility. The factors contributing to determining these services are the degree of medical specialism of the service and scale of the service required for it to be safe, efficient and effective.

It is proposed that the following services will be managed at a pan-Lothian level by one of the Chief Officers of the Lothian IJBs in their role as Joint Director of NHS Lothian (area in brackets confirms the Chief Officer who would manage this service)

- Dietetics (Midlothian)
- Art Therapy (Midlothian)
- Royal Edinburgh and Associated Services (Director of Mental Health accountable to the Chief Officer of Edinburgh and the NHS Lothian Chief Executive)
- Lothian Unscheduled Care Service (East Lothian)
- Integrated Sexual and Reproductive Health Service (Edinburgh)
- Clinical Psychology Services (West Lothian)
- Continence Services (Edinburgh)
- Public Dental Service (including Edinburgh Dental Institute (West Lothian))
- Podiatry (West Lothian)
- Orthoptics (West Lothian)
- Substance Misuse (only Ritson Inpatient Unit, LEAP and Harm Reduction (Director of Mental Health))
- Independent Practitioners (East Lothian via the Primary Care Contracting Organisation)
- SMART Centre (Edinburgh)

Acute Hospitals

The three acute hospitals in NHS Lothian (Western General Hospital, Edinburgh Royal Infirmary, St Johns Hospital) will be managed by the relevant Site Director.

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**Midlothian Integration Scheme  
(Body Corporate)**

**27th February**

**Final Version of the Integration Scheme for approval by NHS Lothian and Midlothian Council  
(version 5.5 post public consultation)**

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**PREAMBLE, Aims and Outcomes of the Integration Scheme**

The vision of the parties for the Midlothian IJB is that people in Midlothian will lead longer and healthier lives by getting the right advice, care, and support, in the right place, at the right time.

The work of the IJB will be guided by the integration planning principles as stated in the Act and will contribute to the achievement of nationally agreed health and wellbeing outcomes prescribed by the Scottish Ministers in Regulations under section 5(1) of the Act.

The IJB will also contribute to the achievement of the national criminal justice outcomes because the Parties have elected to delegate criminal justice social work.

Throughout all its work the Parties expect the IJB to be guided by the following ambitions:

- Provide the highest quality health and care services
- Always respect the dignity and human rights of Midlothian citizens in the planning of health and social care.
- Support people to live independently at home.
- Promote the principles of independent living and equality.
- Do everything we can to reduce health inequalities.
- Provide support and services so that people only have to go to hospital if they really have to.
- Listen to people who use our services, and the people who care for them, working together to develop the services that are right for them.
- Make sure that Midlothian people feel safe at home and in their communities.
- Support people to take more responsibility for their own health and wellbeing.

The terms of this preamble are not part of the Integration Scheme and are not intended to create legally binding obligations. They do, however, give the context within which the Scheme should be read.

## **INTEGRATION SCHEME**

### **Parties and Definitions and Interpretations**

#### **The Parties:**

**Midlothian Council**, established under the Local Government etc (Scotland) Act 1994 and having its principal offices at 40-46 Buccleuch Street, Dalkeith, Midlothian, EH22 1DN (“the Council”);

and

**Lothian Health Board**, established under section 2(1) of the National Health Service(Scotland) Act 1978 (operating as “NHS Lothian”) and having its principal offices at Waverley Gate,2-4 Waterloo Place, Edinburgh(“NHS Lothian”)

(together referred to as “the Parties”, and each a “Party”).

#### **Background**

- A. This Scheme has been produced in accordance with the requirements of the Public Bodies (Joint Working) (Scotland) Act 2014.
- B. The Parties are required to comply with either subsection (3) or (4) of section 2(2) of the Act, and have elected to comply with subsection (3) such that the Parties must joint
- C. In preparing this Integration Scheme, the Parties have had regard to the integration planning principles set out in section 4(1) of the Act and the national health and wellbeing outcomes prescribed by the Public Bodies (Joint Working)(National Health and Wellbeing Outcomes)(Scotland) Regulations 2014, and have complied with the provisions of section 6(2) of the Act (consultation); and in finalising this Integration Scheme, the Parties have taken account of any views expressed by virtue of the consultation processes undertaken under section 6(2) of the Act.

In implementation of their obligations under the Act, the Parties hereby agree as follows:

## 1. Definitions And Interpretation

1.1. In this Scheme the following expressions have the following meanings, unless the context otherwise requires:-

“**Act**” means the Public Bodies (Joint Working) (Scotland) Act 2014;

“**Chief Officer**” means the officer described in Section 7 of this Scheme;

“**Chief Finance Officer**” means the finance officer described in Section 9.1 of this Scheme;

“**Council**” means Midlothian Council

“**IJB Budget**” means the total funding available to the IJB in the financial year as a consequence of:

- The payment for delegated functions from NHS Lothian under section 1(3)(e) of the Act;
- The payment for delegated functions from the Council under section 1(3)(e) of the Act; and
- The amount “set aside” by NHS Lothian for use by the IJB for functions carried out in a hospital and provided for the areas of two or more local authorities under section 1(3)(d) of the Act

“**Integration Joint Board**” or “**IJB**” means the Integration Joint Board to be established by Order under section 9 of the Act;

“**Integration Joint Boards Order**” means the Public Bodies (Joint Working (Integration Joint Boards) (Scotland) Order 2014;

“**Integration Joint Board**” or “**IJB**” means the Integration Joint Board to be established by Order under section 9 of the Act;

“**Lothian IJBs**” means the integration joint boards to which functions are delegated in pursuance of the integration schemes in respect of the local authority areas served by, City of Edinburgh Council, Midlothian Council, East Lothian Council and West Lothian Council respectively.

“**Neighbouring IJBs**” means the Lothian IJBs excluding the IJB;



**“Operational Budget”** means the amount of payment made from the IJB to a Party in order to carry out delegated functions.

**“Outcomes”** means the Health and Wellbeing Outcomes prescribed by the Scottish Ministers in Regulations under section 5(1) of the Act;

**“Parties”** means Midlothian Council and NHS Lothian

**“Regulations”** means the Public Bodies (Joint Working) (Integration Scheme) (Scotland) Regulations 2014;

**“Scheme”** means this Integration Scheme;

**“Strategic Plan”** means the plan which the IJB is required to prepare and implement in relation to the delegated provision of health and social care services in accordance with section 29 of the Act.

- 1.2. Words and expressions defined in the Act shall bear the same respective meanings in the Scheme unless otherwise defined in the Scheme.
- 1.3. References to Sections are to the sections of the Scheme.
- 1.4. Reference to annexes are to annexes to this Scheme and reference to Parts are the parts of the relevant Annex.

## 2. The Model to be Implemented

- 2.1. The integration model set out in section 1(4)(a) of the Act will apply in relation to the Midlothian area. This is the IJB model, namely the delegation of functions by each of the Parties to a **body corporate** that is to be established by order under section 9 of the Act. This Scheme comes into effect on the date on which the IJB is established by order under section 9 of the Act.

### **3. Local Governance Arrangements**

#### **3.1. Membership**

3.1.1. The IJB shall have the following voting members:

- a) 4 councillors nominated by the Council; and
- b) 4 non-executive directors nominated by NHS Lothian, in compliance with articles 3(4) and 3(5) of the Integration Joint Boards Order.

3.1.2. The Parties may determine their own respective processes for deciding who to nominate as voting members of the IJB.

3.1.3. Non-voting members of the IJB will be appointed in accordance with article 3 of the Integration Joint Boards Order.

3.1.4. The term of office of members shall be as prescribed by regulation 7 of the Integration Joint Boards Order.

#### **3.2. Chairperson and Vice Chairperson**

3.2.1. The IJB shall have a chairperson and vice-chairperson who will both be voting members of the IJB.

3.2.2. The term of office of the chairperson will be two years, with the Council appointing the first chairperson for the period from the date on which the IJB is established until the second anniversary of that date, and NHS Lothian appointing the second chairperson for the period from the second anniversary of the date on which the IJB is established until the fourth anniversary of that date.

3.2.3. As from the fourth anniversary of the date on which the IJB is established, the power to appoint the chairperson will continue to alternate between each of the Parties on a two-year cycle.

3.2.4. The term of office of the vice chairperson will be two years, with NHS Lothian appointing the first vice chairperson for the period from the date on which the IJB is established until the second anniversary of that date. The provisions set out above under which the power of appointment of the chairperson will alternate between the Parties on a two-year cycle will apply in relation to the power to appoint the vice chairperson, and on the basis that during any period

when the power to appoint the chairperson is vested in one Party, the other Party shall have power to appoint the vice-chairperson.

3.2.5. The Parties may determine their own processes for deciding who to appoint as chairperson or vice-chairperson.

3.2.6. Each Party may change its appointment as chairperson (or, as the case may be, vice chairperson) at any time; and it is entirely at the discretion of the Party which is making the appointment to decide who it shall appoint.

#### **4. Delegation of Functions**

4.1. The functions that are to be delegated by NHS Lothian to the IJB are set out in Parts 1a and 1b of Annex 1 (subject to the exceptions and restrictions also specified or referred to in Parts 1a or 1b of Annex 1). For indicative purposes only, the services currently provided by NHS Lothian in carrying out these functions are described in Part 2 of Annex 1.

4.2. The functions that are to be delegated by Midlothian Council to the IJB are set out in Parts 1a and 1b of Annex 2 (subject to the exceptions and restrictions also specified or referred to in Parts 1a and 1b of Annex 2). For indicative purposes only, the services which are currently provided by the Council in carrying out these functions are described in Part 2 of Annex 2.

#### **5. Local Operational Delivery Arrangements**

The IJB membership will be involved in the operational governance of integrated service delivery via two particular arrangements: (1) directions issued by the IJB via the Chief Officer of the IJB; and (2) oversight of performance management by the voting members of the IJB.

##### **Directions issued by the IJB via the Chief Officer**

5.1.1. The IJB will issue directions to the Parties via its Chief Officer. The IJB must direct the Parties to carry out each of the functions delegated to the IJB. A direction in relation to a given function may be given to one or other of the Parties, or to both Parties. The primary responsibility for delivering capacity (that is to say, activity and case mix) in respect of the services associated with the carrying out of a given function shall lie with the IJB, and shall be reflected in the directions issued from time to time by the IJB. Subject to the provisions of the Act and the Scheme, the Parties are then required to follow those directions.

**Oversight of performance management by the voting members of the IJB**

- 5.1.2. The IJB shall oversee delivery of the services associated with the functions delegated to it by the Parties. The IJB is the only forum where health and social care functions for the Midlothian area are governed by members of both NHS Lothian and the Council. Accordingly the Parties agree that primary responsibility for performance management in respect of delivery of the delegated functions will rest with the IJB.
- 5.1.3. The Parties will provide performance information so that the IJB can develop a comprehensive performance management system
- 5.1.4. The IJB performance management reports will be available to both Parties for use in their respective performance management systems. However it is expected that the voting members of the IJB will take responsibility for performance management at the IJB, and will provide an account of highlights and/or exceptional matters to meetings of NHS Lothian and the Council.
- 5.1.5. In the interests of efficient governance, the relevant committees of NHS Lothian and the Council will continue to discharge their existing remits for assurance and scrutiny of the carrying out of the Parties' functions, regarding matters such as internal control, quality and professional standards, and compliance with the law. The IJB will not duplicate the internal operational oversight role carried out by the Parties other than in exceptional circumstances where the IJB considers that direct engagement by the IJB (or by a committee established by the IJB) is appropriate in order to secure the proper discharge by the IJB of its statutory responsibilities or its duties under this Scheme.
- 5.1.6. Each of the Parties shall use reasonable endeavours to procure that in the event that one of its committees identifies an issue which is of direct and material relevance to the IJB, the chair of that committee will advise the Chair of the IJB and the Chief Officer of that matter and will cooperate with the IJB in supplying such further information and evidence in respect of that matter as the IJB may reasonably request.
- 5.1.7. The Parties shall ensure that their respective standing orders, schemes of delegation and other governance documents are amended (if required) to reflect the IJB's powers and remit, and its place as a common decision-making body within the framework for delivery of health and social care within the Midlothian Area.
- 5.1.8. The voting members of the IJB are councillors of the Council and non-executive directors of NHS Lothian (or other board members). In their capacity as councillors and non-executive

directors, they will be engaged in the governance of their respective constituent bodies, and it is likely that they will be members of one or more committees of those constituent bodies.

5.1.9. Given the overall vision as outlined in the preamble of the Scheme, it is the intention that the operational governance functions of both Parties and the IJB should be integrated. In all matters associated with the work of the IJB, the voting members of the IJB will be expected by the Parties to play a crucial role in:

- a) communicating, and having due regard to, the interests of NHS Lothian or (as the case may be) the Council in overseeing the carrying out of the integrated functions, but on the understanding that, in carrying out their role as a member of the IJB, their primary duties and responsibilities are those which attach to them in that capacity;
- b) communicating, and having due regard to, the interests of the IJB in overseeing the carrying out of the integrated functions whilst discharging their role as a councillor or (as the case may be) as a non-executive director of NHS Lothian, but on the understanding that, in carrying out their role as a councillor or non-executive director, their primary duties and responsibilities are those which attach to them in that capacity.

5.1.10. This Scheme sets out detailed measures on the governance of integration functions throughout the text. Over and above these measures, the Parties will ensure that the IJB members are involved in overseeing the carrying out of integration functions through the following actions:

- a) The terms of reference, membership and reporting arrangements of the relevant committees of the Parties will be reviewed and the IJB will be consulted within this process (and all future reviews).
- b) In order to develop a sustainable long-term solution for the oversight of the integration functions by the IJB a working party will be convened with membership from the Lothian IJBs and the Parties. This working party will develop recommendations for approval by the Lothian IJBs.

5.1.11. Without prejudice to the role of the voting members of the IJB (as specified above) in relation to oversight of operational delivery of services in accordance with directions issued to either or both of the Parties by the IJB, the IJB will, through the Chief Officer, have an oversight role in the operational delivery of services by the Parties in the carrying out of integration functions. The Parties acknowledge that the Chief Officer's role in operational delivery will represent an important means by which closer integration of services, in accordance with the integration delivery principles specified in the Act, can be achieved. For the avoidance of doubt, the Chief Officer's role in operational delivery shall not displace:

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- (a) the responsibilities of each Party regarding compliance with directions issued by the IJB; or
- (b) the principle that each Party's governance arrangements must allow that Party to manage risks relating to service delivery.

5.1.12. In addition to the specific commitments set out above and the obligations regarding provision of information attaching to the Parties under the Act, the Parties will provide the IJB with any information which it may require from time to time to support its responsibilities regarding strategic planning, performance management, and public accountability.

### **Support for Strategic Planning**

5.1.13. The Parties will support the IJB in ensuring that the consultation process associated with the preparation of each Strategic Plan for the Midlothian Area includes other Integration Authorities likely to be affected by the Strategic Plan. The Integration Authorities that are most likely to be affected by the Strategic Plan for the Midlothian Area are:

- a) East Lothian IJB
- b) Edinburgh IJB
- c) West Lothian IJB.

5.1.14. NHS Lothian will procure that reciprocal provisions to those set out in sections 5.1, 5.2 and 5.3 are contained in the integration schemes of the Neighbouring IJBs in Lothian.

5.1.15. In addition the Borders Integration Authority shares a border with Midlothian IJB and may be affected by the Midlothian Strategic Plan.

5.1.16. The Parties will ensure the IJB can:

- effectively engage in all of the planning process including contributing to the work of the Strategic Planning Groups for the neighbouring IJBs as required;
- provide such information and analysis as neighbouring IJBs reasonably require for the production of their Strategic Plans;
- inform neighbouring IJBs as to how the services, facilities and resources associated with the functions delegated to the Midlothian IJB by the Parties are being or are intended to be used with respect to carrying out of those functions in line with these planning processes;

- a) in a situation where Strategic Plans in one area are likely to have an impact on the plans in another area, ensure that these matters are raised with other relevant IJBs and resolved in an appropriate manner;
- b) in a situation where Strategic Plans in another area are likely to have an impact on the Midlothian Area, ensure that these matters are raised and any associated risks are mitigated for the benefit of service users.

5.1.17. In addition, a template will be introduced for the Midlothian IJB, with the support of each of the Parties, to help to ensure that all major strategic matters are considered in light of the potential impact on Neighbouring IJBs, and on services provided by the parties which are not delivered in the course of carrying out functions delegated to the Midlothian IJB.

## 5.2. **Lothian Hospitals Strategic Plan**

5.2.1. NHS Lothian will develop a plan (the “**Lothian Hospitals Strategic Plan**”) to support the IJBs to fulfil their duties. This plan will not bind the IJB and the strategic plans of the IJBs will inform the Lothian Hospitals Strategic Plan. The Lothian Hospitals Strategic Plan will encompass both functions delegated to the Lothian IJBs and functions that are not so delegated.

5.2.2. The Lothian Hospitals Strategic Plan will be developed in partnership with the Lothian IJBs where integration functions are delivered by NHS Lothian in a hospital. It will reflect the relevant provisions of the Strategic Plans prepared by the respective Lothian IJBs, as well as NHS Lothian plans for non delegated functions. The first Lothian Hospitals Strategic Plan will be published by 1 December 2015.

5.2.3. The purpose of the Lothian Hospitals Strategic Plan is to ensure that planning for hospital functions and use of hospital facilities is:

- (a) responsive to and supports each Strategic Plan prepared by the Lothian IJBs for delegated functions; and
- (b) supports the requirement of NHS Lothian to deliver hospital services required by the IJB and other hospital services that are not the responsibility of the Lothian IJBs (e.g. tertiary, trauma, surgical, planned and children’s services).

5.2.4. The Lothian Hospitals Strategic Plan will be a plan developed jointly by NHS Lothian and the Lothian IJBs. The elements of the Lothian Hospitals Strategic Plan addressing non delegated functions can only be agreed by the NHS Lothian Board after the four Lothian IJBs have been consulted and their views and requirements appropriately considered. Elements of the Lothian



Hospitals Strategic Plan which cover functions delegated to the respective Lothian IJBs will be signed off by relevant Lothian IJBs in consultation with NHS Lothian and all Lothian IJBs.

5.2.5. The Lothian Hospitals Strategic Plan will be updated at least every three years; the process to update the plan will be led by NHS Lothian.

5.3. **Professional, technical or administrative support services**

5.3.1. The Parties agree to provide the IJB with the corporate support services that it requires to discharge fully its duties under the Act. In the short term, the Parties will continue to use the arrangements that have already been put in place to provide professional, technical and administrative support to Community Health Partnerships, and joint working more generally.

5.3.2. In order to develop a sustainable long term solution, a working party will be convened, with membership from the Health Board and the four local authorities in Lothian. This working party will develop recommendations for approval by the Health Board, the four local authorities, and the four Partnerships.

5.3.3. Key matters that the working party will address are:

- (a) understanding the needs of the Lothian IJBs (in relation to functions delegated to them), as well as the continuing needs of the Parties (for non-delegated functions);
- (b) defining what is meant by “professional, technical or administrative services”;
- (c) systems to appoint the Chief Officer and Chief Finance Officer, as well as addressing their requirements for support;
- (d) bringing all these elements together and devising a pragmatic and sustainable solution.

5.3.4. The working party will link in with any ongoing initiatives that are pertinent to its agenda, so that all relevant work is co-ordinated. Any changes will be taken forward through the existing systems in the Parties for consultation and managing organisational change.

5.3.5. As soon as the proposals have been finalised by the working party and agreed by NHS Lothian and the four local authorities which prepared the integration schemes for the Lothian IJBs, a draft agreement will be prepared reflecting the agreed proposals. The draft agreement will be adjusted in line with discussions among the parties, and, as soon as the terms have been

finalised, it is intended that the agreement will then be formally executed by NHS Lothian, the four local authorities, and the Lothian IJBs (including the IJB).

Within a year of the agreement taking effect, the Parties and the IJB will undertake a review of the support services put in place pursuant to the agreement to ensure that the IJB has available to it all necessary professional, technical or administrative services for the purpose of preparing its Strategic Plan and carrying out the integration functions. There will then follow a process of annual review on the support services required by the IJB and this process will form part of the annual budget setting process for the IJB which is described in Section 9.2.

**5.4. Process to establish performance targets and reporting arrangements**

- 5.4.1. All national and local outcomes, improvement measures and performance targets which are connected exclusively with the functions delegated by the Parties to the IJB under the Scheme will become the responsibility of the IJB to deliver; and the IJB will also be responsible for providing all such information regarding integration functions which is required by either of the Parties to enable each of them to fulfil its obligations regarding reporting arrangements in respect of those functions.
- 5.4.2. Where particular national or local outcomes, measures or targets (and associated reporting arrangements) relate to services which are associated with both integration functions and functions which are not delegated by a Party to the IJB, the responsibility for the outcomes, measures or targets (and associated reporting arrangements) will be shared between the IJB and the Party or Parties which exercise those functions, and the IJB will be responsible for providing all such information regarding those integration functions as is required by the relevant Party to enable it to fulfil its obligations regarding reporting arrangements.
- 5.4.3. A set of shared principles will be developed and agreed between the Parties for targets and measurement based on existing best practice.
- 5.4.4. A core group of senior managers and relevant support staff from each Party will develop the performance framework for the IJB, taking account of relevant national guidance. The framework will be underpinned by the Outcomes and will be developed to drive change and improve effectiveness. The framework will be informed by an assessment of current performance arrangements and the development of a set of objectives which the framework will be intended to achieve.
- 5.4.5. A core set of indicators and measures will be identified by the Parties from publicly accountable and national indicators and targets which relate to services delivered in carrying out the functions delegated to the IJB.
- 5.4.6. An integration dataset ("**Integration Dataset**") will be created for the IJB. This will include information on the data gathering, reporting requirements and accountability for each of these measures and targets and including, in relation to each target, the extent to which responsibility is to transfer to the IJB. This work will be shared with and reviewed by the IJB and amended as appropriate following such review.
- 5.4.7. Indicators will be aligned with the priority areas identified in the joint strategic needs assessment and the Strategic Plan and will be refined as these documents are reviewed and refreshed. These priority areas will be aligned with all the indicators within the Integration Dataset and will be linked to the Outcomes to demonstrate progress in delivering these.

- 5.4.8. The Parties have obligations to meet targets for functions which are not delegated to the IJB, but which are affected by the performance and funding of integration functions. Therefore, when preparing performance management information, the Parties agree that the effect on both integration and non-integration functions must be considered and details must be provided of any targets, measures and arrangements for the IJB to take into account when preparing the Strategic Plan. Where responsibility for performance measures and targets is shared, this will be set out clearly for agreement by the relevant Parties.
- 5.4.9. The Integration Dataset will include information on functions which are not delegated to the IJB. Either one of the Parties, or the IJB, will be able to reasonably require information of that nature to be included within the Integration Dataset.
- 5.4.10. The principles for an Integration Dataset will be prepared by the Parties by 1 April 2015 and this will be reviewed and developed into the Integration Dataset during the strategic planning process in 2015. A final Integration Dataset will be submitted for approval by the IJB and the Parties before 1 March 2016.
- 5.4.11. The Integration Dataset will be reviewed on at least an annual basis, through a process similar to that outlined above.

## **6. Clinical and Care Governance**

### **6.1. Introduction**

- 6.1.1. The Parties are to delegate certain of their respective clinical and care functions to the IJB, in accordance with Section 4 of this Scheme. The Parties have had regard to their continuing duties regarding clinical and care governance as well as the integration planning principles (as set out in the Act) and the Outcomes when preparing this Scheme.
- 6.1.2. This section of the Scheme sets out the arrangements that will be put in place to allow the IJB to fulfil its role with professional advice and with appropriate clinical and care governance in place. The Parties will expect the IJB to develop more integrated governance arrangements in Midlothian to compliment the existing clinical and care governance arrangements.
- 6.1.3. The Parties have well established systems to provide clinical and care governance as well as assurance for professional accountabilities. Those systems will continue following the establishment of the IJB and the scope of these systems will extend to provide the IJB with the requirements to fulfil their clinical and care governance responsibility.

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- 6.1.4. Continuous improvement and the quality of service delivery (and its impact on outcomes) will be addressed through the development of the IJB's performance management framework (pursuant to Section 5.5 of this Scheme).
- 6.1.5. The Integration Joint Board will not duplicate the role carried out by the Parties existing governance arrangements other than in exceptional circumstances where the IJB considers that direct engagement by the IJB is appropriate in order to secure the proper discharge by the IJB of its statutory responsibilities.
- 6.1.6. The Parties agree that in the event that one of its committees within its governance arrangements identifies an issue which is of direct and material relevance to the Integration Joint Board, the chair of that committee will advise the chairperson of the Integration Joint Board and the Chief Officer of that matter and will co-operate with the IJB in supplying such further information and evidence in respect of that matter as the IJB may reasonably request.
- 6.1.7. The Parties shall ensure that its standing orders, schemes of delegation and other governance documents are amended (if required) to reflect the IJB's powers and remit, the IJB's place as a common decision-making body within the framework for delivery of health and social care within the Midlothian Area and the Parties role in supporting the IJB to discharge its duties.
- 6.1.8. The voting members of the Integration Joint Board are engaged in the governance of their respective Party, and it is likely that they will be members of one or more committees of the relevant Party.
- 6.1.9. The Parties will use reasonable endeavours to appoint voting members of the Integration Joint Board (regardless of which party nominated the voting members) onto the NHS Lothian and Council governance arrangements with a remit relevant to the clinical and care governance of integration functions.
- 6.1.10. Within its existing governance framework, NHS Lothian has :
- a) A healthcare governance committee, the remit of which is to provide assurance to the Board that the quality of all aspects of care in NHS Lothian is person-centred, safe, effective, equitable and maintained to a high standard and to provide assurance to the Board of NHS Lothian that the NHS Lothian meets its responsibilities with respect to:-
    - NHS Lothian Participation Standards
    - Volunteers/Carers
    - Information Governance
    - Protection of Vulnerable People including children, adults, offenders

- Relevant Statutory Equality Duties

And

- b) A staff governance committee, the remit of which is to support and maintain a culture within NHS Lothian where the delivery of the highest possible standard of staff management is understood to be the responsibility of everyone working within NHS Lothian and is built upon partnership and collaboration. The Staff Governance Committee must ensure that robust arrangements to implement the (NHS Scotland) Staff Governance Standard are in place and monitored

6.1.11. The staff governance committee has the primary role on staff governance matters, but can and does refer matters of relevance to the healthcare governance committee.

6.1.12. The healthcare governance committee can request assurance from the staff governance committee on matters of direct relevance to its remit, e.g. quality of recruitment, learning and development, completion of mandatory training.

6.1.13. Within the Council, the Chief Social Work Officer has overall responsibility for the professional standards of the Council's social work and social care staff. The workforce is also regulated by the Scottish Social Services Council (SSSC), and all professional staff must by law be registered with the SSSC. This registration requirement will, in due course, extend to all social care staff employed by the Council and the voluntary and independent sectors.

6.1.14. The Chief Social Work Officer reports annually to the Council on standards achieved, governance arrangements (including supervision and case file audits), volume/quantity of statutory functions discharged, the registration of the workforce and on training, including mandatory training and post-qualifying learning and development. These reports must comply with national guidance issued by the Scottish Government. The Chief Social Work Officer will also provide a copy of these annual reports to the integration joint board.

6.1.15. The intention of using the existing NHS Lothian and Council committees as a primary source of assurance is to recognise that the parties will have continuing governance responsibilities for both integration and non-delegated functions, and that the parties wish to minimise unnecessary bureaucracy. The integration joint board will be engaged through its membership being on these committees, and its relationship with the committee chairs. The integration joint board will be in a position to holistically consider the information/ assurance received from the parties, and arrive at a determination for all of its functions. If the integration joint board is in any way dissatisfied with the information or assurance it receives from the parties, or the effectiveness of the parties committees, it may give a direction to the parties to address the issue, or revise its own system of governance.

## 6.2. Clinical and Care Governance Risk

There is a risk that the plans and directions of the integration joint board could have a negative impact on clinical and care governance, and professional accountabilities. This section of the Scheme sets out the arrangements that will be put in place to avoid this risk.

### Professional Advice

- 6.2.1. NHS Lothian has within its executive membership three clinical members (referred to below as **'Executive Clinical Directors'**); a Medical Director, a Nurse Director, and a Director of Public Health. Their roles include responsibility for the professional leadership and governance of the clinical workforce (medical, nursing, allied health professionals, healthcare scientists, psychology, pharmacy), as well as clinical governance within NHS Lothian generally. The creation of the IJB does not change their roles in respect of professional leadership, and they remain the lead and accountable professionals for their respective professions.
- 6.2.2. The Council has a Chief Social Work Officer who reports to the Chief Executive and councillors. The Chief Social Work Officer monitors service quality and professional standards in social care and social work, for staff employed in both adult and children's services, together with standards in relation to the protection of people at risk of harm. The Chief Social Work Officer role also includes quality assurance of decision-making with regard to adult social care, mental health criminal justice and children's services, in particular in relation to public protection and the deprivation of liberty.
- 6.2.3. The creation of an IJB does not change the Chief Social Work Officer's role in respect of professional leadership and he or she will remain the lead and accountable professional for his or her profession.
- 6.2.4. The IJB may elect to appoint one or both of the Medical Director and the Nurse Director as additional non-voting members of the IJB. The Order requires NHS Lothian to fill the following non-voting membership positions on the IJB:
- A registered medical practitioner whose name is included in the list of primary medical services performers prepared by NHS Lothian in accordance with Regulations made under Section 17P of the National Health Service (Scotland) Act 1978;
  - A registered nurse who is employed by NHS Lothian or by a person or body with which NHS Lothian has entered into a general medical services contract; and
  - A registered medical practitioner employed by NHS Lothian and not providing primary medical services.

- 6.2.5. NHS Lothian will consider the advice of the Executive Clinical Directors, and any other relevant officer it deems fit before making appointments to fill the membership positions referred to in section 6.2.4. The appointees will be professionally accountable to the relevant executive clinical director. NHS Lothian will develop a role description for the appointments referred to in section 6.2.4, to ensure that their role on the IJB with regard to professional leadership and accountability is clearly defined and understood.
- 6.2.6. The three health professional representatives referred to in section 6.2.4 will each also be:
- a) A member of an integrated professional group (should it be established); and/or
  - b) A member of a NHS Lothian committee; and/or
  - c) A member of a consultative committee established by NHS Lothian.
- 6.2.7. If a new “integrated professional group” is established, the Chief Social Work Officer must also be a member.
- 6.2.8. The three health professional representative set out in section 6.2.4 and the Chief Social Work Officer will be expected by the Parties to play a lead role in:
- a) Communicating and having regard to their duties to NHS Lothian or the Council as the case may be whilst discharging their role as a member of the IJB;
  - b) Communicating and having regard to the interests of the IJB whilst discharging their duties as professionals employed by NHS Lothian or (as the case may be) the Council.
  - c) The members will be expected to communicate regularly with the Executive Clinical Directors, and the Council’s Chief Executive as and when appropriate.
- 6.2.9. The presence of these four members will ensure that the decisions of the IJB are informed by professional advice from within the membership of the IJB.
- 6.2.10. NHS Lothian includes a governance statement in its annual accounts, the content of which is informed by the annual reports of its governance committees (such as healthcare governance and staff governance) and certificates of assurance from its Executive Clinical Directors. The IJB may place reliance on these existing processes, and the Parties will provide any such reports from those processes as the IJB may require.
- 6.2.11. The Executive Clinical Directors shall be entitled to raise issues directly with the IJB in writing. The IJB shall be required to respond in writing when issues are raised in this way. The Chief



Social Work Officer will be a non-voting member of the IJB, and can therefore raise any issues directly at the IJB.

6.2.12. The engagement of professionals throughout the process to develop and consult on the Strategic Plan, is intended to ensure that the IJB has all the required information to prepare a Strategic Plan, which will not compromise professional standards.

6.2.13. In the unlikely event that the IJB issues a direction to NHS Lothian, which is reasonably likely to compromise professional standards, then in the first instance, the relevant Executive Clinical Director will write to the IJB.

6.2.14. If the issue is not resolved to his/her satisfaction, he/she must inform the board of NHS Lothian before it takes action to implement the direction, and the following measures will apply:

- a) The relevant Executive Clinical Director must ensure that appropriate advice is tendered to the board of NHS Lothian on all matters relating to professional standards;
- b) The relevant Executive Clinical Director must set out in writing to NHS Lothian any objections he/she may have on a proposal that may compromise compliance with professional standards;
- c) The board of NHS Lothian will inform the IJB that it has received such objections, along with a statement of the views of the board of NHS Lothian on those objections;
- d) If board of NHS Lothian decides to proceed with a proposal despite those objections, the relevant executive clinical director will be provided with written authority from the board of NHS Lothian to act on the proposal. NHS Lothian must inform the Scottish Government Health and Social Care Directorate if a request for such a written authority is made. A copy of that authority must be sent to the appropriate regulatory body, e.g. General Medical Council;
- e) Once the relevant executive clinical director has received that written authority, he/she must comply with it;

6.2.15. Regardless of whether a written authority has been given, the executive clinical directors, in their capacity NHS Lothian members, should always vote against a proposal that they cannot endorse as accountable officers. It is not sufficient to abstain from a decision.

- 6.2.16. The three professional clinical members on the IJB (two medical practitioners, one nurse) are non-voting members. They will be expected by the Executive Clinical Directors to raise any concerns in relation to matters which may compromise professional standards with the IJB.
- 6.2.17. If any of the three professional clinical members becomes aware of a matter arising from the conduct of IJB business, which may compromise professional standards, he/she must immediately notify the relevant executive clinical director(s) of their concerns.
- 6.2.18. The Chief Social Work Officer must be a non-voting member of the Integrated Joint Board, and as such, will contribute to decision-making, and will provide relevant professional advice to influence service development.
- 6.2.19. In the event that the Integrated Joint Board issues an direction to the Council or NHS Lothian, which in the view of the Chief Social Work Officer compromises professional social work standards or the discharge of statutory functions, the Chief Social Work Officer must immediately notify the Chief Officer of hi/her concerns and if his/her concerns are nor resolved by the Chief Officer to his/her satisfaction. Must then raise the matter with the Chief Executive of the Council.

### 6.3. **Professionals Informing the IJB Strategic Plan**

- 6.3.1. With regard to the development and approval of its Strategic Plan, the IJB is required to:
- a) Establish a strategic planning group (which will review the draft Strategic Plan). This strategic planning group must include a nominee from both NHS Lothian and the Council in its membership, as well as representation from health professionals and social care professionals. NHS Lothian and the Council will make recommendations to the IJB with regard to the representation from health professionals and social care professionals;
  - b) Consult both NHS Lothian and the Council on its Strategic Plan, and take into account their views before it finalises the Strategic Plan.
- 6.3.2. There will be three opportunities within these arrangements for professional engagement in the planning process;
- a) At the IJB;
  - b) in the context of the work of the strategic planning group; and
  - c) as part of the consultation process with the Parties associated with the Strategic Plan.
- 6.3.3. The membership of the IJB will not be the only source of professional advice available to the IJB. In advance of the establishment of the IJB the Parties agree that the chairs of all appropriate committees and groups will be informed that they are able to, and expected to,

directly provide advice to the IJB. Those committees and groups may also advise an integrated professional group that provides advice to the IJB. Those committees and groups include, but are not limited to:

- a) Area Clinical Forum;
- b) Local consultative committees that have been established under Section 9 of the National Health Service (Scotland) Act 1978;
- c) Managed Clinical/ Care Networks;
- d) East and Mid Lothian Public Protection Committee (adult and child protection, drug and alcohol, violence against women, offender management etc). The IJB will consult this committee on any plans that may impact on the protection of children or vulnerable adults or people who are assessed as posing a risk;
- e) Any integrated professional group established.

6.3.4. NHS Lothian and the Council will ensure that the draft Strategic Plan is sent to the following senior professionals in order to secure their input and advice:

- a) NHS Lothian Medical Director;
- b) NHS Lothian Nurse Director;
- c) NHS Lothian Director of Public Health & Health Policy;
- d) NHS Lothian Allied Health Professions Director;
- e) Chief Social Work Officer.

6.3.5. The engagement of the Council's professionals will not be limited to social work staff, but will extend to related professionals within social care, such as, but not exclusively, occupational therapists, home care and social care staff.

6.3.6. The approach to locality planning and delivery including the arrangements for clinical and social care governance will be developed through the strategic planning process in a collaborative manner for the IJB. .

#### 6.4. **External scrutiny of clinical and care functions**

6.4.1. NHS Lothian seeks assurance for internal control/quality through its Healthcare Governance Committee, which includes reports by external bodies such as Healthcare Improvement Scotland.

6.4.2. The Care Inspectorate (Social Care and Social Work Improvement Scotland) regulates, inspects and supports improvement of adult and children's social work and social care, and their reports feed into the Council's system of governance.

6.4.3. The IJB will consequently be informed of any relevant issues from external scrutiny, as a consequence of drawing from the systems already established by the Parties.

**6.5. Service User and Carer Feedback**

6.5.1. The Parties have a range of systems already in place to capture and respond to service users' experience, and these will continue to be used as the Parties implement the directions of the IJB.

**7. Chief Officer**

7.1. The Chief Officer will be appointed by the IJB; he/she will be employed by one of the Parties and will be seconded to the IJB.

7.2. The Chief Officer will provide a strategic leadership role as principal advisor to and officer of the IJB and will be a member of the senior management team of one or both of the Parties. The Chief Officer will lead the development and delivery of the Strategic Plan for the IJB and will be accountable to the IJB for the content of the directions issued to the constituent authorities by the IJB and for monitoring compliance by the Parties with directions issued by the IJB.

7.3. The Chief Officer will report directly to the Chief Executives of both Parties. There will be a joint process for the regular performance, support and supervision with both Chief Executives.. Annual objectives for the Chief Officer will be agreed and the process will involve the Chair of the IJB agreeing objectives with the Chief Officer relevant to his/her role with the IJB as well as the Chief Executives of the Parties. The Chief Officer's performance against those annual objectives will be monitored through an agreed Performance Management Framework established by the Party which is his/her employer.

7.4. If an interim replacement for the Chief Officer of the IJB is required, in line with a request from the IJB to that effect (on the grounds that the Chief Officer is absent or otherwise unable to carry out his/her functions), the Chief Executives of the Parties will initiate a joint selection process, identifying a list of potential replacements; and selection of a suitable candidate will be undertaken against a set of agreed criteria. The interim replacement will be employed by one of the Parties and will be seconded to the Integration Joint Board on an interim basis.

7.5. The Chief Officer will have operational responsibility for all of the functions delegated to the IJB with the following exceptions:

- Directors responsible for the Western General Hospital, the Edinburgh Royal Infirmary, St Johns Hospital and the Royal Edinburgh Hospital will provide delegated services on these hospital sites that will not be operationally managed by the Chief Officer.
- Specific NHS Lothian functions which will be managed on a pan-Lothian basis as a 'hosted service' by one of the four Chief Officers in Lothian. Annex 3 describes the functions which NHS Lothian is proposing to the IJBs as suitable for management under hosted services arrangements.

## **8. Workforce**

8.1. The arrangements in relation to their respective workforces agreed by the Parties are:

- a) For staff managed by a line manager who is employed on different terms and conditions, the manager will observe the contract of employment and apply the employer's employment policies and procedures. Guidance will be available to assist the line manager. In addition the Parties will establish professional leadership lines of accountability to ensure clinical and professional standards are monitored and maintained.
- b) The Parties have agreed an Organisational Development Plan which is being implemented. There is a Human Resources and Organisational Group which includes Senior Managers and Trades Unions from both organisations.

8.2. The Parties have developed a Human Resources and Organisational Development plan which supports the workforce through the integration process. This is a comprehensive plan which covers staff communication, staff engagement, staff and team development, leadership development and the training needs for staff that will be responsible for managing integrated teams. This plan will be reviewed and updated annually to ensure that it takes account of the strategic plan of the IJB and the development needs of staff within the IJB.

8.3. The plan for 2014 / 2015 is already agreed, and is being implemented, and will be reviewed in April 2015 and annually thereafter. The Parties will also support the IJB to prepare a joint Workforce Development and Support Plan through the provision of professional, technical and support services described in Section 6.4 of this scheme. This Plan will sit alongside and be informed by the IJB's Strategic Plan. The Workforce Development and Support Plan will be developed within six months of the approval of the Strategic Plan by the IJB.

## **9. Finance**

This section describes the arrangements in relation to financial management and monitoring of integrated resources. It sets out the method for determining the resources to be made available by the Council and NHS Lothian to the IJB. It also explains the financial governance and management arrangements, including budget variances, and the financial reporting arrangements between the IJB, the Council and NHS Lothian.

### **9.1. Financial Governance**

#### Appointment of a Chief Finance Officer

- 9.1.1. The IJB will make arrangements for the proper administration of its financial affairs; this will include the appointment of a Chief Finance Officer with this responsibility.
- 9.1.2. The Chief Finance Officer will be a CCAB-qualified accountant. The IJB will have regard to the current CIPFA guidance on the role of the chief financial officer in local government when appointing to this finance role. A job description will be developed with due regard to Scottish government guidance in terms of financial functions.
- 9.1.3. The Chief Finance Officer will be employed by either the Council or NHS Lothian and seconded to the IJB.
- 9.1.4. In the event that the Chief Finance Officer position is vacant, the Chief Officer shall secure, through agreement with both the Council's Section 95 officer and the NHS Lothian Director of Finance, an appropriate interim dedicated resource to discharge the role.

#### Financial Management of the IJB

- 9.1.5. The IJB will determine its own internal financial governance arrangements; and the Chief Finance Officer will be responsive to the decisions of the IJB, and the principles of financial governance set out in this Scheme.

Principles of Financial Governance

9.1.6. The following principles of financial governance shall apply:

- The Parties have agreed to establish the IJB as a “joint operation” as defined by IFRS 11;
- The Parties will work together in a spirit of openness and transparency.

Financial Governance

9.1.7. The Parties agree to the establishment of an IJB Budget (as defined in Section 2 of this Scheme). The Chief Officer will manage the IJB Budget.

9.1.8. The Parties are required to implement the directions of the IJB in carrying out a delegated function in line with the Strategic Plan, having agreed with the relevant party the costs to be incurred. The Parties will apply their established systems of financial governance to the payments they receive from the IJB. The NHS Lothian Accountable Officer and the Council Section 95 Officer have legally defined responsibilities and accountability for the financial governance of their respective bodies.

9.1.9. The Chief Officer in his/her operational role within NHS Lothian and the Council is responsible for the financial management of any operational budgets and is accountable for this to the NHS Lothian Chief Executive and the Council's Section 95 officer.

9.1.10. The IJB will develop its own financial regulations. The Chief Finance Officer will periodically review these financial regulations and present any proposed changes to the IJB for its approval.

9.1.11. The Council will host the Integrated Joint Board Financial Accounts and will be responsible for recording the Integrated Joint Board financial transactions through its existing financial systems..

9.1.12. The IJB's Chief Finance Officer will be responsible for preparing the IJB's accounts and ensuring compliance with statutory reporting requirements as a body under the relevant legislation.

9.1.13. The IJB can hold reserves. It is a matter for the IJB to determine what its reserves strategy will be. .

9.1.14. The IJB's Chief Finance Officer will also be responsible for preparing the annual financial statement that the IJB must publish under Section 39 of the Act . The IJB's Chief Finance Officer will also be responsible for preparing a medium-term financial plan which sets out what the IJB intends to spend in implementation of its Strategic Plan and which will be incorporated into the IJB's Strategic Plan.

9.1.15. The Chief Finance Officer will be responsible for producing finance reports to the IJB, ensuring that those reports are comprehensive. The Council and NHS Lothian will provide the appropriate information to allow the Chief Financial Officer to produce these reports.

9.1.16. The Chief Finance Officer will liaise closely with the Council's Section 95 officer and the NHS Lothian Director of Finance and their teams in order to discharge all aspects of his or her role. Section 6 of this Scheme has set out the process the Parties will undertake to determine how professional, technical and administrative services will be provided to the IJB. The initial focus of this work includes finance support.

## 9.2. **Payments to the IJB**

9.2.1. The resources delegated to the IJB fall into two categories: (i) payments for the delegated functions; and (ii) resources used in large hospitals that are set aside by NHS Lothian and made available to the IJB for inclusion in its Strategic Plan.

9.2.2. Section 1(3)(e) of the Act requires that the Scheme must set out a method of determining payments that are to be made in respect of (i) above. Section 1(3)(d) of the Act requires the Scheme to set out a method of determining the amounts to be made available by the Health Board for us by the IJB under (ii) above.

### Payments to the IJB (made under Section 1(3)(e) of the Act)

9.2.3. The Parties will agree annually a schedule of payments (covering their initial calculated payment for the financial year) to the IJB in-year. This schedule of payments will be agreed within the first 30 working days of each new financial year.



- 9.2.4. It is expected that the net difference between payments into and out of the IJB will result in a balancing payment between the Council and NHS Lothian which reflects the effect of the directions of the IJB.

#### Initial Payments to the IJB

- 9.2.5. The Parties will identify a core baseline operational budget for each function that is delegated to the IJB. This will be used as the basis to calculate their respective payments into the IJB budget.
- 9.2.6. The Parties already have established financial planning processes which take into account the financial settlements they have received, and identified and assumed expenditure pressures, to arrive at opening budgets for the forthcoming financial year. These same processes will be applied to the core baseline operational budgets for the delegated functions in order to arrive at the initial payments to the IJB.

#### Hosted Services

- 9.2.7. NHS Lothian carries out functions across four local authority areas. Some of the functions that will be delegated to all four IJBs in the NHS Lothian boundary are currently provided as part of a single Lothian-wide service, commonly referred to as “hosted services”. As such there is not currently a separately identifiable budget for those services by local authority area.
- 9.2.8. In order to identify the core baseline budget for each of the hosted services in each local authority area, NHS Lothian will initially determine which of the following methodologies is the most appropriate in representing the distribution of the delivery of those services in each local authority area and their respective populations at a given point in time:
- a) Local activity and cost data for each service within each local authority area
  - b) Population distribution across the local authority areas
  - c) Patient level activity and cost data
  - d) Historically applied and recognised percentages

- 9.2.9. The Council and the IJB will review the proposals from NHS Lothian as part of a due diligence process, and the core baseline budget will be collectively agreed.

#### Due Diligence

- 9.2.10. The Parties will share information on the financial performance over the previous two financial years of the functions and associated services which will be delegated to the IJB. This will

allow the Parties to undertake appropriate reviews to gain assurance that the services are currently being delivered sustainably within approved resources, and that the anticipated initial payments will be sufficient for the IJB to carry out its integration functions.

- 9.2.11. If any such review indicates that the projected expenditure is likely to exceed the initial payments to the IJB, the relevant Party (either the Council or NHS Lothian as appropriate) will be required to take action to ensure that services can be delivered within the available operational budget
- 9.2.12. The Parties recognise that of the functions which are to be delegated to the IJB, there are some where there is greater potential for the actual expenditure to vary significantly from projections. The Parties will identify what those functions are, and will ensure that information is provided to the IJB so that it may build up its working knowledge of the issues, and focus on those functions within their systems for risk management and financial reporting. This will help the IJB and the Parties determine how any particular variances (should they arise) should be handled (see section below), as well as how the IJB decides to direct the use of the IJB budget in the future.
- 9.2.13. This process of due diligence will be applied in future years, and this will be informed by, amongst other things, the intelligence within the financial performance reports covering all integration functions that the IJB will routinely receive.

#### Determining the schedules for the Initial Payments

- 9.2.14. The Council Section 95 officer and the NHS Lothian Director of Finance are responsible for preparing the schedules for their respective Party. The amounts to be paid will be the outcome of the above processes. They will consult with the Chief Officer (designate) and officers in both Parties as part of this process.
- 9.2.15. The Council's Section 95 officer and NHS Lothian's Director of Finance will each prepare a schedule outlining the detail and total value of the proposed payment from each Party, and the underlying methodology and assumptions behind that payment. These draft schedules will identify any amounts included in the payments that are subject to separate legislation or subject to restrictions stipulated by third party funders. The schedules will also contain the detail and total value of set aside resources for hospital services, made under section 1(3)(d) of the Act.
- 9.2.16. The Council's Section 95 officer and NHS Lothian's Director of Finance will refer the draft schedules to the Chief Officer (designate) so that he or she may have an opportunity to formally consider it.

9.2.17. The Council's Section 95 officer and NHS Lothian's Director of Finance will thereafter present the final draft schedules to the Council and NHS Lothian. This schedule must be approved by NHS Lothian's Director of Finance, the Council's Section 95 Officer and the Chief Officer (designate).

9.2.18. The Council and NHS Lothian must approve their respective payments, in line with their governing policies.

Subsequent Section 1(3)(e) Payments to the IJB

9.2.19. The calculation of payments in each subsequent financial year will be essentially follow the same processes as has been described for the initial payment. This section highlights the key differences from the process of calculating the initial payment.

9.2.20. The starting position will be the payments made to the IJB in the previous financial year. The Parties will then review the payments, having due regard to any known factors that could affect core baseline budgets, available funding, their existing commitments, the results of their own financial planning processes, the previous year's budgetary performance for the functions delegated to the IJB, the IJB's performance report for the previous year, and the content of the IJB's Strategic Plan.

9.2.21. The Parties will also have due regard to the impact of any service re-design activities that have been direct consequence of IJB directions.

9.2.22. In all subsequent financial years, the IJB will be established and the Chief Officer and Chief Finance Officer will have been appointed to their posts. The Parties will engage the IJB, Chief Officer, and Chief Finance Officer in the process of calculating subsequent payments through:

- Both Parties will provide indicative three year allocations to the IJB, subject to annual approval through their respective budget setting processes.
- The Parties will ensure the Chief Officer and Chief Finance Officer are actively engaged in their financial planning processes. The Chief Officer will be expected to feed into the planning processes of the parents with any intelligence that is relevant, e.g. the aims of the Strategic Plan, the effect of previous directions on activity and expenditure, projected changes in activity and expenditure. The Director of Finance of NHS Lothian, the Section 95 Officer of the Council and the IJB Chief Finance Officer will ensure a consistency of approach and consistent application of processes in considering budget assumptions and proposals.

The set-aside of resources for use by the IJB under Section 1(3)(d) of the Act

9.2.23. In addition to the Section 1(3)(e) payments to the IJB, NHS Lothian will identify a set aside budget for delegated functions in large hospitals. The set aside budget for delegated hospital services will be based on an apportionment of the relevant NHS Lothian budgets for the delegated hospital services (excluding overheads).

9.2.24. In order to identify the core baseline budget for each Set Aside Functions in each IJB area, NHS Lothian will initially determine which of the following methodologies is the most appropriate in representing the distribution of the delivery of those services in each IJB area and their respective populations at a given point in time:

- Local activity and cost data for each service within each IJB area
- Population distribution across the IJB areas
- Patient level activity and cost data
- Historically applied and recognised percentages

The Parties and the IJB will review the proposals from NHS Lothian referred to above, as part of a due diligence process, and the core baseline budget will be jointly agreed

Process to agree payments from the IJB to NHS Lothian and the Council

9.2.25. The IJB will determine and approve, in accordance with the Strategic Plan, the payments to the Parties which will accompany its directions to them for carrying out functions delegated to the IJB. The Parties are required to implement the directions of the IJB in carrying out a delegated function in line with the Strategic Plan, having agreed with the IJB the resources required to deliver the said directions.

9.2.26. The Chief Finance Officer is responsible for providing the IJB with appropriate information and advice, so that it may determine what those payments should be.

9.2.27. Each direction from the IJB to the Council and/or NHS Lothian will take the form of a letter from the Chief Officer referring to the arrangements for delivery set out in the Strategic Plan and will include information on:

- the delegated function(s) that are to be carried out
- the outcomes to be delivered for those delegated functions
- the amount of and method of determining the payment to be made, in respect of the carrying out of the delegated functions.

9.2.28. Once issued, directions can be amended by a subsequent direction by the IJB.

9.2.29. Where amounts paid to the IJB are subject to separate legislation or subject to restrictions stipulated by third party funders, the IJB must reflect these amounts in full, in determining the level of the payments to be made to the Council and/or NHS Lothian in respect of the carrying out of the relevant function or functions. However, the IJB is not precluded from increasing the resource allocated to the relevant services.

Financial Reporting to the IJB

9.2.30. Budgetary control and monitoring reports (in such form as the IJB may request from time to time) will be provided to the IJB by the Parties as and when requested by the IJB. The reports will set out the financial position and outturn forecast against the payments by the IJB to the Council and NHS Lothian in respect of the carrying out of integration functions and against the amount set aside by NHS Lothian for hospital services. These reports will present the actual and forecast positions of expenditure compared to operational budgets for delegated functions and highlight any financial risks and areas where further action is required to manage budget pressures.

9.2.31. NHS Lothian will provide reports to the IJB on the set aside budget as above.

9.2.32. Through the process of reviewing the professional, technical and administrative support to the IJB (see Section 6 of the Scheme), and the development of accounting for the set-aside, the Parties will devise a sustainable model to support financial reporting to the new IJB. Until that model is in place, both Parties will provide the required information on operational budgetary performance from their respective finance systems, and this will be co-ordinated and consolidated by the Chief Finance Officer to provide reports to the IJB on all the IJB's integration functions.

**9.3. Process for addressing variance in the spending of the IJB**

Treatment of forecast over- and under-spends against the Operational Budget

9.3.1. Section 15 of this integration scheme sets out the arrangements for risk management, and financial risk (within the IJB and both parties) will be managed in line with those arrangements.

9.3.2. The IJB is required to deliver its financial outturn with approved resources. The Parties will make every effort to avoid variances arising. A key measure in this regard will be the due diligence activities, and the sharing of information with the IJB, so that the IJB has the best opportunity to allocate resources effectively. The Parties will also ensure that the systems that are already applied to delivering public services within fixed and limited resources will continue.

- 9.3.3. Where financial monitoring reports indicate that an overspend is forecast on the NHS Lothian or the Council operational budget for delegated functions, it is agreed by the Parties that the relevant Party should take immediate and appropriate remedial action to prevent the overspend. The manager leading this remedial action could be the Chief Officer in his or her operational capacity within the affected Party.
- 9.3.4. In the event that such remedial action will not prevent the overspend, then IJB Chief Finance Officer will, together with the relevant Party, develop a proposed recovery plan to address the forecast overspend. The Chief Finance Officer will then present that recovery plan to the IJB as soon as practically possible. The IJB has to be satisfied with the recovery plan, and the plan is subject to its approval.

Additional Payments by the Parties to the IJB

- 9.3.5. Where such recovery plans are projected to be unsuccessful and an overspend occurs at the financial year end, and there are insufficient reserves to meet the overspend, then the Parties may make additional payments to the IJB.
- 9.3.6. NHS Lothian and the Council may alternatively consider making interim funding available based on an agreed percentage with repayment in future years on the basis of the revised recovery plan by both Parties and the IJB. If the revised plan cannot be agreed by NHS Lothian and the Council or is not approved by the IJB, mediation will require to take place in line with the pre agreed dispute resolution arrangements.

Underspends

- 9.3.7. As part of their normal financial management systems, the Parties conduct in-year reviews of financial performance, and occasionally this may lead to a forecast of an underspend at the year-end on one or more budgets. In the event that this happens within the operational budgets, then the following shall apply:
- 9.3.8. If the underspend is fortuitous, and unrelated to any IJB direction, then the underspend should be returned to the affected Party (through an adjustment to the payments to the IJB).
- 9.3.9. The IJB will retain all other underspends.
- 9.3.10. The IJB can hold reserves for which a Reserves Strategy will be developed by the IJB which will require the agreement of the Parties.

Treatment of variations against the amounts set aside for use by the IJB

- 9.3.11. A process will be agreed between NHS Lothian and the IJB to manage any variations within the set-aside budget. This process will reflect any variations in the activity that was used to establish the set-aside budget. Any cost variations will be managed in the same way as overspends and underspends within the Integrated payment as laid out above. This process will be reflect the guidance issued by the Scottish Government - 'Guidance on Financial Planning for Large Hospital Services and Hosted Services'

Redetermination of payments (made under Section 1(3)(e)) to the IJB

- 9.3.12. Redeterminations of payments made by the Council and NHS Lothian for the carrying out of integration functions would apply under the following circumstances:
- 9.3.13. Additional one off funding is provided to a Party or Parties by the Scottish Government, or some other body, for expenditure in respect of a function delegated to the IJB.
- 9.3.14. The Parties agree that an adjustment to the payment is required to reflect changes in demand and/or activity levels or recover any additional payments which have been made to the IJB in the event of any overspend position.
- 9.3.15. Transfer of resources between set aside hospital resources and integrated budget resources delegated to the IJB and managed by the Chief Officer.
- 9.3.16. In all cases full justification for the proposed change would be required and both Parties and the IJB would be required to agree to the redetermination. The Parties would apply the process used to calculate the payment to the IJB (described earlier) to the affected functions and the Strategic Plan would require to be amended accordingly.

Redetermination of payments (made under Section 1(3)(d)) to the IJB

- 9.3.17. A process will be agreed between NHS Lothian and the IJB to manage any variations within the set-aside budget. This process will reflect any variations in the activity that was used to establish the set-aside budget. Any cost variations will be managed in the same way as overspends and underspends within the Integrated payment as laid out above.

9.4. **Use of Capital Assets**

- 9.4.1. The IJB, NHS Lothian and the Council will identify all capital assets which will be used in the delivery of the Strategic Plan. Further to this, the associated revenue and future capital liabilities will be identified for each asset.
- 9.4.2. An agreement will be developed which specifies and regulates the use (in relation to integration functions) of capital assets belonging to one Party by the other Party, or jointly by both Parties. A similar agreement will specify and regulate the use by the IJB, in the carrying out of its functions, of assets belonging to the Parties. These agreements will be updated as required.
- 9.4.3. Changes in use of capital assets will flow from the Strategic Plan and the directions issued by the IJB to the Parties. The Strategic Plan process will outline any implications or requirements for capital assets..
- 9.4.4. The Parties will ensure that their capital asset planning arrangements take due cognisance of the above implications and requirements.
- 9.4.5. The Chief Officer of the IJB will consult with the Council and NHS Lothian to identify the specific need for improvements/changes to assets owned by each Party which may be required in connection with the carrying out of integration functions. Where a capital investment need is identified, the Chief Officer will present a business case to the Council and NHS Lothian to make best use of existing resources and develop capital programmes. Any business case will set out how the investment will meet the strategic objectives set out in the Strategic Plan and identify the ongoing revenue costs/savings associated with implementation of the proposals.
- 9.4.6. The IJB, the Council and NHS Lothian will work together to ensure assets required in connection with the carrying out of integration functions are used as effectively as possible and in compliance with the relevant legislation relating to use of public assets.

9.5. **Financial Statements**

Financial Statements and External Audit

- 9.5.1. The legislation requires that the IJB is subject to the audit and accounts provisions of a body under section 106 of the Local Government (Scotland) Act 1973 (section 13 of the Act). This will require audited annual accounts to be prepared with the reporting requirements specified in



the relevant legislation and regulations (section 12 of the Local Government in Scotland Act 2003 and regulations under section 105 of the Local Government (Scotland) Act 1973). These will be proportionate to the limited number of transactions of the IJB whilst complying with the requirement for transparency and true and fair reporting in the public sector.

- 9.5.2. The reporting requirements for the annual accounts are set out in legislation and regulations and will be prepared following the CIPFA Local Authority Code of Practice.
- 9.5.3. The Chief Finance Officer of the IJB will supply any information required to support the development of the year-end financial statements and annual report for both NHS Lothian and the Council. Both NHS Lothian and the Council will need to disclose their interest in the IJB as a joint arrangement under IAS 31 and comply in their annual accounts with IAS 27. Both NHS Lothian and the Council will report the IJB as a related party under IAS 24.
- 9.5.4. The IJB financial statements must be completed to meet the audit and publication timetable specified in the regulations (Regulations under section 105 of the Local Government (Scotland) Act 1973).
- 9.5.5. The Accounts Commission will appoint the external auditors to the IJB.
- 9.5.6. The financial statements will be signed in line with the governance arrangements for the IJB and as specified in the Regulations under section 105 of the Local Government (Scotland) Act 1973.
- 9.5.7. In all forms of audit, the Parties are expected to comply with related requests and to aid the audit process.

## 10. Participation and Engagement

### Participation and Engagement Strategy

10.1.1. The Parties will support the Chief Officer to produce a strategy for engagement with, and participation by members of the public, representative groups or other organisations in relation to the decisions about carrying out of integration functions as set out in section 4. The process to identify and provide support to the Chief Officer to develop the IJB's Participation and Engagement Strategy is described in section 5.3. As part of the process set out in section 5.3 the Parties will:

- Make available to the IJB arrangements that are already established for consultation by one or both of the Parties. The IB will consider a range of ways in which to connect with all stakeholders. The IJB will use existing consultation methods, for example (but not limited to), the Midlothian Citizens' Panel.
- Make available service/user participation and engagement teams to the IJB as this relates to function delegated within the Scheme.
- Make available communication support to allow the IJB to engage and participate.

10.1.2. The IJB Participation and Engagement Strategy will be produced before the date the IJB approves the Strategic Plan. When the IJB approves the Strategic Plan members must be satisfied that the Strategic Plan has had sufficient consultation and that the Participation and Engagement Strategy has been followed.

10.1.3. The development of the participation and engagement strategy will be achieved using a collaborative response, involving the membership of the Midlothian Strategic Planning Group.

10.1.4. The Strategic Planning Group is expected will take both an advisory and active role in the undertaking of future participation and engagement around the implications of service development and re-design.

### Consultation on this Integration Scheme

10.1.5. A three stage approach was adopted to ensure sufficient involvement and consultation in the development of this Scheme:

Stage 1: Informing and Engaging:

A first draft was produced by officers of the Parties with the involvement of a range of professionals within both Parties. This draft was approved for consultation by the Parties

**Stage 2: Consultation**

A formal internal and external stakeholder consultation was held from December 17<sup>th</sup> 2014 to February 17<sup>th</sup> 2015.

**Stage 3: Response to the consultation**

A second draft guided by the consultation was produced by officers for approval by the Parties to submit to Scottish Government.

Further details of the people and groups involved in the informing, engagement and consultation on the Midlothian Integration Scheme are set out in Annex 5.

**11. Information Sharing and Data Handling**

- 11.1. There is an existing and long standing Pan Lothian and Borders General Information Sharing Protocol, to which Lothian Health Board, City of Edinburgh, East Lothian Council, Midlothian Council and West Lothian Council are all signatories. This is currently being reviewed by a sub group on behalf of the Pan Lothian Data Sharing Partnership for any minor modifications required to comply with the Public Bodies (Joint Working) (Integration Scheme) Regulations 2014. Final Protocol, following consultation, will be recommended for signature by Chief Executives of respective organisations, and the Chief Officers of the Integrated Joint Boards, once they have been appointed by the IJB, on behalf of the Data Sharing Partnership.
- 11.2. The Pan Lothian and Borders General Information Sharing Protocol update will be agreed for 31 March 2015.
- 11.3. Procedures for sharing information between the Council, the other local authorities within the NHS Lothian area, NHS Lothian, and, where applicable, the IJB will be drafted as Information Sharing Agreements and procedure documents. This will be undertaken by a sub group on behalf of the PAN Lothian Data Sharing Partnership, who will detail the more granular purposes, requirements, procedures and agreements for each of the IJBs and their respective delegated functions.
- 11.4. The Council and NHS Lothian will continue to be data controllers for their respective records (electronic and manual), and will detail arrangements for control and access. The IJB may require to be data controller for personal data if it is not held by either the delegating local authority or Health Board.

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- 11.5. Arrangements for third party organisations to have access to records will be jointly agreed by the Parties and the IJB prior to access.
- 11.6. Procedures will be based on a single point of governance model. This allows data and resources to be shared, with governance standards, and their implementation, the separate responsibility of each partner. Shared dataset governance will be agreed by all contributing partners prior to access.
- 11.7. Following consultation, Information Sharing Protocols and procedure documents will be recommended for signature by Chief Executives of respective organisations, and the Chief Officers of the IJBs.
- 11.8. Once established, Agreements and Procedures will be reviewed bi-annually by the sub group of the PAN Lothian Data Sharing Partnership, or more frequently if required.
- 11.9. The Lothian Partnership Information Sharing Agreements and procedures will be agreed by the Parties before 31 March 2015.

## 12. Complaints

The Parties agree the following arrangements in respect of complaints:

- 12.1. Any person will be able to make complaints to either party. The Parties have in place well publicised, clearly explained and accessible complaints procedures, which allow for timely recourse and signpost independent advocacy services, where appropriate. There is an agreed emphasis on resolving concerns locally and quickly; as close to the point of service delivery as possible.
- 12.2. There are currently different legislative requirements in place for dealing with complaints about health and social care. Complaints regarding the delivery of an integrated service will be made to, and dealt with by, the Party that delivers the integrated service, in line with their published complaints procedure, and consistent with any statutory complaints handling arrangements that apply. It is the responsibility of the Party initially receiving a complaint to make sure that it is routed to the appropriate organisation/individual.
- 12.3. The Council and NHS Lothian will align their complaints processes as far as possible until such time as their respective complaints processes can be fully integrated. Joint working protocols will be adopted so that the process of making a complaint is as simple as possible and complaints about integrated services are responded to clearly, thoroughly and timeously. These joint working protocols will identify the lead organisation for each integrated service and will include the contact details of officers responsible for managing any complaints received.
- 12.4. When a complaint covers both health and social care functions, responsible officers within the Council and NHS Lothian will, where necessary, work together to make sure all parts of the complaint are investigated and responded to within established time limits and the complainant is correctly signposted to the options open to them if they remain dissatisfied. Wherever possible, there will be a joint response from the identified Party rather than separate responses
- 12.5. There is an additional stage for complaints about specific social work functions. These will be referred to a Complaints Review Committee (CRC) if the complainant remains dissatisfied and requests this.
- 12.6. At the end of the process, complainants are entitled to take their complaint to the Scottish Public Services Ombudsman. Where appropriate, complainants will also be advised of their right to complain to the Care Inspectorate and information held by the Council may be shared with the Care Inspectorate.
- 12.7. Responsibility for responding to the Scottish Public Services Ombudsman lies with the Party who dealt with the original complaint. Where necessary, officers responsible for complaints handling within the Council and NHS Lothian will work together to provide a full response to

any Scottish Public Services Ombudsman enquiry that covers both health and social care functions.

- 12.8. The Chief Officer will have an overview of complaints made about integrated services and subsequent responses. Complaints about integrated services will be recorded and reported to the Chief Officer on a regular and agreed basis. Regular trend analysis of complaints and outcomes will also be carried out as part of a wider quality assurance framework.
- 12.9. All independent contractors will be required to have a complaints procedure. Where complaints are received about the service provided by an independent contractor, the Party receiving the complaint will refer the complaint to the independent contractor in the first instance, either providing contact details or by passing the complaint on, depending on the preferred approach of the complainant. Complaints received about independent contractors will be recorded for contract monitoring purposes.

**13. Claims Handling, Liability & Indemnity**

- 13.1. The Parties and the Integration Joint Board recognise that they could receive a claim arising from or which relates to the work undertaken on behalf of the Integration Joint Board.
- 13.2. The Parties agree to ensure that any such claims are progressed quickly and in a manner which is equitable between them.
- 13.3. So far as reasonably practicable the normal common law and statutory rules relating to liability will apply.
- 13.4. Each Party will assume responsibility for progressing and determining any claim which relates to any act or omission on the part of one of their employees.
- 13.5. Each Party will assume responsibility for progressing and determining any claim which relates to any building which is owned or occupied by them.
- 13.6. Each Party will assume responsibility for progressing and determining any claim which relates to any heritable property which is owned by them. If there are any heritable properties owned jointly by the Parties, further arrangements for liability will be agreed upon in consultation with insurers.
- 13.7. In the event of any claim against the Integration Joint Board or in respect of which it is not clear which Party should assume responsibility then the Chief Officer (or their representative) will liaise with the Chief Executives of the Parties (or their representatives) and determine which Party should assume responsibility for progressing the claim.
- 13.8. If a claim is settled by either Party, but it subsequently transpires that liability rested with the other Party, then that Party shall indemnify the Party which settled the claim.
- 13.9. Claims regarding policy and/or strategic decisions made by the IJB shall be the responsibility of the IJB. The IJB may require to engage independent legal advice for such claims.
- 13.10. If a claim has a “cross boundary” element whereby it relates to another integration authority area, the Chief Officers of the integration authorities concerned shall liaise with each other until an agreement is reached as to how the claim should be progressed and determined.
- 13.11. The IJB will develop a procedure for claims relating to hosted services with the other relevant integration authorities. Such claims may follow a different procedure than as set out above.

13.12. Claims which pre-date the establishment of the IJB will be dealt with by the Parties through the procedures used by them prior to integration.

#### **14. Risk Management**

14.1.1. The IJB will develop and agree its own Risk Management Procedure in relation to carrying out of integration functions including reports by 31<sup>st</sup> March 2016, which will cover all of its activities.

14.1.2. The Risk Management Procedure will include:-

- a) A statement of the IJB's risk appetite and associated tolerance measures.
- b) A description of how the system of risk management will work in practice, including procedures for the identification, classification, recording and reporting of risk, and the respective roles of the IJB and its officers. This will explain how the output from the risk management systems within NHS Lothian and the Council will inform the IJB's system of risk management.
- c) A description of how the IJB system of risk management is informed by other related systems of NHS Lothian and the Council, such as complaints management, health & safety, adverse events management, emergency planning and business resilience.
- d) An agreement between the Parties on the resources to be made available to support risk management.

14.1.3. The IJB risk register will not duplicate the detail of risk registers within NHS Lothian and the Council. However, the IJB will update its risk register should there be any emerging themes/risks which have a bearing on its activities.

#### **14.2. NHS Lothian and the Council**

14.2.1. Both organisations will continue to apply their existing policies and systems for risk management, and will implement any required restructuring of their risk registers to recognise the creation of the IJB.

14.2.2. NHS Lothian covers four local authority areas, and there will be some 'hosted services' which one operational director manages on a Lothian-wide basis. The identification and management of risk for those hosted services will reflect the differing directions of the four IJBs.



**15. Dispute resolution mechanism**

- 15.1. The Parties will commit to working well together, listening to each other and will always work to resolve any issues before they require the Dispute Resolution process to be actioned.
- 15.2. Where either of the Parties fails to agree with the other on any issue related to this Scheme of any of the duties, obligations, rights or powers imposed or conferred on them by the Act (A “**Dispute**”) then they will follow the process described below:
- (a) The Chief Executives of the NHS Lothian and the Council, and the Chief Officer, will meet to resolve the Dispute within 21 calendar days of being notified of the issue;
  - (b) If unresolved, NHS Lothian, the Council, and the Chief Officer, will each prepare a written note of their position on the Dispute and exchange it with the others within 14 calendar days of the meeting in (a) above;
  - (c) Within 14 calendar days of the exchange of written notes in (b) the Chief Executives and Chief Officer must meet to discuss the written positions;
  - (d) In the event that the issue remains unresolved, representatives of NHS Lothian and the Council will proceed to mediation with a view to resolving the Dispute.
- 15.3. Scottish Government will be informed by the chairperson of the IJB of the Dispute, the mediation process being followed and the agreed timeframe to conclude the mediation process. A copy of this correspondence will be sent to the Chair of NHS Lothian and the Leader of the Council.
- 15.4. The mediator will be external to the Parties and will be identified and appointed with the agreement of the Chair of NHS Lothian and the Leader of the Council and failing agreement within 21 days shall be nominated by the Centre of Effective Dispute Resolution (CEDR) on the request of either Party.
- 15.5. The mediation will start no later than 21 days after the date of the appointment of the mediator.
- 15.6. The Parties agree that the cost of the mediator will be met equally by NHS Lothian and the Council.
- 15.7. The timeframe to resolve the issue will be agreed prior to the start of the mediation process by the Chair of NHS Lothian and the Leader of the Council.

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- 15.8. Where the Dispute remains unresolved after following the processes outlined in section 15.2 above, the Parties agree that the chairperson of the Integration Joint Board shall write to the Scottish Ministers to provide notification that agreement cannot be reached. Scottish Government will then instruct the Parties how to proceed.
- 15.9. The Parties shall cooperate with each other to mitigate any adverse affect on service delivery pending resolution of the Dispute.
- 15.10. Nothing in this Scheme shall prevent the Parties from seeking any legal remedy or from commencing or continuing court proceedings in relation to the Dispute.

## Annex 1: Part 1A

### Functions delegated by NHS Lothian to the IJB

Set out below is the list of functions that are to be delegated by NHS Lothian to the IJB.

Set out in column A is the list of functions that must be delegated by NHS Lothian to the IJB as set out in the Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014.

Further health functions can be delegated as long as they fall within the functions set out in Schedule One of the same instrument. The functions listed in column A are subject to the exceptions in column B below.

SCHEDULE 2                      Regulation 3

Functions prescribed for the purposes of section 1(8) of the Act

<i>Column A</i>	<i>Column B</i>
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#### **The National Health Service (Scotland) Act 1978**

All functions of Health Boards conferred by, or by virtue of, the National Health Service (Scotland) Act 1978	Except functions conferred by or by virtue of— section 2(7) (Health Boards);  section 2CB <sup>(1)</sup> (Functions of Health Boards outside Scotland);  section 9 (local consultative committees);  section 17A (NHS Contracts);  section 17C (personal medical or dental services);  section 17I <sup>(2)</sup> (use of accommodation); section 17J (Health Boards' power to enter into general medical services contracts);  section 28A (remuneration for Part II services); section 38 <sup>(3)</sup> (care of mothers and young children);  section 38A <sup>(4)</sup> (breastfeeding);
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<sup>(1)</sup> Section 2CB was inserted by S.S.I. 2010/283, regulation 3(2)(as section 2CA) and re-numbered as section 2CB by S.S.I 2013/293, regulation 8(2).

<sup>(2)</sup> Section 17I was inserted by the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2 and amended by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 4. The functions of the Scottish Ministers under section 17I are conferred on Health Boards by virtue of S.I. 1991/570, as amended by S.S.I. 2006/132.

<sup>(3)</sup> The functions of the Secretary of State under section 38 are conferred on Health Boards by virtue of S.I. 1991/570.

<sup>(4)</sup> Section 38A was inserted by the Breastfeeding etc (Scotland) Act 2005 (asp 1), section 4. The functions of the Scottish Ministers under section 38A are conferred on Health Boards by virtue of S.I. 1991/570 as amended by S.S.I. 2006/132.

section 39<sup>(5)</sup> (medical and dental inspection, supervision and treatment of pupils and young persons);

section 48 (provision of residential and practice accommodation);

section 55<sup>(6)</sup> (hospital accommodation on part payment);

section 57 (accommodation and services for private patients);

section 64 (permission for use of facilities in private practice);

section 75A<sup>(7)</sup> (remission and repayment of charges and payment of travelling expenses);

section 75B<sup>(8)</sup>(reimbursement of the cost of services provided in another EEA state);

section 75BA<sup>(9)</sup>(reimbursement of the cost of services provided in another EEA state where expenditure is incurred on or after 25 October 2013);

section 79 (purchase of land and moveable property);

section 82<sup>(10)</sup> use and administration of certain endowments and other property held by Health Boards);

section 83<sup>(11)</sup> (power of Health Boards and local health councils to hold property on trust);

section 84A<sup>(12)</sup> (power to raise money, etc., by appeals, collections etc.);

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<sup>(5)</sup> Section 39 was relevantly amended by the Self Governing Schools etc (Scotland) Act 1989 (c.39) Schedule 11; the Health and Medicines Act 1988 (c.49) section 10 and Schedule 3 and the Standards in Scotland's Schools Act 2000 (asp 6), schedule 3.

<sup>(6)</sup> Section 55 was amended by the Health and Medicines Act 1988 (c.49), section 7(9) and Schedule 3 and the National Health Service and Community Care Act 1990 (c.19), Schedule 9. The functions of the Secretary of State under section 55 are conferred on Health Boards by virtue of S.I. 1991/570.

<sup>(7)</sup> Section 75A was inserted by the Social Security Act 1988 (c.7), section 14, and relevantly amended by S.S.I. 2010/283. The functions of the Scottish Ministers in respect of the payment of expenses under section 75A are conferred on Health Boards by S.S.I. 1991/570.

<sup>(8)</sup> Section 75B was inserted by S.S.I. 2010/283, regulation 3(3) and amended by S.S.I. 2013/177.

<sup>(9)</sup> Section 75BA was inserted by S.S.I. 2013/292, regulation 8(4).

<sup>(10)</sup> Section 82 was amended by the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 7) section 1(2) and the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 2.

<sup>(11)</sup> There are amendments to section 83 not relevant to the exercise of a Health Board's functions under that section.

<sup>(12)</sup> Section 84A was inserted by the Health Services Act 1980 (c.53), section 5(2). There are no amendments to section 84A which are relevant to the exercise of a Health Board's functions.

section 86 (accounts of Health Boards and the Agency);

section 88 (payment of allowances and remuneration to members of certain bodies connected with the health services);

section 98 <sup>(13)</sup> (charges in respect of non-residents); and

paragraphs 4, 5, 11A and 13 of Schedule 1 to the Act (Health Boards);

and functions conferred by—

The National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 <sup>(14)</sup>;

NHS Lothians (Membership and Procedure) (Scotland) Regulations 2001/302;

The National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000/54;

The National Health Services (Primary Medical Services Performers Lists) (Scotland) Regulations 2004/114;

The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004;

The National Health Service (Discipline Committees) Regulations 2006/330;

The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006/135;

The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009/183;

The National Health Service (General Dental Services) (Scotland) Regulations 2010/205; and

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<sup>(13)</sup> Section 98 was amended by the Health and Medicines Act 1988 (c.49), section 7. The functions of the Secretary of State under section 98 in respect of the making, recovering, determination and calculation of charges in accordance with regulations made under that section is conferred on Health Boards by virtue of S.S.I. 1991/570.

<sup>(14)</sup> S.I. 1989/364, as amended by S.I. 1992/411; S.I. 1994/1770; S.S.I. 2004/369; S.S.I. 2005/455; S.S.I. 2005/572 S.S.I. 2006/141; S.S.I. 2008/290; S.S.I. 2011/25 and S.S.I. 2013/177.

The National Health Service (Free Prescription and Charges for Drugs and Appliances) (Scotland) Regulations 2011/55<sup>(15)</sup>.

### **Disabled Persons (Services, Consultation and Representation) Act 1986**

#### Section 7

(Persons discharged from hospital)

### **Community Care and Health (Scotland) Act 2002**

All functions of Health Boards conferred by, or by virtue of, the Community Care and Health (Scotland) Act 2002.

### **Mental Health (Care and Treatment) (Scotland) Act 2003**

All functions of Health Boards conferred by, or by virtue of, the Mental Health (Care and Treatment) (Scotland) Act 2003.

Except functions conferred by—

section 22 (Approved medical practitioners);

section 34 (Inquiries under section 33: co-operation)<sup>(16)</sup>;

section 38 (Duties on hospital managers: examination notification etc.)<sup>(17)</sup>;

section 46 (Hospital managers' duties: notification)<sup>(18)</sup>;

section 124 (Transfer to other hospital);

section 228 (Request for assessment of needs: duty on local authorities and Health Boards);

section 230 (Appointment of a patient's responsible medical officer);

section 260 (Provision of information to patients);

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<sup>(15)</sup> S.S.I. 2011/55, to which there are amendments not relevant to the exercise of a Health Board's functions.

<sup>(16)</sup> There are amendments to section 34 not relevant to the exercise of a Health Board's functions under that section.

<sup>(17)</sup> Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of "managers" relevant to the functions of Health Boards under that Act.

<sup>(18)</sup> Section 46 is amended by S.S.I. 2005/465.

section 264 (Detention in conditions of excessive security: state hospitals);

section 267 (Orders under sections 264 to 266: recall);

section 281<sup>(19)</sup> (Correspondence of certain persons detained in hospital);

and functions conferred by—

The Mental Health (Safety and Security) (Scotland) Regulations 2005<sup>(20)</sup>;

The Mental Health (Cross Border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2005<sup>(21)</sup>;

The Mental Health (Use of Telephones) (Scotland) Regulations 2005<sup>(22)</sup>; and

The Mental Health (England and Wales Cross border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2008<sup>(23)</sup>.

#### **Education (Additional Support for Learning) (Scotland) Act 2004**

##### Section 23

(other agencies etc. to help in exercise of functions under this Act)

#### **Public Services Reform (Scotland) Act 2010**

All functions of Health Boards conferred by, or by virtue of, the Public Services Reform (Scotland) Act 2010

Except functions conferred by—

section 31(Public functions: duties to provide information on certain expenditure etc.); and

section 32 (Public functions: duty to provide information on exercise of functions).

#### **Patient Rights (Scotland) Act 2011**

All functions of Health Boards conferred by, or by virtue of, the Patient Rights (Scotland) Act 2011

Except functions conferred by The Patient Rights (Complaints Procedure and Consequential Provisions) (Scotland) Regulations 2012/36<sup>(24)</sup>.

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<sup>(19)</sup> Section 281 is amended by S.S.I. 2011/211.

<sup>(20)</sup> S.S.I. 2005/464, to which there are amendments not relevant to the exercise of the functions of a Health Board. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of “managers” relevant to the functions of Health Boards.

<sup>(21)</sup> S.S.I. 2005/467. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of “managers” relevant to the functions of Health Boards.

<sup>(22)</sup> S.S.I. 2005/468. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of “managers” relevant to the functions of Health Boards.

<sup>(23)</sup> S.S.I. 2008/356. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of “managers” relevant to the functions of Health Boards.

<sup>(24)</sup> S.S.I. 2012/36. Section 5(2) of the Patient Rights (Scotland) Act 2011 (asp 5) provides a definition of “relevant NHS body” relevant to the exercise of a Health Board’s functions.

**Annex 1: Part 1B**

**Additional functions delegated by NHS Lothian to the IJB**

Set out below is the list of additional functions that are to be delegated by NHS Lothian to the IJB.

The functions exercisable in relation to the following health services as they relate to the provision for people under the age of 18:

- a) Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
- b) General Dental Services, Public Dental Services and the Edinburgh Dental Institute
- c) General Ophthalmic Services
- d) General Pharmaceutical Services
- e) Out of Hours Primary Medical Services
- f) Learning Disabilities
- g) Health Visiting
- h) School Nursing



## **Annex 1: Part 2**

### **Services currently provided by NHS Lothian which are to be integrated**

Set out below is an illustrative description of the services associated with the functions delegated by NHS Lothian to the Integration Joint Board as specified in Parts 1A and 1B of Annex 1.

### **Interpretation of this Part 2 of Annex 1**

In this schedule—

“Allied Health Professional” means a person registered as an allied health professional with the Health Professions Council;

“general medical practitioner” means a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council;

“general medical services contract” means a contract under section 17J of the National Health Service (Scotland) Act 1978;

“hospital” has the meaning given by section 108(1) of the National Health Service (Scotland) Act 1978;

“inpatient hospital services” means any health care service provided to a patient who has been admitted to a hospital and is required to remain in that hospital overnight, but does not include any secure forensic mental health services;

“out of hours period” has the same meaning as in regulation 2 of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004<sup>(25)</sup>; and

“the public dental service” means services provided by dentists and dental staff employed by a health board under the public dental service contract.

## **PART 1**

- 1.** Accident and Emergency services provided in a hospital.
- 2.** Inpatient hospital services relating to the following branches of medicine—
  - (a) general medicine;
  - (b) geriatric medicine;
  - (c) rehabilitation medicine;
  - (d) respiratory medicine; and
  - (e) psychiatry of learning disability.
- 3.** Palliative care services provided in a hospital.
- 4.** Inpatient hospital services provided by General Medical Practitioners.
- 5.** Services provided in a hospital in relation to an addiction or dependence on any substance.
- 6.** Mental health services provided in a hospital, except secure forensic mental health services.
- 7.** District nursing services.

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<sup>(25)</sup> S.S.I. 2004/115.

8. Services provided outwith a hospital in relation to an addiction or dependence on any substance.
9. Services provided by allied health professionals in an outpatient department, clinic, or outwith a hospital.
10. The public dental service.
11. Primary medical services provided under a general medical services contract, and arrangements for the provision of services made under section 17C of the National Health Service (Scotland) Act 1978, or an arrangement made in pursuance of section 2C(2) of the National Health Service (Scotland) Act 1978<sup>(26)</sup>.
12. General dental services provided under arrangements made in pursuance of section 25 of the National Health (Scotland) Act 1978<sup>(27)</sup>.
13. Ophthalmic services provided under arrangements made in pursuance of section 17AA or section 26 of the National Health Service (Scotland) Act 1978<sup>(28)</sup>.
14. Pharmaceutical services and additional pharmaceutical services provided under arrangements made in pursuance of sections 27 and 27A of the National Health Service (Scotland) Act 1978<sup>(29)</sup>.
15. Services providing primary medical services to patients during the out-of-hours period.
16. Services provided outwith a hospital in relation to geriatric medicine.
17. Palliative care services provided outwith a hospital.
18. Community learning disability services.
19. Mental health services provided outwith a hospital.
20. Continence services provided outwith a hospital.
21. Kidney dialysis services provided outwith a hospital.
22. Services provided by health professionals that aim to promote public health.

In addition to the services (as set out above) associated with the carrying out of the functions that must be delegated. NHS Lothian has chosen to delegate the following functions:

**Provision for people under the age of 18**

- a) Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
- b) General Dental Services, Public Dental Services and the Edinburgh Dental Institute
- c) General Ophthalmic Services

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<sup>(26)</sup> Section 2C was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 1(2) and relevantly amended by the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 1, and the Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), section 37.

<sup>(27)</sup> Section 25 was relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 15.

<sup>(28)</sup> Section 17AA was inserted by the National Health Service (Primary Care) Act 1997 (c.46), section 31(2) and relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 25. Section 26 was relevantly amended by the Health and Social Security Act 1984 (c.48), Schedule 1, and the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) section 13.

<sup>(29)</sup> Section 27 was relevantly amended by the Health Services Act 1990 (c.53), section 20; the National Health Service and Community Care Act 1990 (c.19), Schedule 9; the Medicinal Products: Prescription by Nurses etc. Act 1992 (c.28), section 3; the National Health Service and Community Care Act 1997 (c.46), Schedule 2 and the Health and Social Care Act 2001 (c.15), section 44.

- d) General Pharmaceutical Services
- e) Out of Hours Primary Medical Services
- f) Learning Disabilities
- g) Health Visiting
- h) School Nursing

**ANNEX 2  
PART 1A**

**Functions delegated by the Council to the Integration Joint Board**

Set out below is the list of functions that must be delegated by the Council to the Integration Joint Board.

Functions prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>

**National Assistance Act 1948<sup>(30)</sup>**

Section 48  
(Duty of councils to provide temporary protection for property of persons admitted to hospitals etc.)

**The Disabled Persons (Employment) Act 1958<sup>(31)</sup>**

Section 3  
(Provision of sheltered employment by local authorities)

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<sup>(30)</sup> 1948 c.29; section 48 was amended by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 39, paragraph 31(4) and the Adult Support and Protection (Scotland) Act 2007 (asp 10) schedule 2 paragraph 1.

<sup>(31)</sup> 1958 c.33; section 3 was amended by the Local Government Act 1972 (c.70), section 195(6); the Local Government (Scotland) Act 1973 (c.65), Schedule 27; the National Health Service (Scotland) Act 1978 (c.70), schedule 23; the Local Government Act 1985 (c.51), Schedule 17; the Local Government (Wales) Act 1994 (c.19), Schedules 10 and 18; the Local Government etc. (Scotland) Act 1994 (c.49), Schedule 13; and the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
<b>The Social Work (Scotland) Act 1968<sup>(32)</sup></b>	
Section 1 (Local authorities for the administration of the Act.)	So far as it is exercisable in relation to another integration function.
Section 4 (Provisions relating to performance of functions by local authorities.)	So far as it is exercisable in relation to another integration function.
Section 8 (Research.)	So far as it is exercisable in relation to another integration function.
Section 10 (Financial and other assistance to voluntary organisations etc. for social work.)	So far as it is exercisable in relation to another integration function.
Section 12 (General social welfare services of local authorities.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 12A (Duty of local authorities to assess needs.)	So far as it is exercisable in relation to another integration function.

<sup>(32)</sup> 1968 c.49; section 1 was relevantly amended by the National Health Service (Scotland) Act 1972 (c.58), schedule 7; the Children Act 1989 (c.41), Schedule 15; the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), schedule 10; S.S.I. 2005/486 and S.S.I. 2013/211. Section 4 was amended by the 1990 Act, Schedule 9, the Children (Scotland) Act 1995 (c.36) (“the 1995 Act”), schedule 4; the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) (“the 2003 Act”), schedule 4; and S.S.I. 2013/211. Section 10 was relevantly amended by the Children Act 1975 (c.72), Schedule 2; the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13; the Regulation of Care (Scotland) Act 2001 (asp 8) (“the 2001 Act”) schedule 3; S.S.I. 2010/21 and S.S.I. 2011/211. Section 12 was relevantly amended by the 1990 Act, section 66 and Schedule 9; the 1995 Act, Schedule 4; and the Immigration and Asylum Act 1999 (c.33), section 120(2). Section 12A was inserted by the 1990 Act, section 55, and amended by the Carers (Recognition and Services) Act 1995 (c.12), section 2(3) and the Community Care and Health (Scotland) Act 2002 (asp 5) (“the 2002 Act”), sections 8 and 9(1). Section 12AZA was inserted by the Social Care (Self Directed Support) (Scotland) Act 2013 (asp 1), section 17. Section 12AA and 12AB were inserted by the 2002 Act, section 9(2). Section 13 was amended by the Community Care (Direct Payments) Act 1996 (c.30), section 5. Section 13ZA was inserted by the Adult Support and Protection (Scotland) Act 2007 (asp 10), section 64. Section 13A was inserted by the 1990 Act, section 56 and amended by the Immigration and Asylum Act 1999 (c.33), section 102(2); the 2001 Act, section 72 and schedule 3; the 2002 Act, schedule 2 and by S.S.I. 2011/211. Section 13B was inserted by the 1990 Act sections 56 and 67(2) and amended by the Immigration and Asylum Act 1999 (c.33), section 120(3). Section 14 was amended by the Health Services and Public Health Act 1968 (c.46), sections 13, 44 and 45; the National Health Service (Scotland) Act 1972 (c.58), schedule 7; the Guardianship Act 1973 (c.29), section 11(5); the Health and Social Service and Social Security Adjudications Act 1983 (c.41), schedule 10 and the 1990 Act, schedule 9. Section 28 was amended by the Social Security Act 1986 (c.50), Schedule 11 and the 1995 Act, schedule 4. Section 29 was amended by the 1995 Act, schedule 4. Section 59 was amended by the 1990 Act, schedule 9; the 2001 Act, section 72(c); the 2003 Act, section 25(4) and schedule 4 and by S.S.I. 2013/211.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 12AZA (Assessments under section 12A - assistance)	So far as it is exercisable in relation to another integration function.
Section 12AA (Assessment of ability to provide care.)	
Section 12AB (Duty of local authority to provide information to carer.)	
Section 13 (Power of local authorities to assist persons in need in disposal of produce of their work.)	
Section 13ZA (Provision of services to incapable adults.)	So far as it is exercisable in relation to another integration function.
Section 13A (Residential accommodation with nursing.)	
Section 13B (Provision of care or aftercare.)	
Section 14 (Home help and laundry facilities.)	
Section 28 (Burial or cremation of the dead.)	So far as it is exercisable in relation to persons cared for or assisted under another integration function.
Section 29 (Power of local authority to defray expenses of parent, etc., visiting persons or attending funerals.)	
Section 59 (Provision of residential and other establishments by local authorities and maximum period for repayment of sums borrowed for such provision.)	So far as it is exercisable in relation to another integration function.
<b>The Local Government and Planning (Scotland) Act 1982<sup>(33)</sup></b>	
Section 24(1) (The provision of gardening assistance for the disabled and the elderly.)	

<sup>(33)</sup> 1982 c.43; section 24(1) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), schedule 13.

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>

**Disabled Persons (Services, Consultation and Representation) Act 1986<sup>(34)</sup>**

Section 2

(Rights of authorised representatives of disabled persons.)

Section 3

(Assessment by local authorities of needs of disabled persons.)

Section 7

(Persons discharged from hospital.)

In respect of the assessment of need for any services provided under functions contained in welfare enactments within the meaning of section 16 and which have been delegated.

Section 8

(Duty of local authority to take into account abilities of carer.)

In respect of the assessment of need for any services provided under functions contained in welfare enactments (within the meaning set out in section 16 of that Act) which are integration functions.

**The Adults with Incapacity (Scotland) Act 2000<sup>(35)</sup>**

Section 10

(Functions of local authorities.)

Section 12

(Investigations.)

Section 37

(Residents whose affairs may be managed.)

Only in relation to residents of establishments which are managed under integration functions.

Section 39

(Matters which may be managed.)

Only in relation to residents of establishments which are managed under integration functions.

Section 41

(Duties and functions of managers of authorised establishment.)

Only in relation to residents of establishments which are managed under integration functions

Section 42

(Authorisation of named manager to withdraw from resident's account.)

Only in relation to residents of establishments which are managed under integration functions

Section 43

(Statement of resident's affairs.)

Only in relation to residents of establishments which are managed under integration functions

<sup>(34)</sup> 1986 c.33. There are amendments to sections 2 and 7 which are not relevant to the exercise of a local authority's functions under those sections.

<sup>(35)</sup> 2000 asp 4; section 12 was amended by the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), schedule 5(1). Section 37 was amended by S.S.I. 2005/465. Section 39 was amended by the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1 and by S.S.I. 2013/137. Section 41 was amended by S.S.I. 2005/465; the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1 and S.S.I. 2013/137. Section 45 was amended by the Regulation of Care (Scotland) Act 2001 (asp 8), Schedule 3.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 44 (Resident ceasing to be resident of authorised establishment.)	Only in relation to residents of establishments which are managed under integration functions
Section 45 (Appeal, revocation etc.)	Only in relation to residents of establishments which are managed under integration functions
<b>The Housing (Scotland) Act 2001<sup>(36)</sup></b>	
Section 92 (Assistance to a registered for housing purposes.)	Only in so far as it relates to an aid or adaptation.
<b>The Community Care and Health (Scotland) Act 2002<sup>(37)</sup></b>	
Section 5 (Local authority arrangements for of residential accommodation outwith Scotland.)	
Section 14 (Payments by local authorities towards expenditure by NHS bodies on prescribed functions.)	
<b>The Mental Health (Care and Treatment) (Scotland) Act 2003<sup>(38)</sup></b>	
Section 17 (Duties of Scottish Ministers, local authorities and others as respects Commission.)	
Section 25 (Care and support services etc.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 26 (Services designed to promote well-being and social development.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 27 (Assistance with travel.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 33 (Duty to inquire.)	
Section 34 (Inquiries under section 33: Co-operation.)	

<sup>(36)</sup> 2001 asp 10; section 92 was amended by the Housing (Scotland) Act 2006 (asp 1), schedule 7.

<sup>(37)</sup> 2002 asp 5.

<sup>(38)</sup> 2003 asp 13; section 17 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), section 111(4), and schedules 14 and 17, and by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7. Section 25 was amended by S.S.I. 2011/211. Section 34 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedules 14 and 17.



<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 228 (Request for assessment of needs: duty on local authorities and Health Boards.)	
Section 259 (Advocacy.)	
<b>The Housing (Scotland) Act 2006<sup>(39)</sup></b>	
Section 71(1)(b) (Assistance for housing purposes.)	Only in so far as it relates to an aid or adaptation.
<b>The Adult Support and Protection (Scotland) Act 2007<sup>(40)</sup></b>	
Section 4 (Council's duty to make inquiries.)	
Section 5 (Co-operation.)	
Section 6 (Duty to consider importance of providing advocacy and other.)	
Section 11 (Assessment Orders.)	
Section 14 (Removal orders.)	
Section 18 (Protection of moved persons property.)	
Section 22 (Right to apply for a banning order.)	
Section 40 (Urgent cases.)	
Section 42 (Adult Protection Committees.)	
Section 43 (Membership.)	
<b>Social Care (Self-directed Support) (Scotland) Act 2013<sup>(41)</sup></b>	

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<sup>(39)</sup> 2006 asp 1; section 71 was amended by the Housing (Scotland) Act 2010 (asp 17) section 151.

<sup>(40)</sup> 2007 asp 10; section 5 and section 42 were amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedules 14 and 17 and by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7. Section 43 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 14.

<sup>(41)</sup> 2013 asp 1.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 3 (Support for adult carers.)	Only in relation to assessments carried out under integration functions.
Section 5 (Choice of options: adults.)	
Section 6 (Choice of options under section 5: assistances.)	
Section 7 (Choice of options: adult carers.)	
Section 9 (Provision of information about self-directed support.)	
Section 11 (Local authority functions.)	
Section 12 (Eligibility for direct payment: review.)	
Section 13 (Further choice of options on material change of circumstances.)	Only in relation to a choice under section 5 or 7 of the Social Care (Self-directed Support) (Scotland) Act 2013 .
Section 16 (Misuse of direct payment: recovery.)	
Section 19 (Promotion of options for self-directed support.)	
Functions, conferred by virtue of enactments, prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014	

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
<b>The Community Care and Health (Scotland) Act 2002</b>	
Section 4 <sup>(42)</sup> The functions conferred by Regulation 2 of the Community Care (Additional Payments) (Scotland) Regulations 2002 <sup>(43)</sup>	

<sup>(42)</sup> Section 4 was amended by the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), schedule 4 and the Adult Support and Protection (Scotland) Act 2007 (asp 10), section 62(3).

<sup>(43)</sup> S.S.I. 2002/265, as amended by S.S.I. 2005/445.

**Annex 2: PART 1B**

In addition to the functions that must be delegated, the Council has chosen to delegate the following functions to the IJB.

Functions, conferred by virtue of enactments, prescribed for the purposes of section 1(5) of the Public Bodies (Joint Working) (Scotland) Act 2014

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<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
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**Criminal Procedure (Scotland) Act 1995**

Section 203  
(Local authority reports pre-sentencing.)

Section 234B  
(Report and evidence from local authority officer regarding Drug Treatment and Testing Order.)

Section 245A  
(Report by local authority officer regarding Restriction of Liberty Orders.)

**Management of Offenders etc. (Scotland) Act 2005**

Section 10  
(Arrangements for assessing and managing risks posed by certain offenders.)

Section 11  
(Review of arrangements.)

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<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
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**Social Work (Scotland) Act 1968**

Section 27  
(Supervision and care of persons put on probation or released from prison.)

Section 27ZA  
(Advice, guidance and assistance to persons arrested or on whom sentence is deferred.)

## **PART 2**

### **Services currently associated with the functions delegated by the Council to the IJB**

Set out below is an illustrative description of the services associated with the functions delegated by the Council to the Integration Joint Board as specified in Part 1A and 1B of Annex 2.

- Social work services for adults and older people
- Services and support for adults with physical disabilities and learning disabilities
- Mental health services
- Drug and alcohol services
- Adult protection and domestic abuse
- Carers support services
- Community care assessment teams
- Support services
- Care home services
- Adult placement services
- Health improvement services
- Aspects of housing support, including aids and adaptations
- Day services
- Local area co-ordination
- Respite provision
- Occupational therapy services
- Re-ablement services, equipment and Telecare

In addition to the functions that must be delegated from Midlothian Council the Parties have elected to also delegate the following function:

- Criminal Justice Social Work services

### **Annex 3: Operational Management arrangements**

The provisions within this annex are not intended to create legally binding obligations. They are intended to be illustrative of the proposed management arrangements for the functions delegated to the IJB

The IJB will issue directions to the Parties via its Chief Officer. Those directions will in the main require that the Chief Officer take forward the development of the IJB's Strategic Plan, and lead on ensuring that the plan is delivered. As the Chief Officer will not be personally managing all of the integration functions, ensuring the Strategic Plan is being delivered will include getting assurance from other chief officers (for hosted services – see below) and other managers in NHS Lothian and the Council.

The Chief Officer will have direct management responsibility for the following services:

- All Council services described in Annex 2, Part 2.
- All NHS Lothian services describe in Annex 1, Part 2 with the exception of the following:

#### Hosted Services

There are NHS Lothian services for which it would not be suitable for the Chief Officer to have operational management responsibility. The factors contributing to determining these services are the degree of medical specialism of the service and scale of the service required for it to be safe, efficient and effective.

It is proposed that the following services will be managed at a pan-Lothian level by one of the Chief Officers of the Lothian IJBs in their role as Joint Director of NHS Lothian (area in brackets confirms the Chief Officer who would manage this service)

- Dietetics (Midlothian)
- Art Therapy (Midlothian)
- Lothian Unscheduled Care Service (East Lothian)
- Integrated Sexual and Reproductive Health service (Edinburgh)
- Clinical Psychology Services (West Lothian)
- Continence Services (Edinburgh)
- Public Dental Service (including Edinburgh Dental Institute (West Lothian))
- Podiatry (West Lothian)
- Orthoptics (West Lothian)
- Independent Practitioners (East Lothian via the Primary Care Contracting Organisation)
- SMART Centre (Edinburgh)

### Annex 3:Operational Management Arrangements

- Royal Edinburgh and Associated Services (Director of Mental Health accountable to the Chief Officer of Edinburgh and the NHS Lothian Chief Executive)
- Substance Misuse (only Ritson Inpatient Unit, LEAP and Harm Reduction (Director of Mental Health accountable to the Chief Officer of Edinburgh and the NHS Lothian Chief Executive)

#### Acute Hospitals

Services provided on the three acute hospitals in NHS Lothian (Western General Hospital, Edinburgh Royal Infirmary, St Johns Hospital) will be managed by the relevant Hospital Site Director.

#### **Prison Healthcare**

NHS Lothian has agreed to delegate the function of prison health care to Edinburgh IJB for the prison health care service provided within HMP Edinburgh and HMP Addiewell. For the avoidance of doubt this means that Edinburgh IJB will be responsible for the strategic planning of this function and have operational oversight as described in section 5. East Lothian IJB, Midlothian IJB and West Lothian IJB will not be responsible for the strategic planning of this function.

The Edinburgh Chief Officer will have direct operational responsibility for prison healthcare in HMP Edinburgh and HMP Addiewell. This responsibility will be discharged to the Director of Mental Health who is accountable to the Chief Officer of Edinburgh and the NHS Lothian Chief Executive.

## **Annex 4: Integration Scheme Consultation**

A three stage approach was adopted to ensure sufficient involvement and consultation in the development of this Scheme:

**Stage 1: Informing and Engaging:** A first draft was produced by officers of the Parties with the involvement of a range of professionals within both Parties

**Stage 2: Consultation:** A formal internal and external stakeholder consultation was held from December 17<sup>th</sup> 2014 to February 17<sup>th</sup> 2015.

**Stage 3: Response to the consultation:** A second draft guided by the consultation was produced by officers for approval by the Parties to submit to Scottish Government.

Further details of the people and groups involved in the engagement and consultation on the Midlothian Integration Scheme are set out below:

Public and Staff consultation from December 17<sup>th</sup> to February 17<sup>th</sup> with responses received from:

- Members of the public
- Members of staff in Midlothian Council
- Clinical and non-clinical staff in NHS Lothian
- Third Sector Organisations and representative bodies

The members and organisations on the following groups and committees were consulted on the Midlothian Integration Scheme.

- Midlothian Community Planning Partnership
- Midlothian Community Planning Working Groups
- NHS Lothian Board
- NHS Lothian Healthcare Governance committee
- NHS Lothian Corporate Management Team
- NHS Lothian Strategic Planning Group
- Midlothian Council
- Midlothian Audit Committee
- Midlothian Shadow Integration Joint Board
- Midlothian Older People's Management Group
- Midlothian Community Health Partnership
- Scottish Government
- Lothian Area Clinical Forum

Health and Social Care Integration

# **East Lothian Integration Joint Board**

## **Final Integration Scheme (Body Corporate)**

**27 February 2015**



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## **PREAMBLE**

### **Aims, Outcomes and Vision of the Integration Joint Board**

The main purpose of integration is to improve the wellbeing of people who use health and social care services, particularly those whose needs are complex and involve support from health and social care at the same time. The Integration Scheme is intended to achieve the National Health and Wellbeing Outcomes prescribed by the Scottish Ministers in Regulations under section 5(1) of the Act, namely:

1. People are able to look after and improve their own health and wellbeing and live in good health for longer.
2. People, including those with disabilities or long term conditions or who are frail are able to live, as far as reasonably practicable, independently and at home or in a homely setting in their community.
3. People who use health and social care services have positive experiences of those services, and have their dignity respected.
4. Health and social care services are centred on helping to maintain or improve the quality of life of people who use those services.
5. Health and social care services contribute to reducing health inequalities.
6. People who provide unpaid care are supported to look after their own health and wellbeing, including to reduce any negative impact of their caring role on their own health and wellbeing.
7. People using health and social care services are safe from harm.
8. People who work in health and social care services feel engaged with the work they do and are supported to continuously improve the information, support, care and treatment they provide.
9. Resources are used effectively and efficiently in the provision of health and social care services.

The vision for the integration of health and social care in East Lothian is:

- People in East Lothian can live the lives they want as well as possible, achieving their potential to live independently and exercising choice over the services they use.

The **values** that will underpin delivery of the Integrated Joint Board's vision and outcomes are:

- to give people control over what happens to them is in itself promoting good health and wellbeing. The IJB will seek to maximise people's control over their lives as an integral part of the services we provide
- it is better to prevent health and social problems than to deal with them once they have occurred. The IJB will focus our attention and resources on prevention and early intervention.
- that some people's social and economic circumstances lead to them having poorer health, wellbeing and life chances than others. IJB will work to tackle these inequalities by focusing our efforts on those at greatest risk.
- it is right to offer people services as close to home as possible.
- in working in partnership.
- in a single health and social care economy for East Lothian. We will invest the resources of the health and social care economy wherever it will have the greatest impact on meeting our shared objectives.
- Recognise the interdependencies of services and will take a holistic approach to service provision, considering each individual in the context of their circumstances

- value the views of people who use our services
- value the diversity of East Lothian. We will work closely with our diverse communities to ensure they can contribute to the health and wellbeing of the population.

Throughout all its work the Parties expect the Integration Joint Board to be guided by the following ambitions:

- Provide the highest quality health and care services
- Always respect people's dignity and rights
- Support people to live independently at home
- Promote the principles of independent living and equality
- Do everything we can to reduce health inequalities
- Provide support and services so that people only have to go to hospital if they really have to
- Listen to people who use our services, and the people who care for them, working together to develop the services that are right for them
- Make sure that East Lothian people feel safe at home and in their communities
- Support people to take more responsibility for their own health and wellbeing

The provisions within this preamble are not part of the Integration Scheme and are not intended to create legally binding obligations. They do however, give the context within which the Integration Scheme should be read.

## **Integration Scheme**

### **The Parties:**

**East Lothian Council**, established under the Local Government etc (Scotland) Act 1994 and having its principal offices at John Muir House, Brewery Park, Haddington, EH41 3HA (“the Council”);

and

**Lothian Health Board**, established under section 2(1) of the National Health Service (Scotland) Act 1978 (operating as “NHS Lothian”) and having its principal offices at Waverley Gate, 2-4 Waterloo Place, Edinburgh (“NHS Lothian”)

(together referred to as “the Parties”, and each being referred to as a “Party”)

### **Background**

(A) The Parties are required to comply with either subsection (3) or (4) of section 2(2) of the Act, and have elected to comply with subsection (3) such that the Parties must jointly prepare an integration scheme (as defined in section 1(3) of the Act) for East Lothian Area.

(B) In preparing this Integration Scheme, the Parties have had regard to the integration planning principles set out in section 4(1) of the Act and the national health and wellbeing outcomes prescribed by the Public Bodies (Joint Working)(National Health and Wellbeing Outcomes)(Scotland) Regulations 2014, and have complied with the provisions of section 6(2) of the Act (consultation); and in finalising this Integration Scheme, the Parties have taken account of any views expressed by virtue of the consultation processes undertaken under section 6(2) of the Act.

In implementation of their obligations under the Act, the Parties hereby agree as follows:

## **1 Definitions and Interpretation**

1.1 In this Scheme the following expressions have the following meanings, unless the context otherwise requires:-

“Act” means the Public Bodies (Joint Working) (Scotland) Act 2014;

“Chief Officer” means the officer described in Section 7 of this Scheme;

“Chief Finance Officer” meant the finance officer described in Section 9.1 of this Scheme;

“IJB Budget” means the total funding available to the Integration Joint Board in the financial year as a consequence of:

- a) The payment for delegated functions from NHS Lothian under Section 1(3) (e) of the Act;
- b) The payment for delegated functions from the Council under Section 1(3) (e) of the Act; and
- c) The amount “set aside” by NHS Lothian for use by the IJB for functions carried out in a hospital and provided for the areas of two or more local authorities under Section 1(3) (d) of the Act;

“Integration Joint Board or ‘IJB’” means the East Lothian Integration Joint Board to be established by Order under section 9 of the Act;

“Integration Joint Boards Order” means the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014;

“Integration Scheme or ‘Scheme’” means this Integration Scheme;

“Integration Scheme Regulations” means the Public Bodies (Joint Working) (Integration Scheme) (Scotland) Regulations 2014;

“Lothian IJBs” means the integration joint boards to which functions are delegated in pursuance of the integration schemes in respect of the local authority areas served by, City of Edinburgh Council, the Council, Midlothian Council and West Lothian Council respectively;

“Neighbouring IJBs” means the Lothian IJBs excluding the IJB;

“Operational Budget” means the amount of payment made from the IJB to a Party in order to carry out delegated functions;

“Outcomes” means the Health and Wellbeing Outcomes prescribed by the Scottish Ministers in Regulations under section 5(1) of the Act;

“Strategic Plan” means the plan which the Integration Joint Board is required to prepare and implement in relation to the delegated provision of health and social care services in accordance with section 29 of the Act.

- 1.2 Words and expressions defined in the Act shall bear the same respective meanings in the Scheme unless otherwise defined in the Scheme.
- 1.3 References to Sections are to the sections of the Scheme.
- 1.4 Reference to Annexes are to annexes to this Scheme and reference to Parts are the parts of the relevant Annex.

## **2 The Model to be implemented**

The integration model set out in section 1(4)(a) of the Act which apply in relation to the East Lothian area is the integration joint board model, namely the delegation of functions by each of the Parties to a body corporate that is to be established by order



under section 9 of the Act. This Scheme comes into effect on the date the Integration Joint Board Order to establish the Integration Joint Board comes into force.

### **3 Local Governance Arrangements**

#### **3.1 Membership**

3.1.1 The Integration Joint Board shall have the following voting members:

- a) **4** councillors nominated by the Council; and
- b) **4** non-executive directors nominated by NHS Lothian in compliance with articles 3(4) and 3(5) of the Integration Joint Boards Order.

3.1.2 The Parties may determine their own respective processes for deciding who to nominate as voting members of the Integration Joint Board.

3.1.3 Non-voting members of the Integration Joint Board will be appointed in accordance with article 3 of the Integration Joint Boards Order.

3.1.4 The term of office of members shall be prescribed by regulation 7 of the Integration Joint Boards Order.

#### **3.2 Appointment of chair and vice chair**

3.2.1 The Integration Joint Board shall have a chairperson and a vice-chairperson of the Integration Joint Board will both be voting members of the Integration Joint Board.

3.2.2 The Council and NHS Lothian may determine their own processes for deciding who to nominate as voting members of the Integration Joint Board, and (out of those voting members) who they appoint as chairperson or vice-chairperson.

- 3.2.3 The first appointment period of the chairperson and vice-chairperson will begin on the first day that the Integration Joint Board is constituted and will end on 31 March 2017. The Council shall appoint the first chairperson and NHS Lothian shall appoint the first vice-chairperson of the Integration Joint Board.
- 3.2.4 From 1 April 2017, NHS Lothian shall appoint the chairperson and the Council shall appoint the vice-chairperson with the term of office being two years.
- 3.2.5 As from 1 April 2019, the power to appoint the chairperson will continue to alternate between each of the Parties on a two-year cycle and on the basis that during any period when the power to appoint the chairperson is vested in one Party, the other Party shall have power to appoint the vice-chairperson.
- 3.2.6 Each Party may change its appointment as chairperson (or, as the case may be, vice-chairperson) at any time; and it is entirely at the discretion of the Party which is making the appointment to decide who it shall appoint.

#### **4 Delegation of Functions**

- 4.1 The functions that are to be delegated by NHS Lothian to the Integration Joint Board (subject to the exceptions and restrictions specified or referred to in Parts 1A and 1B of Annex 1) are set out in Parts 1A and 1B of Annex 1. For indicative purposes only, the services currently provided by NHS Lothian in carrying out these functions are described in Part 2 of Annex 1.
- 4.2 The functions that are to be delegated by the Council to the Integration Joint Board (subject to the restrictions and limitations specified or referred to in Parts 1A and 1B of Annex 2) are set out in Parts 1A and 1B of Annex 2. For indicative purposes only, the services which are currently provided by the Council in carrying out these functions are described in Part 2 of Annex 2.

## **5 Local Operational Delivery Arrangements**

The IJB membership will be involved in the operational governance of integrated service delivery via two particular arrangements: (1) directions issued by the IJB via the Chief Officer of the IJB; and (2) oversight of performance management by the voting members of the IJB.

### **Directions issued by the IJB via the Chief Officer**

5.1.1 The Integration Joint Board will issue directions to the Parties via its Chief Officer. The Integration Joint Board must direct the Parties to carry out each of the functions delegated to the Integration Joint Board. A direction in relation to a given function may be given to one or other of the Parties, or to both Parties. The primary responsibility for delivering capacity (that is to say, activity and case mix) in respect of the services associated with the carrying out of a given function shall lie with the IJB, and shall be reflected in the directions issued from time to time by the IJB. Subject to the provisions of the Act and the Scheme, the Parties are then required to follow those directions

### **Oversight of performance management by the voting members of the IJB**

5.1.2 The IJB shall oversee delivery of the services associated with the functions delegated to it by the Parties. The IJB is the only forum where health and social care functions for the East Lothian area are governed by members of both NHS Lothian and the Council. Accordingly the Parties agree that the primary responsibility for performance management in respect of delivery of the delegated functions will rest with the IJB.

5.1.3 The Parties will provide performance information so that the IJB can develop a comprehensive performance management system.

5.1.4 The IJB performance management reports will be available to both Parties for their use in their respective performance management systems. However it is

expected that the voting members of the IJB will take responsibility for performance management at the IJB, and will provide an account of highlights and/or exceptional matters to meetings of NHS Lothian and the Council.

- 5.1.5 In the interests of efficient governance, the relevant committees of NHS Lothian and the Council will continue to discharge their existing remits for assurance and scrutiny of the carrying out of NHS Lothian and the Council functions, regarding matters such as internal control, quality and professional standards, and compliance with the law. The Integration Joint Board will not duplicate the internal operational oversight role carried out by the Parties other than in exceptional circumstances where the IJB considers that direct engagement by the IJB (or by a committee established by the IJB) is appropriate in order to secure the proper discharge by the IJB of its statutory responsibilities or duties under this Scheme.
- 5.1.6 Each of the Parties shall use reasonable endeavours to procure that in the event that one of its committees identifies an issue which is of direct and material relevance to the Integration Joint Board, the chair of that committee will advise the Chair of the Integration Joint Board and the Chief Officer of that matter and will co-operate with the IJB in supplying such further information and evidence in respect of that matter as the IJB may reasonably request.
- 5.1.7 The Parties shall ensure that their respective standing orders, schemes of delegation and other governance documents are amended (if required) to reflect the IJB's powers and remit, and its place as a common decision-making body within the framework for delivery of health and social care within the East Lothian Area.
- 5.1.8 The voting members of the Integration Joint Board are councillors of the Council and non-executive directors of NHS Lothian (or other board members). In their capacity as councillors and non-executive directors, they will be engaged in the governance of their respective constituent bodies, and it is likely that they will be members of one or more committees of those constituent bodies.

5.1.9 Given the overall vision as outlined in the preamble of the Scheme, it is the intention that the operational governance functions of both Parties and the Integration Joint Board should be integrated. In all matters associated with the work of the Integration Joint Board, the voting members of the Integration Joint Board will be expected by the Parties to play a crucial role in:

- a) communicating, and having due regard to, the interests of NHS Lothian or (as the case may be) the Council in overseeing the carrying out of the integrated functions, but on the understanding that, in carrying out their role as a member of the Integration Joint Board, their primary duties and responsibilities are those which attach to them in that capacity; and
- b) communicating, and having due regard to, the interests of the Integration Joint Board in overseeing the carrying out of the integrated functions whilst discharging their role as a councillor or (as the case may be) as a non-executive director of NHS Lothian, but on the understanding that, in carrying out their role as a councillor or non-executive director, their primary duties and responsibilities are those which attach to them in that capacity.

5.1.10 This Scheme sets out detailed measures on the governance of integration functions throughout the text. Over and above these measures, the Parties will ensure that the IJB members are involved in overseeing the carrying out of integration functions through the following actions:

- a) The terms of reference, membership and reporting arrangements of the relevant committees of the Parties will be reviewed and the IJB will be consulted within this process (and all future reviews); and
- b) In order to develop a sustainable long term solution for the oversight of the integration functions by the IJB, a working party will be convened, with membership from the Lothian IJBs and the

Parties. This working party will develop recommendations for approval by the Lothian IJBs.

5.1.11 Without prejudice to the role of the voting members of the Integration Joint Board (as specified above) in relation to oversight of operational delivery of services in accordance with directions issued to either or both of the Parties by the Integration Joint Board, the Integration Joint Board will, through the Chief Officer, have an oversight role in the operational delivery of services by the Parties in the carrying out of integration functions. The Parties acknowledge that the Chief Officer's role in operational delivery will represent an important means by which closer integration of services, in accordance with the integration delivery principles specified in the Act, can be achieved. For the avoidance of doubt, the Chief Officer's role in operational delivery shall not displace:

- (a) the responsibilities of each Party regarding compliance with directions issued by the Integration Joint Board; or
- (b) the principle that each Party's governance arrangements must allow that Party to manage risks relating to service delivery.

5.1.12 In addition to the specific commitments set out above and the obligations regarding provision of information attaching to the Parties under the Act, each of the Parties will provide the Integration Joint Board with any information which the Integration Joint Board may require from time to time to support its responsibilities regarding strategic planning, performance management, and public accountability.

## **5.2 Support for Strategic Planning**

5.2.1 The Parties will support the Integration Joint Board in ensuring that the consultation process associated with the preparation of each Strategic Plan for the East Lothian Area includes other Integration Authorities likely to be affected by the Strategic Plan. The Integration Authorities that are most likely to be affected by the Strategic Plan for the East Lothian Area are:

- (a) Midlothian Integration Joint Board
- (b) Edinburgh Integration Joint Board
- (c) West Lothian Integration Joint Board.

5.2.2 NHS Lothian will procure that reciprocal provisions to those set out in sections 5.1, 5.2 and 5.3 are contained in the integration schemes of the Neighbouring IJBs in Lothian.

5.2.3 In addition the Borders Integration Joint Board shares a border with East Lothian Integration Joint Board and may be affected by the East Lothian Strategic Plan.

5.2.4 The Parties will to ensure that the Integration Joint Board can:

- (a) effectively engage in all of the planning process and support the Neighbouring IJBs in discharging their role including contributing to the work of the strategic planning groups for the Neighbouring IJBs as required;
- (b) provide such information and analysis as Neighbouring IJBs reasonably require for the production of their Strategic Plans;
- (c) inform Neighbouring IJBs as to how the services, facilities and resources associated with the functions delegated to the Integration Joint Board by the Parties are being or are intended to be used with respect to carrying out of those functions in line with these planning processes;

- (d) in a situation where Strategic Plans in one area are likely to have an impact on the plans in another area, ensure that these matters are raised with other relevant integration joint boards and resolved in an appropriate manner;
- (e) in a situation where Strategic Plans in another area are likely to have an impact on the East Lothian Area, ensure that these matters are raised and any associated risks are mitigated for the benefit of service users.

5.2.5 In addition, a template will be introduced for the Integration Joint Board, with the support of each of the Parties, to help to ensure that all major strategic matters are considered in light of the potential impact on Neighbouring IJBs, and on services provided by the Parties which are not delivered in the course of carrying out functions delegated to the Integration Joint Board.

### **5.3 Lothian Hospitals Strategic Plan**

5.3.1 NHS Lothian will develop a plan (the 'Lothian Hospitals Strategic Plan') to support the IJBs to fulfil their duties. The Lothian Hospitals Strategic Plan will not bind the IJB and the strategic plans of the Lothian IJBs will inform the Lothian Hospital Strategic Plan. The Lothian Hospitals Strategic Plan will encompass both functions delegated to the Lothian IJBs and functions that are not so delegated.

5.3.2 The Lothian Hospitals Strategic Plan will be developed in partnership with the Lothian IJBs where integration functions are delivered by NHS Lothian in a hospital. It will reflect the relevant provisions of the Strategic Plans prepared by the respective Lothian IJBs, as well as NHS Lothian plans for non delegated functions. The first Lothian Hospitals Strategic Plan will be published by 1 December 2015.

5.3.3 The purpose of the Lothian Hospital Strategic Plan is to ensure that planning for hospital functions and use of hospital facilities are:



- (a) responsive to and supports each Strategic Plan prepared by the Lothian IJBs for delegated functions; and
- (b) supports the requirement of NHS Lothian to deliver hospital services required by the IJB and other hospital services that are not the responsibility of the Lothian IJBs (e.g. tertiary, trauma, surgical, planned and children's services).

5.3.4 The Lothian Hospitals Strategic Plan will be a plan developed jointly by NHS Lothian and the Lothian IJBs. The elements of the Lothian Hospitals Strategic Plan addressing non delegated functions can only be agreed by the NHS Lothian Board after the four Lothian IJBs have been consulted and their views and requirements appropriately considered. Elements of the Lothian Hospitals Strategic Plan which cover functions delegated to the respective Lothian IJBs will be signed off by relevant Lothian IJBs in consultation with NHS Lothian and all Lothian IJBs.

5.3.5 The Lothian Hospitals Strategic Plan will be updated at least every three years; the process to update the plan will be led by NHS Lothian.

#### **5.4 Professional, technical or administrative support services**

5.4.1 The Parties agree to provide the IJB with the corporate support services that it requires to discharge fully its duties under the Act.

5.4.2 In the short term, the Parties will continue to use the arrangements that have already been put in place to provide professional, technical and administrative support to Community Health Partnerships, and joint working more generally.

5.4.3 In order to develop a sustainable long term solution, a working party will be convened, with membership from NHS Lothian and the four local authorities in Lothian. This working party will develop recommendations for approval by NHS Lothian, the four local authorities, and the Lothian IJBs by 30 June 2015.

#### 5.4.4 Key matters that the working party will address are:

- (a) understanding the needs of the Lothian IJBs (in relation to functions delegated to them), as well as the continuing needs of the Parties (for non-delegated functions);
- (b) defining what is meant by “professional, technical or administrative services”;
- (c) systems to appoint the Chief Officer and Chief Finance Officer, as well as addressing their requirements for support;
- (d) bringing all these elements together and devising a pragmatic and sustainable solution.

The working party will link in with any ongoing initiatives that are pertinent to its agenda, so that all relevant work is co-ordinated. Any changes will be taken forward through the existing systems in the Parties for consultation and managing organisational change.

5.4.5 As soon as the proposals have been finalised by the working party and agreed by NHS Lothian and the four local authorities which prepared the integration schemes for the Lothian IJBs, a draft agreement will be prepared reflecting the agreed proposals. The draft agreement will be adjusted in line with discussions among the said parties, and, as soon as the terms have been finalised, it is intended that the agreement will then be formally executed by NHS Lothian, the four local authorities, and the Lothian IJBs (including the IJB).

5.4.6 Within a year of the agreement taking effect, the Parties and the IJB will undertake a review of the support services put in place pursuant to the agreement to ensure that the IJB has available to it all necessary professional, technical or administrative services for the purpose of preparing

its Strategic Plan and carrying out the integration functions. There will then follow a process of annual review on the support services required by the IJB and this process will form part of the annual budget setting process for the IJB which is described in Section 9.2.

## **5.5 Process to establish performance targets and reporting arrangements**

5.5.1 All national and local outcomes, improvement measures and performance targets which are connected exclusively with the functions delegated by the Parties to the IJB under the Scheme will become the responsibility of the Integration Joint Board to deliver; and the IJB will also be responsible for providing all such information regarding integration functions which is required by either of the Parties to enable each of them to fulfil its obligations regarding reporting arrangements in respect of those functions.

5.5.2 Where particular national or local outcomes, measures or targets (and associated reporting arrangements) relate to services which are associated with both integration functions and functions which are not delegated by a Party to the IJB, the responsibility for the outcomes, measures or targets (and associated reporting arrangements) will be shared between the IJB and the Party or Parties which exercise those functions, and the IJB will be responsible for providing all such information regarding those integration functions as is required by the relevant Party to enable it to fulfil its obligations regarding reporting arrangements.

5.5.3 A set of shared principles will be developed and agreed between the Parties for targets and measurement based on existing best practice.

5.5.4 A core group of senior managers and relevant support staff from each Party will develop the performance framework for the IJB, taking account of relevant national guidance. The framework will be underpinned by the Outcomes and will be developed to drive change and improve effectiveness. The framework will be informed by an assessment of current performance arrangements and

the development of a set of objectives which the framework will be intended to achieve.

- 5.5.5 A core set of indicators and measures will be identified by the Parties from publicly accountable and national indicators and targets which relate to services delivered in carrying out of the functions delegated to the IJB.
- 5.5.6 An integration dataset (the 'Integrations Dataset') will be created for the Integration Joint Board. This will include information on the data gathering, reporting requirements and accountability for each of these measures and targets and including, in relation to each target, the extent to which responsibility is to transfer to the IJB. This work will be shared with and reviewed by the Integration Joint Board and amended as appropriate following such review.
- 5.5.7 Indicators will be aligned with the priority areas identified in the joint strategic needs assessment and the Strategic Plan and will be refined as these documents are reviewed and refreshed. These priority areas will be aligned with all the indicators within the Integration Dataset and will be linked to the Outcomes to demonstrate progress in delivering these.
- 5.5.8 The Parties have obligations to meet targets for functions which are not delegated to the Integration Joint Board, but which are affected by the performance and funding of integration functions. Therefore, when preparing performance management information, the Parties agree that the effect on both integration and non-integration functions must be considered and details must be provided of any targets, measures and arrangements for the Integration Joint Board to take into account when preparing the Strategic Plan. Where responsibility for performance measures and targets is shared, this will be set out clearly for agreement by the relevant Parties.
- 5.5.9 The Integration Dataset will include information on functions which are not delegated to the Integration Board. Either one of the Parties, or the Integration

Joint Board, will be able to reasonably require information of that nature to be included within the Integration Dataset.

5.5.10 The principles for an Integration Dataset will be prepared by the Parties by 1 April 2015 and this will be reviewed and developed into the Integration Dataset during the strategic planning process in 2015. A final Integration Dataset will be submitted for approval by the Integration Joint Board and the Parties before 1 March 2016.

5.5.11 The Integration Dataset will be reviewed on at least an annual basis, through a process similar to that outlined above.

## **6 Clinical and Care Governance**

### **6.1 Introduction**

6.1.1 The Parties are to delegate certain of their respective clinical and care functions to the IJB, in accordance with Section 4 of this Scheme. The Parties have had regard to their continuing duties regarding clinical and care governance as well as the integration planning principles (as set out in the Act) and the Outcomes when preparing this Scheme.

6.1.2 This section of the Scheme sets out the arrangements that will be put in place to allow the IJB to fulfil its role with professional advice and with appropriate clinical and care governance in place. The Parties will expect the IJB to develop more integrated governance arrangements in East Lothian to complement the existing clinical and care governance arrangements.

6.1.3 The Parties have well established systems to provide clinical and care governance as well as assurance for professional accountabilities. Those systems will continue following the establishment of the IJB and the scope of these systems will extend to provide the IJB with the requirements to fulfil their clinical and care governance responsibility.

- 6.1.4 Continuous improvement and the quality of service delivery (and its impact on outcomes) will be addressed through the development of the IJB's performance management framework (pursuant to Section 5.5 of this Scheme).
- 6.1.5 The Integration Joint Board will not duplicate the role carried out by the Parties existing governance arrangements other than in exceptional circumstances where the IJB considers that direct engagement by the IJB is appropriate in order to secure the proper discharge by the IJB of its statutory responsibilities.
- 6.1.6 The Parties agree that in the event that one of its committees within its governance arrangements identifies an issue which is of direct and material relevance to the Integration Joint Board, the chair of that committee will advise the chairperson of the Integration Joint Board and the Chief Officer of that matter and will co-operate with the IJB in supplying such further information and evidence in respect of that matter as the IJB may reasonably request.
- 6.1.7 The Parties shall ensure that its standing orders, schemes of delegation and other governance documents are amended (if required) to reflect the IJB's powers and remit, the IJB's place as a common decision-making body within the framework for delivery of health and social care within the East Lothian Area and the Parties role in supporting the IJB to discharge its duties.
- 6.1.8 The voting members of the Integration Joint Board are engaged in the governance of their respective Party, and it is likely that they will be members of one or more committees of the relevant Party.
- 6.1.9 The Parties will use reasonable endeavours to appoint voting members of the Integration Joint Board (regardless of which party nominated the voting members) onto the NHS Lothian and Council governance arrangements with a remit relevant to the clinical and care governance of integration functions.

6.1.10 Within its existing governance framework, NHS Lothian has:

- (a) healthcare governance committee, the remit of which is to provide assurance to the Board that the quality of all aspects of care in NHS Lothian is person-centred, safe, effective, equitable and maintained to a high standard and to provide assurance to the Board of NHS Lothian that the Lothian NHS Board meets its responsibilities with respect to:-
- NHS Lothian Participation Standards
  - Volunteers/Carers
  - Information Governance
  - Protection of Vulnerable People including children, adults, offenders
  - Relevant Statutory Equality Duties

and

- (b) A staff governance committee, the remit of which is to support and maintain a culture within Lothian NHS Board where the delivery of the highest possible standard of staff management is understood to be the responsibility of everyone working within NHS Lothian and is built upon partnership and collaboration. The Staff Governance Committee must ensure that robust arrangements to implement the (NHS Scotland) Staff Governance Standard are in place and monitored

6.1.11 The staff governance committee has the primary role on staff governance matters, but can and does refer matters of relevance to the healthcare governance committee.

6.1.12 The healthcare governance committee can request assurance from the staff governance committee on matters of direct relevance to its remit, e.g. quality of recruitment, learning and development, completion of mandatory training.

6.1.13 Within the Council, the Chief Social Work Officer has overall responsibility for the professional standards of the Council's social work and social care staff. The workforce is also regulated by the Scottish Social Services Council (SSSC), and all professional staff must by law be registered with the SSSC. This registration requirement will, in due course, extend to all social care staff employed by the Council and the voluntary and independent sectors.

6.1.14 The Chief Social Work Officer reports annually to the Council on standards achieved, governance arrangements (including supervision and case file audits), volume/quantity of statutory functions discharged, the registration of the workforce and on training, including mandatory training and post-qualifying learning and development.

6.1.15 These reports must comply with national guidance issued by the Scottish Government. The Chief Social Work Officer will also provide a copy of these annual reports to the Integration Joint Board.

6.1.16 The intention of using the existing NHS Lothian and Council internal governance as a primary source of assurance is to recognise that the Parties will have continuing governance responsibilities for both delegated and non-delegated functions, and that the Parties wish to minimise unnecessary bureaucracy. The IJB will be engaged through its voting membership being part of the Parties' internal governance arrangements. The IJB will be in a position to holistically consider the information/ assurance received from the Parties and arrive at a determination for all of its functions. If the IJB is in any way dissatisfied with the information or assurance it receives from the Parties, or the effectiveness of the Parties internal governance arrangements, it may give a direction to the Parties to address the issue, or revise its own system of governance.



## 6.2 Clinical and Care Governance Risk

There is a risk that the plans and directions of the IJB could have a negative impact on clinical and care governance, and professional accountabilities. This section 6.2 of the Scheme sets out the arrangements that will be put in place to avoid this risk.

### Professional Advice

- 6.2.1 NHS Lothian has within its executive membership three clinical members (referred to below as '**Executive Clinical Directors**'); a Medical Director, a Nurse Director, and a Director of Public Health. Their roles include responsibility for the professional leadership and governance of the clinical workforce (medical, nursing, allied health professionals, healthcare scientists, psychology, pharmacy), as well as clinical governance within NHS Lothian generally. The creation of the IJB does not change their roles in respect of professional leadership, and they remain the lead and accountable professionals for their respective professions.
- 6.2.2 The Council has a Chief Social Work Officer who reports to the Chief Executive and councillors. The Chief Social Work Officer monitors service quality and professional standards in social care and social work, for staff employed in both adult and children's services, together with standards in relation to the protection of people at risk of harm. The Chief Social Work Officer role also includes quality assurance of decision-making with regard to adult social care, mental health criminal justice and children's services, in particular in relation to public protection and the deprivation of liberty.
- 6.2.3 The creation of an IJB does not change the Chief Social Work Officer's role in respect of professional leadership and he or she will remain the lead and accountable professional for his or her profession.
- 6.2.4 The IJB may elect to appoint one or both of the Medical Director and the Nurse Director as additional non-voting members of the IJB. The Integration

Joint Boards Order requires NHS Lothian to fill the following non-voting membership positions on the IJB:

- (a) A registered medical practitioner whose name is included in the list of primary medical services performers prepared by NHS Lothian in accordance with Regulations made under Section 17P of the National Health Service (Scotland) Act 1978;
- (b) A registered nurse who is employed by NHS Lothian or by a person or body with which NHS Lothian has entered into a general medical services contract; and
- (c) A registered medical practitioner employed by NHS Lothian and not providing primary medical services.

6.2.5 NHS Lothian will consider the advice of the Executive Clinical Directors, and any other relevant officer it deems fit before making appointments to fill the membership positions referred to in Section 6.2.4. The appointees will be professionally accountable to the relevant Executive Clinical Director. NHS Lothian will develop a role description for the appointments referred to in Section 6.2.4, to ensure that their role on the IJB with regard to professional leadership and accountability is clearly defined and understood.

6.2.6 The three health professional representatives referred to in Section 6.2.4 will each also be:

- (a) A member of an integrated professional group (should it be established); and/or
- (b) A member of a NHS Lothian committee; and/or
- (c) A member of a consultative committee established by NHS Lothian.

6.2.7 If a new “integrated professional group” is established, the Chief Social Work Officer must also be a member.

6.2.8 The three health professional representative set out in section 6.2.4 and the Chief Social Work Officer will be expected by the Parties to play a lead role in:

- (a) Communicating and having regard to their duties to NHS Lothian or the Council as the case may be whilst discharging their role as a member of the IJB;
- (b) Communicating and having regard to the interests of the IJB whilst discharging their duties as professionals employed by NHS Lothian or (as the case may be) the Council.
- (c) The members will be expected to communicate regularly with the Executive Clinical Directors, and the Council's Chief Executive as and when appropriate.

6.2.9 The presence of these four members will ensure that the decisions of the IJB are informed by professional advice from within the membership of the IJB.

6.2.10 NHS Lothian includes a governance statement in its annual accounts, the content of which is informed by the annual reports of its governance committees (such as healthcare governance and staff governance) and certificates of assurance from its Executive Clinical Directors. The IJB may place reliance on these existing processes, and the Parties will provide any such reports from those processes as the IJB may require.

6.2.11 The Executive Clinical Directors shall be entitled to raise issues directly with the IJB in writing. The IJB shall be required to respond in writing when issues are raised in this way. The Chief Social Work Officer will be a non-voting member of the IJB, and can therefore raise any issues directly at the IJB.

6.2.12 The engagement of professionals throughout the process to develop and consult on the Strategic Plan is intended to ensure that the IJB has all the required information to prepare a Strategic Plan, which will not compromise professional standards.

6.2.13 In the unlikely event that the IJB issues a direction to NHS Lothian, which is reasonably likely to compromise professional standards, then in the first instance, the relevant Executive Clinical Director will write to the IJB.

6.2.14 If the issue is not resolved to his/her satisfaction, he/she must inform the board of NHS Lothian before it takes action to implement the direction, and the following measures will apply:

- (a) The relevant Executive Clinical Director must ensure that appropriate advice is tendered to the board of NHS Lothian on all matters relating to professional standards;
- (b) The relevant Executive Clinical Director must set out in writing to NHS Lothian any objections he/she may have on a proposal that may compromise compliance with professional standards;
- (c) The board of NHS Lothian will inform the IJB that it has received such objections, along with a statement of the views of the board of NHS Lothian on those objections;
- (d) If board of NHS Lothian decides to proceed with a proposal despite those objections, the relevant executive clinical director will be provided with written authority from the board of NHS Lothian to act on the proposal. NHS Lothian must inform the Scottish Government Health and Social Care Directorate if a request for such a written authority is made. A copy of that authority must be sent to the appropriate regulatory body, e.g. General Medical Council;
- (e) Once the relevant Executive Clinical Director has received that written authority, he/she must comply with it;

6.2.15 Regardless of whether a written authority has been given, the Executive Clinical Directors, in their capacity NHS Lothian members, should always vote

against a proposal that they cannot endorse as accountable officers. It is not sufficient to abstain from a decision.

6.2.16 The three professional clinical members on the IJB (two medical practitioners, one nurse) are non-voting members. They will be expected by the Executive Clinical Directors to raise any concerns in relation to matters which may compromise professional standards with the IJB.

6.2.17 If any of the three professional clinical members becomes aware of a matter arising from the conduct of IJB business, which may compromise professional standards, he/she must immediately notify the relevant Executive Clinical Director(s) of their concerns.

6.2.18 The Chief Social Work Officer must be a non-voting member of the Integrated Joint Board, and as such, will contribute to decision-making, and will provide relevant professional advice to influence service development.

6.2.19 In the event that the Integrated Joint Board issues an direction to the Council or NHS Lothian, which in the view of the Chief Social Work Officer compromises professional social work standards or the discharge of statutory functions, the Chief Social Work Officer must immediately notify the Chief Officer of his/her concerns and if his/her concerns are not resolved by the Chief Officer to his/her satisfaction they must then raise the matter with the Chief Executive of the Council.

### 6.3 **Professionals Informing the IJB Strategic Plan**

6.3.1 With regard to the development and approval of its Strategic Plan, the IJB is required to:

- (a) establish a strategic planning group (which will review the draft Strategic Plan). This strategic planning group must include a nominee from both NHS Lothian and the Council in its membership, as well as representation from health professionals and social care professionals.

NHS Lothian and the Council will make recommendations to the IJB with regard to the representation from health professionals and social care professionals;

- (b) consult both NHS Lothian and the Council on its Strategic Plan, and take into account their views before it finalises the Strategic Plan.

6.3.2 There will be three opportunities within these arrangements for professional engagement in the planning process;

- (a) at the IJB;
- (b) in the context of the work of the strategic planning group; and
- (c) as part of the consultation process with the Parties associated with the Strategic Plan.

6.3.3 The membership of the IJB will not be the only source of professional advice available to the IJB. In advance of the establishment of the IJB the Parties agree that the chairs of all appropriate committees and groups will be informed that they are able to, and expected to, directly provide advice to the IJB. Those committees and groups may also advise an integrated professional group that provides advice to the IJB. Those committees and groups include, but are not limited to:

- (a) Area Clinical Forum;
- (b) Local consultative committees that have been established under Section 9 of the National Health Service (Scotland) Act 1978;
- (c) Managed Clinical/ Care Networks;
- (d) East and Mid Lothian Public Protection Committee (adult and child protection, drug and alcohol, violence against women, offender management etc). The IJB will consult this committee on any plans that may impact on the protection of children or vulnerable adults or people who are assessed as posing a risk;
- (e) Any integrated professional group established.

6.3.4 NHS Lothian and the Council will ensure that the draft Strategic Plan is sent to the following senior professionals in order to secure their input and advice:

- (a) NHS Lothian Medical Director;
- (b) NHS Lothian Nurse Director;
- (c) NHS Lothian Director of Public Health & Health Policy;
- (d) NHS Lothian Allied Health Professions Director;
- (e) Chief Social Work Officer.

6.3.5 The engagement of the Council's professionals will not be limited to social work staff, but will extend to related professionals within social care, such as, but not exclusively, occupational therapists, home care and social care staff.

6.3.6 The approach to locality planning and delivery including the arrangements for clinical and social care governance will be developed through the strategic planning process in a collaborative manner the IJB.

#### 6.4 **External scrutiny of clinical and care functions**

6.4.1 NHS Lothian seeks assurance for internal control/quality through its Healthcare Governance Committee, which includes reports by external bodies such as Healthcare Improvement Scotland.

6.4.2 The Care Inspectorate (Social Care and Social Work Improvement Scotland) regulates, inspects and supports improvement of adult and children's social work and social care, and their reports feed into the Council's system of governance.

6.4.3 The IJB will consequently be informed of any relevant issues from external scrutiny, as a consequence of drawing from the systems already established by the Parties.

## **6.5 Service User and Carer Feedback**

6.5.1 The Parties have a range of systems already in place to capture and respond to service users' experience, and these will continue to be used as the Parties implement the directions of the IJB.

## **7 Chief Officer**

7.1 The Chief Officer will be appointed by the IJB; he/she will be employed by one of the Parties and will be seconded to the IJB.

7.2 The Chief Officer will provide a strategic leadership role as principal advisor to and officer of the Integration Joint Board and will be a member of the senior management teams of the Parties. The Chief Officer will lead the development and delivery of the Strategic Plan for the IJB and will be accountable to the IJB for the content of the directions issued to the Parties by the IJB and for monitoring compliance by the Parties with directions issued by the IJB.

7.3 The Chief Officer will report directly to the Chief Executives of both Parties. There will be a joint process for the regular performance reviews, support and supervision with both Chief Executives. Annual objectives for the Chief Officer will be agreed and the process will involve the chairperson of the Integrated Joint Board agreeing objectives with the Chief Officer relevant to his/her role with the Integrated Joint Board as well as the Chief Executives of the Parties. The Chief Officer's performance against those annual objectives will be monitored through an agreed performance management framework established by the Party which is his/her employer.

7.4 If an interim replacement for the Chief Officer of the IJB is required, in line with a request from the IJB to that effect (on the grounds that the Chief Officer is absent or otherwise unable to carry out his/her functions), the Chief Executives of the Parties will initiate a joint selection process, identifying a list of potential replacements; and selection of a suitable candidate will be



undertaken against a set of agreed criteria. The interim replacement will be employed by one of the Parties and will be seconded to the Integration Joint Board on an interim basis.

7.5 The Chief Officer will have operational responsibility for all of the functions delegated to the IJB with the following exceptions:

(a) Directors responsible for the Western General Hospital, the Edinburgh Royal Infirmary, St Johns Hospital and the Royal Edinburgh Hospital will provide delegated services on these hospital sites that will not be operationally managed by the Chief Officer.

(b) Specific NHS Lothian functions which will be managed on a pan-Lothian basis as a 'hosted service' by one of the four chief officers in Lothian. Annex 3 describes the functions which NHS Lothian is proposing to the IJBs as suitable for management under hosted services arrangements.

## **8 Workforce**

8.1 The arrangements in relation to their respective workforces agreed by the Parties are:

(a) For staff managed by a line manager who is employed on different terms and conditions, the manager will observe the contract of employment and apply the employer's employment policies and procedures. Guidance will be available to assist the line manager. In addition the Parties will establish professional leadership lines of accountability to ensure clinical and professional standards are monitored and maintained;

(b) The Parties have agreed an Organisational Development Plan which is being implemented. There is a Human Resources and Organisational Group which includes Senior Managers and Trades Unions from both Parties.

- 8.2 The Parties have developed a Human Resources and Organisational Development plan which supports the workforce through the integration process. This is a comprehensive plan which covers staff communication, staff engagement, staff and team development, leadership development and the training needs for staff that will be responsible for managing integrated teams. This plan will be reviewed annually to ensure that it takes account of the Strategic Plan of the IJB and the development needs of staff within the IJB.
- 8.3 The Human Resources and Organisational Development plan for 2014 / 2015 has been agreed by the Parties, and is being implemented, and will be reviewed in April 2015 and annually thereafter. The Parties will also support the IJB to prepare a joint Workforce Development and Support Plan through the provision of professional, technical and support services described in Section 5.4 of this Scheme. This Plan will sit alongside and be informed by the IJB's Strategic Plan. The Workforce Development and Support Plan will be developed within six months of the approval of the Strategic Plan by the IJB.

## **9 Finance**

This section describes the arrangements in relation to financial management and monitoring of integrated resources. It sets out the method for determining the resources to be made available by the Council and NHS Lothian to the IJB. It also explains the financial governance and management arrangements, including budget variances, and the financial reporting arrangements between the IJB, the Council and NHS Lothian.

### **9.1 Financial Governance**

#### **Appointment of a Chief Finance Officer**

9.1.1 The Integration Joint Board will make arrangements for the proper administration of its financial affairs; this will include the appointment of a Chief Finance Officer with this responsibility.

9.1.2 The Chief Finance Officer will be a CCAB-qualified accountant. The Integration Joint Board will have regard to the current CIPFA guidance on the role of the chief financial officer in local government when appointing to this finance role. A job description will be developed with due regard to Scottish government guidance in terms of financial functions.

9.1.3 The Chief Finance Officer will be employed by either the Council or NHS Lothian and seconded to the Integration Joint Board.

9.1.4 In the event that the Chief Finance Officer position is vacant, the Chief Officer shall secure, through agreement with both the Council's Section 95 officer and NHS Lothian's Director of Finance, an appropriate interim dedicated resource to discharge the role.

## **Financial Management of the Integration Joint Board**

9.1.5 The Integration Joint Board will determine its own internal financial governance arrangements; and the Chief Finance Officer will be responsive to the decisions of the Integration Joint Board, and the principles of financial governance set out in this Scheme.

## **Principles of Financial Governance**

9.1.6 The following principles of financial governance shall apply:

- (a) The Parties have agreed to establish the Integration Joint Board as a “joint operation” as defined by IFRS 11;
- (b) The Parties will work together in a spirit of openness and transparency;

## **Financial Governance**

9.1.7 The Parties agree to the establishment of an IJB Budget. The Chief Officer will manage the IJB Budget.

9.1.8 The Parties are required to implement the directions of the Integration Joint Board in carrying out a delegated function in line with the Strategic Plan, having agreed with the relevant party the costs to be incurred. The Parties will apply their established systems of financial governance to the payments they receive from the IJB. NHS Lothian’s Accountable Officer and the the Council’s Section 95 Officer have legally defined responsibilities and accountability for the financial governance of their respective bodies.

9.1.9 The Chief Officer in his/her operational role within NHS Lothian and the Council is responsible for the financial management of any operational budgets and is accountable for this to the NHS Lothian’s Chief Executive and the Council’s Section 95 officer.

- 9.1.10 The Integration Joint Board will develop its own financial regulations. The Chief Finance Officer will periodically review these financial regulations and present any proposed changes to the Integration Joint Board for its approval.
- 9.1.11 The Council will host the Integrated Joint Board Financial Accounts and will be responsible for recording the Integrated Joint Board financial transactions through its existing financial systems.
- 9.1.12 The Chief Finance Officer will be responsible for preparing the Integration Joint Board's accounts and ensuring compliance with statutory reporting requirements as a body under the relevant legislation.
- 9.1.13 The Integration Joint Board can hold reserves. It is a matter for the IJB to determine what its reserves strategy will be.
- 9.1.14 The Chief Finance Officer will also be responsible for preparing the annual financial statement that the IJB must publish under Section 39 of the Act . The Chief Finance Officer will also be responsible for preparing a medium-term financial plan which sets out what the IJB intends to spend in implementation of its Strategic Plan and which will be incorporated into the Strategic Plan.
- 9.1.15 The Chief Finance Officer will be responsible for producing finance reports to the Integration Joint Board, ensuring that those reports are comprehensive. The Council and NHS Lothian will provide the appropriate information to allow the Chief Financial Officer to produce these reports.
- 9.1.16 The Chief Finance Officer will liaise closely with the Council's section 95 officer and NHS Lothian's Director of Finance and their teams in order to discharge all aspects of his or her role. Section 6 of this Scheme has set out the process the Parties will undertake to determine how professional,

technical and administrative services will be provided to the IJB. The initial focus of this work includes finance support.

## **9.2 Payments to the Integration Joint Board**

9.2.1 The resources delegated to the IJB fall into two categories: (i) payments for the delegated functions; and (ii) resources used in large hospitals that are set aside by NHS Lothian and made available to the IJB for inclusion in its Strategic Plan.

9.2.2 Section 1(3)(e) of the Act requires that the Scheme must set out a method of determining payments that are to be made in respect of (i) above. Section 1(3)(d) of the Act requires the Scheme to set out a method of determining the amounts to be made available by the Health Board for us by the IJB under (ii) above.

### **Payments to the IJB (made under Section 1(3)(e) of the Act)**

9.2.3 The Parties will agree annually a schedule of payments (covering their initial calculated payment for the financial year) to the Integration Joint Board in-year. This schedule of payments will be agreed within the first 30 working days of each new financial year.

9.2.4 It is expected that the net difference between payments into and out of the Integration Joint Board will result in a balancing payment between the Council and NHS Lothian which reflects the effect of the directions of the IJB.

### **Initial Payments to the Integration Joint Board**

9.2.5 The Parties will identify a core baseline operational budget for each function that is delegated to the Integration Joint Board. This will be used as the basis to calculate their respective payments into the IJB Budget.

9.2.6 The Parties already have established financial planning processes which take into account the financial settlements they have received, and identified and assumed expenditure pressures, to arrive at opening budgets for the forthcoming financial year. These same processes will be applied to the core baseline operational budgets for the delegated functions in order to arrive at the initial payments to the IJB.

### **Hosted Services**

9.2.7 NHS Lothian carries out functions across four local authority areas. Some of the functions that will be delegated to the Lothian IJBs are currently provided as part of a single Lothian-wide service, commonly referred to as “hosted services”. As such there is not currently a separately identifiable budget for those services by local authority area.

9.2.8 In order to identify the core baseline budget for each of the hosted services in each local authority area, NHS Lothian will initially determine which of the following methodologies is the most appropriate in representing the distribution of the delivery of those services in each local authority area and their respective populations at a given point in time:

- (a) local activity and cost data for each service within each local authority area;
- (b) population distribution across the local authority areas;
- (c) patient level activity and cost data;
- (d) historically applied and recognised percentages.

9.2.9 The Council and the IJB will review the proposals from NHS Lothian as part of a due diligence process, and the core baseline budget will be collectively agreed.

## **Due Diligence**

9.2.10 The Parties will share information on the financial performance over the previous two financial years of the functions and associated services which will be delegated to the IJB. This will allow the Parties to undertake appropriate reviews to gain assurance that the services are currently being delivered sustainably within approved resources, and that the anticipated initial payments will be sufficient for the IJB to carry out its integration functions.

9.2.11 If any such review indicates that the projected expenditure is likely to exceed the initial payments to the IJB, then the relevant Party (either the Council or NHS Lothian as appropriate) will be required to take action to ensure that services can be delivered within the available Operational Budget

9.2.12 The Parties recognise that of the functions which are to be delegated to the IJB, there are some where there is greater potential for the actual expenditure to vary significantly from projections. The Parties will identify what those functions are, and will ensure that information is provided to the IJB so that it may build up its working knowledge of the issues, and focus on those functions within their systems for risk management and financial reporting. This will help the IJB and the Parties determine how any particular variances (should they arise) should be handled (see section below), as well as how the IJB decides to direct the use of the IJB Budget in the future.

9.2.13 This process of due diligence will be applied in future years, and this will be informed by, amongst other things, the intelligence within the financial performance reports covering all integration functions that the IJB will routinely receive.



## **Determining the schedules for the Initial Payments**

9.2.14 The Council's Section 95 officer and NHS Lothian's Director of Finance are responsible for preparing the schedules for their respective Party. The amounts to be paid will be the outcome of the above processes. They will consult with the Chief Officer (designate) and officers in both Parties as part of this process.

9.2.15 The Council's Section 95 officer and NHS Lothian's Director of Finance will each prepare a schedule outlining the detail and total value of the proposed payment from each Party, and the underlying methodology and assumptions behind that payment. These draft schedules will identify any amounts included in the payments that are subject to separate legislation or subject to restrictions stipulated by third party funders. The schedules will also contain the detail and total value of set aside resources for hospital services, made under Section 1(3) (d) of the Act.

9.2.16 The Council's Section 95 officer and NHS Lothian's Director of Finance will refer the draft schedules to the Chief Officer (designate) so that he or she may have an opportunity to formally consider it.

9.2.17 The Council's Section 95 officer and NHS Lothian's Director of Finance will thereafter present the final draft schedules to the Council and NHS Lothian. This schedule must be approved by NHS Lothian's Director of Finance, the Council's Section 95 Officer and the Chief Officer (designate).

9.2.18 The Council and NHS Lothian must approve their respective payments, in line with their governing policies.

## **Subsequent Section 1(3) (e) Payments to the Integration Joint Board**

9.2.19 The calculation of payments in each subsequent financial year will essentially follow the same processes as has been described for the initial payment.

This section highlights the key differences from the process of calculating the initial payment.

9.2.20 The starting position will be the payments made to the Integration Joint Board in the previous financial year. The Parties will then review the payments, having due regard to any known factors that could affect core baseline budgets, available funding, their existing commitments, the results of their own financial planning processes, the previous year's budgetary performance for the functions delegated to the IJB, the IJB's performance report for the previous year, and the content of the IJB's Strategic Plan.

9.2.21 The Parties will also have due regard to the impact of any service re-design activities that have been direct consequence of IJB directions.

9.2.22 In all subsequent financial years, the Integration Joint Board will be established and the Chief Officer and Chief Finance Officer will have been appointed to their posts. The Parties will engage the Integration Joint Board, Chief Officer, and Chief Financial Officer in the process of calculating subsequent payments through:

- Both Parties will provide indicative three year allocations to the Integration Joint Board, subject to annual approval through their respective budget setting processes.
- The Parties will ensure the Chief Officer and Chief Finance Officer are actively engaged in their financial planning processes. The Chief Officer will be expected to feed into the planning processes of the Parties with any intelligence that is relevant, e.g. the aims of the Strategic Plan, the effect of previous directions on activity and expenditure, projected changes in activity and expenditure. NHS Lothian's Director of Finance, the Council's Section 95 Officer and the Chief Finance Officer will ensure a consistency of approach and consistent application of processes in considering budget assumptions and proposals.

### **The set-aside of resources for use by the IJB under Section 1(3) (d) of the Act**

9.2.23 In addition to the Section 1 (3) (e) payments to the Integration Joint Board, NHS Lothian will identify a set aside budget for delegated functions in large hospitals. The set aside budget for delegated hospital services will be based on an apportionment of the relevant NHS Lothian budgets for the delegated hospital services (excluding overheads).

9.2.24 In order to identify the core baseline budget for each Set Aside Functions in each IJB area, NHS Lothian will initially determine which of the following methodologies is the most appropriate in representing the distribution of the delivery of those services in each IJB area and their respective populations at a given point in time:

- (a) Local activity and cost data for each service within each IJB area
- (b) Population distribution across the IJB areas
- (c) Patient level activity and cost data
- (d) Historically applied and recognised percentages

The Parties and the IJB will review the proposals from NHS Lothian referred to above, as part of a due diligence process, and the core baseline budget will be jointly agreed.

### **Process to agree payments from the Integration Joint Board to NHS Lothian and the Council**

9.2.25 The Integration Joint Board will determine and approve, in accordance with the Strategic Plan, the payments to the Parties which will accompany its directions to them for carrying out functions. The Parties are required to implement the directions of the IJB in carrying out a delegated function in line with the Strategic Plan, having agreed with the IJB the resources required to deliver the said directions.

9.2.26 The Chief Finance Officer is responsible for providing the Integration Joint Board with appropriate information and advice, so that it may determine what those payments should be.

9.2.27 Each direction from the Integration Joint Board to the Council and/or NHS Lothian will take the form of a letter from the Chief Officer referring to the arrangements for delivery set out in the Strategic Plan and will include information on:

- (a) the delegated function(s) that are to be carried out
- (b) the outcomes to be delivered for those delegated functions
- (c) the amount of and method of determining the payment to be made, in respect of the carrying out of the delegated functions.

9.2.28 Once issued, directions can be amended by a subsequent direction by the Integration Joint Board.

9.2.29 Where amounts paid to the Integration Joint Board are subject to separate legislation or subject to restrictions stipulated by third party funders, the Integration Joint Board must reflect these amounts in full, in determining the level of the payments to be made to the Council and/or NHS Lothian in respect of the carrying out of the relevant function or functions. However, the Integration Joint Board is not precluded from increasing the resource allocated to the relevant services.

### 9.3 **Financial Reporting to the Integration Joint Board**

9.3.1 Budgetary control and monitoring reports (in such form as the Integration Joint Board may request from time to time) will be provided to the Integration Joint Board by the Parties as and when requested by the IJB. The reports will set out the financial position and outturn forecast against the payments by the Integration Joint Board to the Council and NHS Lothian in respect of the carrying out of integration functions and against the amount set aside by NHS

Lothian for hospital services. These reports will present the actual and forecast positions of expenditure compared to Operational Budgets for delegated functions and highlight any financial risks and areas where further action is required to manage budget pressures.

9.3.2 NHS Lothian will provide reports to the Integration Joint Board on the set aside budget as above.

9.3.3 Through the process of reviewing the professional, technical and administrative support to the IJB (see Section 5.4 of the Scheme), and the development of accounting for the set-aside, the Parties will devise a sustainable model to support financial reporting to the new IJB. Until that model is in place, both Parties will provide the required information on operational budgetary performance from their respective finance systems, and this will be co-ordinated and consolidated by the Chief Finance Officer to provide reports to the IJB on all the IJB's integration functions.

#### **9.4 Process for addressing variance in the spending of the Integration Joint Board**

##### **Treatment of forecast over- and under-spends against the Operational Budget**

9.4.1 Section 14 of this Scheme sets out the arrangements for risk management, and financial risk (within the IJB and both Parties) will be managed in line with those arrangements.

9.4.2 The Integration Joint Board is required to deliver its financial outturn with approved resources. The Parties will make every effort to avoid variances arising. A key measure in this regard will be the due diligence activities, and the sharing of information with the IJB, so that the IJB has the best opportunity to allocate resources effectively. The Parties will also ensure that

the systems that are already applied to delivering public services within fixed and limited resources will continue.

9.4.3 Where financial monitoring reports indicate that an overspend is forecast on NHS Lothian or the Council's operational budget for delegated functions, it is agreed by the Parties that the relevant Party should take immediate and appropriate remedial action to prevent the overspend. The manager leading this remedial action could be the Chief Officer in his or her operational capacity within the affected Party.

9.4.4 In the event that such remedial action will not prevent the overspend, then Chief Finance Officer will, together with the relevant Party, develop a proposed recovery plan to address the forecast overspend. The Chief Finance Officer will then present that recovery plan to the Integration Joint Board as soon as practically possible. The Integration Joint Board has to be satisfied with the recovery plan, and the plan is subject to its approval.

#### **Additional Payments by the Parties to the Integration Joint Board**

9.4.5 Where such recovery plans are projected to be unsuccessful and an overspend occurs at the financial year end, and there are insufficient reserves to meet the overspend, then the Parties may make additional payments to the Integration Joint Board.

9.4.6 NHS Lothian and the Council may alternatively consider making interim funding available based on an agreed percentage with repayment in future years on the basis of the revised recovery plan by both Parties and the Integration Joint Board. If the revised plan cannot be agreed by NHS Lothian and the Council or is not approved by the Integration Joint Board, mediation will require to take place in line with the pre agreed dispute resolution arrangements.

## **Underspends**

- 9.4.7 As part of their normal financial management systems, the Parties conduct in-year reviews of financial performance, and occasionally this may lead to a forecast of an underspend at the year-end on one or more budgets. In the event that this happens within the Operational Budgets, then the following shall apply:
- 9.4.8 If the underspend is fortuitous, and unrelated to any IJB direction, then the underspend should be returned to the affected Party (through an adjustment to the payments to the IJB).
- 9.4.9 The IJB will retain all other underspends.
- 9.4.10 The Integration Joint Board can hold reserves for which a Reserves Strategy will be developed by the IJB which will require the agreement of the Parties.

## **Treatment of variations against the amounts set aside for use by the Integration Joint Board**

- 9.4.11 A process will be agreed between NHS Lothian and the IJB to manage any variations within the set-aside budget. This process will reflect any variations in the activity that was used to establish the set-aside budget. Any cost variations will be managed in the same way as overspends and underspends within the Integrated payment as laid out above. This process will be reflect the guidance issued by the Scottish Government - 'Guidance on Financial Planning for Large Hospital Services and Hosted Services'

## **9.5 Redetermination of payments (made under Section 1(3) (e)) to the Integration Joint Board**

- 9.5.1 Redeterminations of payments made by the Council and NHS Lothian for the carrying out of integration functions would apply under the following circumstances:

- (a) Additional one off funding is provided to a Party or Parties by the Scottish Government, or some other body, for expenditure in respect of a function delegated to the Integration Joint Board;
- (b) The Parties agree that an adjustment to the payment is required to reflect changes in demand and/or activity levels or recover any additional payments which have been made to the IJB in the event of any overspend position;
- (c) Transfer of resources between set aside hospital resources and integrated budget resources delegated to the Integration Joint Board and managed by the Chief Officer.

9.5.2 In all cases full justification for the proposed change would be required and both Parties and the Integration Joint Board would be required to agree to the redetermination. The Parties would apply the process used to calculate the payment to the IJB (described earlier) to the affected functions and the Strategic Plan would require to be amended accordingly.

## **9.6 Redetermination of payments (made under Section 1(3) (d)) to the Integration Joint Board**

9.6.1 A process will be agreed between NHS Lothian and the IJB to manage any variations within the set-aside budget. This process will reflect any variations in the activity that was used to establish the set-aside budget. Any cost variations will be managed in the same way as overspends and underspends within the Integrated payment as laid out above.

## **9.7 Use of Capital Assets**

9.7.1 The Integration Joint Board, NHS Lothian and the Council will identify all capital assets which will be used in the delivery of the Strategic Plan. Further to this, the associated revenue and future capital liabilities will be identified for each asset.



- 9.7.2 An agreement will be developed which specifies and regulates the use (in relation to integration functions) of capital assets belonging to one Party by the other Party, or jointly by both Parties. A similar agreement will specify and regulate the use by the IJB, in the carrying out of its functions, of assets belonging to the Parties. These agreements will be updated as required.
- 9.7.3 Changes in use of capital assets will flow from the Strategic Plan and the directions issued by the IJB to the Parties. The Strategic Plan process will outline any implications or requirements for capital assets.
- 9.7.4 The Parties will ensure that their capital asset planning arrangements take due cognisance of the above implications and requirements.
- 9.7.5 The Chief Officer will consult with the Council and NHS Lothian to identify the specific need for improvements/changes to assets owned by each Party which may be required in connection with the carrying out of integration functions. Where a capital investment need is identified, the Chief Officer will present a business case to the Council and NHS Lothian to make best use of existing resources and develop capital programmes. Any business case will set out how the investment will meet the strategic objectives set out in the Strategic Plan and identify the ongoing revenue costs/savings associated with implementation of the proposals.
- 9.7.6 The Integration Joint Board, the Council and NHS Lothian will work together to ensure assets required in connection with the carrying out of integration functions are used as effectively as possible and in compliance with the relevant legislation relating to use of public assets.

## 9.8 Financial Statements

### Financial Statements and External Audit

- 9.8.1 The legislation requires that the Integration Joint Board is subject to the audit and accounts provisions of a body under Section 106 of the Local Government (Scotland) Act 1973 (Section 13). This will require audited annual accounts to be prepared with the reporting requirements specified in the relevant legislation and regulations (Section 12 of the Local Government in Scotland Act 2003 and regulations under section 105 of the Local Government (Scotland) Act 1973). These will be proportionate to the limited number of transactions of the Integration Joint Board whilst complying with the requirement for transparency and true and fair reporting in the public sector.
- 9.8.2 The reporting requirements for the annual accounts are set out in legislation and regulations and will be prepared following the CIPFA Local Authority Code of Practice.
- 9.8.3 The Chief Finance Officer will supply any information required to support the development of the year-end financial statements and annual report for both NHS Lothian and the Council. Both NHS Lothian and the Council will need to disclose their interest in the Integration Joint Board as a joint arrangement under IAS 31 and comply in their annual accounts with IAS 27. Both NHS Lothian and the Council will report the Integration Joint Board as a related party under IAS 24.
- 9.8.4 The Integration Joint Board financial statements must be completed to meet the audit and publication timetable specified in the regulations (Regulations under section 105 of the Local Government (Scotland) Act 1973).
- 9.8.5 The Accounts Commission will appoint the external auditors to the Integration Joint Board.

9.8.6 The financial statements will be signed in line with the governance arrangements for the Integration Joint Board and as specified in the Regulations under section 105 of the Local Government (Scotland) Act 1973.

9.8.7 In all forms of audit, the Parties are expected to comply with related requests and to aid the audit process.

## **10 Participation and Engagement**

10.1 The Parties will support the Chief Officer to produce a strategy for engagement with, and participation by members of the public, representative groups or other organisations in relation to the decisions about the carrying out of integration functions as set out in this section 10. The process to identify and provide support to the Chief Officer to develop the IJB's participation and engagement strategy is described in section 5. As part of the process set out in section 5 the Parties will:

(a) Make available to the IJB arrangements that are already established for consultation by one or both of the Parties. The IJB will consider a range of ways in which to connect with all stakeholders. The IJB will use existing consultation methods, for example (but not limited to), the East Lothian Hub.

(b) Make available service/user participation and engagement teams to the IJB as this relates to function delegated within the Scheme.

(c) Make available communication support to allow the IJB to engage and participate.

10.2 The IJB's participation and engagement strategy will be produced before the date the IJB approves the Strategic Plan for public consultation. When the IJB approves the Strategic Plan members must be satisfied that the Strategic

Plan has had sufficient consultation and that the participation and engagement strategy has been followed.

10.3 The development of the participation and engagement strategy will be achieved using a collaborative response, involving the membership of the East Lothian Strategic Planning Group.

10.4 The Strategic Planning Group is expected will take both an advisory and active role in the undertaking of future participation and engagement around the implications of service development and re-design.

### **Consultation on this Integration Scheme**

10.5 A three stage approach was adopted to ensure sufficient involvement and consultation in the development of this Scheme:

#### Stage 1: Informing and Engaging:

A first draft was produced by officers of the Parties with the involvement of a range of professionals within both Parties

#### Stage 2: Consultation

A formal internal and external stakeholder consultation was held from December 17<sup>th</sup> 2014 to February 17<sup>th</sup> 2015.

#### Stage 3: Response to the consultation

A second draft guided by the consultation was produced by officers for approval by the Parties to submit to Scottish Government.

10.6 Further details of the people and groups involved in the informing, engagement and consultation on this Scheme are set out in Annex 4.

## **11 Information-Sharing and data handling**

- 11.1 There is an existing and long standing Pan-Lothian and Borders General Information Sharing Protocol, to which NHS Lothian, City of Edinburgh Council, East Lothian Council, Midlothian Council and West Lothian Council are all signatories. This Protocol is currently being reviewed by a sub group on behalf of the Pan-Lothian Data Sharing Partnership for any minor modifications required to comply with the Integration Scheme Regulations. The final Protocol, following consultation, will be recommended for signature by Chief Executives of respective organisations, and the Chief Officers of the Integrated Joint Boards, once they have been appointed by the IJB, on behalf of the Pan-Lothian Data Sharing Partnership.
- 11.2 The Pan -Lothian and Borders General Information Sharing Protocol update will be agreed by 31 March 2015.
- 11.3 Procedures for sharing information between the Council, the other local authorities within NHS Lothian area, NHS Lothian, and, where applicable, the Integration Joint Board will be drafted as Information Sharing Agreements and procedure documents. This will be undertaken by a sub group on behalf of the Pan-Lothian Data Sharing Partnership, who will detail the more granular purposes, requirements, procedures and agreements for each of the Lothian Integrated Joint Boards and the functions respectively delegated to them.
- 11.4 The Council and NHS Lothian will continue to be Data Controller for their respective records (electronic and manual), and will detail arrangements for control and access. The Integration Joint Board may require to be Data Controller for personal data if it is not held by either by the Council or NHS Lothian.
- 11.5 Arrangements for Third party organisations access to records will be jointly agreed by all the Parties and the IJB prior to access.

- 11.6 Procedures will be based on a single point of governance model. This allows data and resources to be shared, with governance standards, and their implementation, being the separate responsibility of each organisation. Shared datasets governance will be agreed by all contributing partners prior to access.
- 11.7 Following consultation, Information Sharing Protocols and procedure documents will be recommended for signature by the Chief Executives of respective organisations, and the Chief Officers of the Lothian Integrated Joint Boards.
- 11.8 Once established, agreements and procedures will be reviewed bi-annually by the sub group of the Pan-Lothian Data Sharing Partnership, or more frequently if required.
- 11.9 The information sharing agreements and procedures applicable to the IJB will be agreed by 31 March 2015.

## **12 Complaints**

The Parties agree the following arrangements in respect of complaints:

- 12.1 Any person will be able to make complaints either to the Council or to the NHS Board. The Parties have in place well publicised, clearly explained and accessible complaints procedures, which allow for timely recourse and signpost independent advocacy services, where appropriate. There is an agreed emphasis on resolving concerns locally and quickly; as close to the point of service delivery as possible.

Complaints can be made to:

- the Council by:  
telephone: 0131 653 5290  
email: [feedback@eastlothian.gov.uk](mailto:feedback@eastlothian.gov.uk)online: [www.eastlothian.gov.uk](http://www.eastlothian.gov.uk)

in writing: Customer Feedback Team, East Lothian Council, John Muir House, Haddington, EH41 3HA (or Freepost Plus, RSTG-AGEL-RJYH, Customer Feedback Team, East Lothian Council, John Muir House, Haddington, EH41 3HA) ; or

in person by visiting any Council office where feedback forms are available.

- NHS Lothian by:

Telephone: 0131 536 3370

Email: [craft@nhslothian.scot.nhs.uk](mailto:craft@nhslothian.scot.nhs.uk)

in writing to NHS Lothian Customer Relations and Feedback Team, Waverley Gate, 2 – 4 Waterloo Place, Edinburgh, EH1 3EG; or

in person by visiting Waverley Gate.

12.2 There are currently different legislative requirements in place for dealing with complaints about health and social care. Complaints regarding the delivery of an integrated service will be made to, and dealt with by, the Party that delivers the integrated service, in line with their published complaints procedure, and consistent with any statutory complaints handling arrangements that apply. It is the responsibility of the Party initially receiving a complaint to make sure that it is routed to the appropriate organisation/individual.

12.3 The Council and NHS Lothian will align their complaints processes as far as possible until such time as their respective complaints processes can be fully integrated. Joint working protocols will be adopted so that the process of making a complaint is as simple as possible and complaints about integrated services are responded to clearly, thoroughly and timeously. These joint working protocols will identify the lead organisation for each integrated service and will include the contact details of officers responsible for managing any complaints received.

12.4 When a complaint covers both health and social care functions, responsible officers within the Council and NHS Lothian will, where necessary, work together to make sure all parts of the complaint are investigated and responded to within established time limits and the complainant is correctly

signposted to the options open to them if they remain dissatisfied. Wherever possible, there will be a joint response from the identified Party rather than separate responses

- 12.5 There is an additional stage for complaints about specific social work functions. These will be referred to a Complaints Review Committee (CRC) if the complainant remains dissatisfied and requests this.
- 12.6 At the end of the process, complainants are entitled to take their complaint to the Scottish Public Services Ombudsman. Where appropriate, complainants will also be advised of their right to complain to the Care Inspectorate and information held by the Council may be shared with the Care Inspectorate.
- 12.7 Responsibility for responding to the Scottish Public Services Ombudsman lies with the Party who dealt with the original complaint. Where necessary, officers responsible for complaints handling within the Council and NHS Lothian will work together to provide a full response to any Scottish Public Services Ombudsman enquiry that covers both health and social care functions.
- 12.8 The Chief Officer will have an overview of complaints made about integrated services and subsequent responses. Complaints about integrated services will be recorded and reported to the Chief Officer on a regular and agreed basis. Regular trend analysis of complaints and outcomes will also be carried out as part of a wider quality assurance framework.
- 12.9 All independent contractors will be required to have a complaints procedure. Where complaints are received about the service provided by an independent contractor, the Party receiving the complaint will refer the complaint to the independent contractor in the first instance, either providing contact details or by passing the complaint on, depending on the preferred approach of the complainant. Complaints received about independent contractors will be recorded for contract monitoring purposes.



### **13 Claims Handling, Liability & Indemnity**

- 13.1 The Parties and the Integration Joint Board recognise that they could receive a claim arising from or which relates to the work undertaken on behalf of the Integration Joint Board.
- 13.2 The Parties agree to ensure that any such claims are progressed quickly and in a manner which is equitable between them.
- 13.3 So far as reasonably practicable the normal common law and statutory rules relating to liability will apply.
- 13.4 Each Party will assume responsibility for progressing and determining any claim which relates to any act or omission on the part of one of their employees.
- 13.5 Each Party will assume responsibility for progressing and determining any claim which relates to any building which is owned or occupied by them.
- 13.6 Each Party will assume responsibility for progressing and determining any claim which relates to any heritable property which is owned by them. If there are any heritable properties owned jointly by the Parties, further arrangements for liability will be agreed upon in consultation with insurers.
- 13.7 In the event of any claim against the Integration Joint Board or in respect of which it is not clear which Party should assume responsibility then the Chief Officer (or their representative) will liaise with the Chief Executives of the Parties (or their representatives) and determine which Party should assume responsibility for progressing the claim.
- 13.8 If a claim is settled by either Party, but it subsequently transpires that liability rested with the other Party, then that Party shall indemnify the Party which settled the claim.

13.9 Claims regarding policy and/or strategic decisions made by the IJB shall be the responsibility of the IJB. The IJB may require to engage independent legal advice for such claims.

13.10 If a claim has a “cross boundary” element whereby it relates to another integration authority area, the Chief Officers of the integration authorities concerned shall liaise with each other until an agreement is reached as to how the claim should be progressed and determined.

13.11 The IJB will develop a procedure for claims relating to hosted services with the other relevant integration authorities. Such claims may follow a different procedure than as set out above.

13.12 Claims which pre-date the establishment of the IJB will be dealt with by the Parties through the procedures used by them prior to integration.

## **14 Risk Management**

### **14.1 Integration Joint Board**

14.1.1 The IJB will develop and agree its own risk management procedure in relation to carrying out of integration functions including reports by 31<sup>st</sup> March 2016, which will cover all of its activities.

14.1.2 The risk management procedure will include:-

(a) A statement of the IJB’s risk appetite and associated tolerance measures;

(b) A description of how the system of risk management will work in practice, including procedures for the identification, classification, recording and reporting of risk, and the respective roles of the IJB and its officers. This will explain how the output from the risk management

systems within NHS Lothian and the Council will inform the IJB's system of risk management;

- (c) A description of how the IJB system of risk management is informed by other related systems of NHS Lothian and the Council, such as complaints management, health & safety, adverse events management, emergency planning and business resilience;
- (d) an agreement between NHS Lothian and the Council on the resources to be made available to support risk management;

14.1.3 The IJB risk register will not duplicate the detail of risk registers within NHS Lothian and the Council. However, the IJB will update its risk register should there be any emerging themes/risks which have a bearing on its activities.

## **14.2 NHS Lothian and the Council**

14.2.1 Both Parties will continue to apply their existing policies and systems for risk management, and will implement any required restructuring of their risk registers to recognise the creation of the IJB.

14.2.2 NHS Lothian covers four local authority areas, and there will be some 'hosted services' (as detailed in Annex 3) which one operational director manages on a Lothian-wide basis. The identification and management of risk for those hosted services will reflect the differing directions of the four IJB's.

## **15 Dispute resolution mechanism**

15.1 The Parties will commit to working well together, listening to each other and will always work to resolve any issues before they require the Dispute Resolution process to be actioned.

15.2 Where either of the Parties fails to agree with the other on any issue related to this Scheme or any of the duties, obligations, rights or powers imposed or

conferred upon them by the Act (a 'Dispute'), then they will follow the process described below:

- (a) The Chief Executives of the NHS Lothian and the Council, and the Chief Officer, will meet to resolve the Dispute within 21 calendar days of being notified of the issue;
- (b) If unresolved, NHS Lothian, the Council, and the Chief Officer, will each prepare a written note of their position on the Dispute and exchange it with the others within 14 calendar days of the meeting in (a) above;
- (c) Within 14 calendar days of the exchange of written notes in (b) the Chief Executives and Chief Officer must meet to discuss the written positions;
- (d) In the event that the issue remains unresolved, representatives of NHS Lothian and the Council will proceed to mediation with a view to resolving the Dispute.

15.3 Scottish Government will be informed by the chairperson of the IJB of the Dispute, the mediation process being followed and the agreed timeframe to conclude the mediation process. A copy of this correspondence will be sent to the Chair of NHS Lothian and the Leader of the Council

15.4 The mediator will be external to the Parties and will be identified and appointed with the agreement of the Chair of NHS Lothian and the Leader of the Council and failing agreement within 21 calendar days shall be nominated by the Centre of Effective Dispute Resolution (CEDR) on the request of either Party.

15.5 The mediation will start no later than 21 calendar days after the date of the appointment of the mediator.

- 15.6 The Parties agree that the cost of the mediator will be met equally by NHS Lothian and the Council.
- 15.7 The timeframe to resolve the issue will be agreed prior to the start of the mediation process by the Chair of NHS Lothian and the Leader of the Council.
- 15.8 Where following mediation, the Dispute remains unresolved the Parties agree that the chairperson of the Integration Joint Board shall write to the Scottish Ministers to provide notification that agreement cannot be reached. Scottish Government may then instruct the Parties how to proceed.
- 15.9 The Parties shall cooperate with each other to mitigate any adverse affect on service delivery pending resolution of the Dispute.
- 15.10 Nothing in this Scheme shall prevent the Parties from seeking any legal remedy or from commencing or continuing court proceedings in relation to the Dispute.

## ANNEX 1

### PART 1A

#### Functions delegated by the NHS Lothian to the Integration Joint Board

Set out below is the list of functions that are to be delegated by NHS Lothian to the Integration Joint Board as required by the Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014

Functions prescribed for the purposes of section 1(8) of the Act

<i>Column A</i>	<i>Column B</i>
<b>The National Health Service (Scotland) Act 1978</b>	
All functions of Health Boards conferred by, or by virtue of, the National Health Service (Scotland) Act 1978	Except functions conferred by or by virtue of— section 2(7) (Health Boards);  section 2CB <sup>(1)</sup> (Functions of Health Boards outside Scotland); section 9 (local consultative committees); section 17A (NHS Contracts);  section 17C (personal medical or dental services); section 17I <sup>(2)</sup> (use of accommodation); section 17J (Health Boards' power to enter into general medical services contracts); section 28A (remuneration for Part II services); section 38 <sup>(3)</sup> (care of mothers and young children);

<sup>(1)</sup> Section 2CA was inserted by S.S.I. 2010/283, regulation 3(2) (as section 2CA) and re-numbered as section 2CB by S.S.I. 2013/292, regulation 8(2).

<sup>(2)</sup> Section 17I was inserted by the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2 and amended by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 4. The functions of the Scottish Ministers under section 17I are conferred on Health Boards by virtue of S.I. 1991/570, as amended by S.S.I. 2006/132.

<sup>(3)</sup> The functions of the Secretary of State under section 38 are conferred on Health Boards by virtue of S.I. 1991/570.

section 38A<sup>(4)</sup> (breastfeeding);

section 39<sup>(5)</sup> (medical and dental inspection, supervision and treatment of pupils and young persons);

section 48 (provision of residential and practice accommodation);

section 55<sup>(6)</sup> (hospital accommodation on part payment);

section 57 (accommodation and services for private patients);

section 64 (permission for use of facilities in private practice);

section 75A<sup>(7)</sup> (remission and repayment of charges and payment of travelling expenses);

section 75B<sup>(8)</sup> (reimbursement of the cost of services provided in another EEA state);

section 75BA<sup>(9)</sup> (reimbursement of the cost of services provided in another EEA state where expenditure is incurred on or after 25 October 2013);

section 79 (purchase of land and moveable property);

section 82<sup>(10)</sup> (use and administration of certain endowments and other property held by Health Boards);

section 83<sup>(11)</sup> (power of Health Boards and local health councils to hold property on trust);

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<sup>(4)</sup> Section 38A was inserted by the Breastfeeding etc (Scotland) Act 2005 (asp 1), section 4. The functions of the Scottish Ministers under section 38A are conferred on Health Boards by virtue of S.I. 1991/570 as amended by S.S.I. 2006/132.

<sup>(5)</sup> Section 39 was relevantly amended by the Self Governing Schools etc (Scotland) Act 1989 (c.39) Schedule 11; the Health and Medicines Act 1988 (c.49) section 10 and Schedule 3 and the Standards in Scotland's Schools Act 2000 (asp 6), schedule 3.

<sup>(6)</sup> Section 55 was amended by the Health and Medicines Act 1988 (c.49), section 7(9) and Schedule 3 and the National Health Service and Community Care Act 1990 (c.19), Schedule 9. The functions of the Secretary of State under section 55 are conferred on Health Boards by virtue of S.I. 1991/570.

<sup>(7)</sup> Section 75A was inserted by the Social Security Act 1988 (c.7), section 14, and relevantly amended by S.S.I. 2010/283. The functions of the Scottish Ministers in respect of the payment of expenses under section 75A are conferred on Health Boards by S.S.I. 1991/570.

<sup>(8)</sup> Section 75B was inserted by S.S.I. 2010/283, regulation 3(3) and amended by S.S.I. 2013/177.

<sup>(9)</sup> Section 75BA was inserted by S.S.I. 2013/292, regulation 8(4).

<sup>(10)</sup> Section 82 was amended by the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 7) section 1(2) and the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 2.

section 84A<sup>(12)</sup> (power to raise money, etc., by appeals, collections etc.);

section 86 (accounts of Health Boards and the Agency);

section 88 (payment of allowances and remuneration to members of certain bodies connected with the health services);

section 98 <sup>(13)</sup> (charges in respect of non-residents); and

paragraphs 4, 5, 11A and 13 of Schedule 1 to the Act (Health Boards);

and functions conferred by—

The National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 <sup>(14)</sup>;

The Health Boards (Membership and Procedure) (Scotland) Regulations 2001/302;

The National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000/54;

The National Health Services (Primary Medical Services Performers Lists) (Scotland) Regulations 2004/114;

The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004;

The National Health Service (Discipline Committees) Regulations 2006/330;

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<sup>(11)</sup> There are amendments to section 83 not relevant to the exercise of a Health Board's functions under that section.

<sup>(12)</sup> Section 84A was inserted by the Health Services Act 1980 (c.53), section 5(2). There are no amendments to section 84A which are relevant to the exercise of a Health Board's functions.

<sup>(13)</sup> Section 98 was amended by the Health and Medicines Act 1988 (c.49), section 7. The functions of the Secretary of State under section 98 in respect of the making, recovering, determination and calculation of charges in accordance with regulations made under that section is conferred on Health Boards by virtue of S.S.I. 1991/570.

<sup>(14)</sup> S.I. 1989/364, as amended by S.I. 1992/411; S.I. 1994/1770; S.S.I. 2004/369; S.S.I. 2005/455; S.S.I. 2005/572 S.S.I. 2006/141; S.S.I. 2008/290; S.S.I. 2011/25 and S.S.I. 2013/177.



The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006/135;

The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009/183;

The National Health Service (General Dental Services) (Scotland) Regulations 2010/205; and

The National Health Service (Free Prescription and Charges for Drugs and Appliances) (Scotland) Regulations 2011/55<sup>(15)</sup>.

### **Disabled Persons (Services, Consultation and Representation) Act 1986**

#### Section 7

(Persons discharged from hospital)

### **Community Care and Health (Scotland) Act 2002**

All functions of Health Boards conferred by, or by virtue of, the Community Care and Health (Scotland) Act 2002.

### **Mental Health (Care and Treatment) (Scotland) Act 2003**

All functions of Health Boards conferred by, or by virtue of, the Mental Health (Care and Treatment) (Scotland) Act 2003.

Except functions conferred by—

section 22 (Approved medical practitioners);

section 34 (Inquiries under section 33: co-operation)<sup>(16)</sup>;

section 38 (Duties on hospital managers: examination notification etc.)<sup>(17)</sup>;

section 46 (Hospital managers' duties: notification)<sup>(18)</sup>;

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<sup>(15)</sup> S.S.I. 2011/55, to which there are amendments not relevant to the exercise of a Health Board's functions.

<sup>(16)</sup> There are amendments to section 34 not relevant to the exercise of a Health Board's functions under that section.

<sup>(17)</sup> Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of "managers" relevant to the functions of Health Boards under that Act.

<sup>(18)</sup> Section 46 is amended by S.S.I. 2005/465.

section 124 (Transfer to other hospital);

section 228 (Request for assessment of needs: duty on local authorities and Health Boards);

section 230 (Appointment of a patient's responsible medical officer);

section 260 (Provision of information to patients);

section 264 (Detention in conditions of excessive security: state hospitals);

section 267 (Orders under sections 264 to 266: recall);

section 281<sup>(19)</sup> (Correspondence of certain persons detained in hospital);

and functions conferred by—

The Mental Health (Safety and Security) (Scotland) Regulations 2005<sup>(20)</sup>;

The Mental Health (Cross Border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2005<sup>(21)</sup>;

The Mental Health (Use of Telephones) (Scotland) Regulations 2005<sup>(22)</sup>; and

The Mental Health (England and Wales Cross border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2008<sup>(23)</sup>.

## **Education (Additional Support for Learning) (Scotland) Act 2004**

### **Section 23**

(other agencies etc. to help in exercise of functions under this Act)

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<sup>(19)</sup> Section 281 is amended by S.S.I. 2011/211.

<sup>(20)</sup> S.S.I. 2005/464, to which there are amendments not relevant to the exercise of the functions of a Health Board. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of "managers" relevant to the functions of Health Boards.

<sup>(21)</sup> S.S.I. 2005/467. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of "managers" relevant to the functions of Health Boards.

<sup>(22)</sup> S.S.I. 2005/468. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of "managers" relevant to the functions of Health Boards.

<sup>(23)</sup> S.S.I. 2008/356. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of "managers" relevant to the functions of Health Boards.

## **Public Services Reform (Scotland) Act 2010**

All functions of Health Boards conferred by, or by virtue of, the Public Services Reform (Scotland) Act 2010

Except functions conferred by—  
section 31 (Public functions: duties to provide information on certain expenditure etc.); and  
section 32 (Public functions: duty to provide information on exercise of functions).

## **Patient Rights (Scotland) Act 2011**

All functions of Health Boards conferred by, or by virtue of, the Patient Rights (Scotland) Act 2011

Except functions conferred by The Patient Rights (Complaints Procedure and Consequential Provisions) (Scotland) Regulations 2012/36<sup>(24)</sup>.

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But in each case, subject to the restrictions set out in article 3(3) of the Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014

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<sup>(24)</sup> S.S.I. 2012/36. Section 5(2) of the Patient Rights (Scotland) Act 2011 (asp 5) provides a definition of “relevant NHS body” relevant to the exercise of a Health Board’s functions.

## **PART 1B**

### **Additional functions delegated by NHS Lothian to the IJB**

Set out below is the list of additional functions that are to be delegated by NHS Lothian to the IJB.

The functions exercisable in relation to the following health services as they relate to provision for people under the age of 18:

- a) Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
- b) General Dental Services, Public Dental Services and the Edinburgh Dental Institute
- c) General Ophthalmic Services
- d) General Pharmaceutical Services
- e) Out of Hours Primary Medical Services
- f) Learning Disabilities
- g) Health Visiting
- h) School Nursing

## **PART 2**

### **Services currently provided by NHS Lothian which are to be integrated**

Set out below is an illustrative description of the services associated with the functions delegated by NHS Lothian to the Integration Joint Board as specified in Parts 1A and 1B of Annex 1.

#### **Interpretation of this Part 2 of Annex 1**

1. In this schedule—

“Allied Health Professional” means a person registered as an allied health professional with the Health Professions Council;

“general medical practitioner” means a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council;

“general medical services contract” means a contract under section 17J of the National Health Service (Scotland) Act 1978;

“hospital” has the meaning given by section 108(1) of the National Health Service (Scotland) Act 1978;

“inpatient hospital services” means any health care service provided to a patient who has been admitted to a hospital and is required to remain in that hospital overnight, but does not include any secure forensic mental health services;

“out of hours period” has the same meaning as in regulation 2 of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004<sup>(25)</sup>; and

“the public dental service” means services provided by dentists and dental staff employed by a health board under the public dental service contract.

2. Accident and Emergency services provided in a hospital.
3. Inpatient hospital services relating to the following branches of medicine—
  - (a) general medicine;
  - (b) geriatric medicine;
  - (c) rehabilitation medicine;
  - (d) respiratory medicine; and
  - (e) psychiatry of learning disability.
4. Palliative care services provided in a hospital.
5. Inpatient hospital services provided by General Medical Practitioners.

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<sup>(25)</sup> S.S.I. 2004/115.

6. Services provided in a hospital in relation to an addiction or dependence on any substance.
7. Mental health services provided in a hospital, except secure forensic mental health services.
8. District nursing services.
9. Services provided outwith a hospital in relation to an addiction or dependence on any substance.
10. Services provided by allied health professionals in an outpatient department, clinic, or outwith a hospital.
11. The public dental service.
12. Primary medical services provided under a general medical services contract, and arrangements for the provision of services made under section 17C of the National Health Service (Scotland) Act 1978, or an arrangement made in pursuance of section 2C(2) of the National Health Service (Scotland) Act 1978<sup>(26)</sup>.
13. General dental services provided under arrangements made in pursuance of section 25 of the National Health (Scotland) Act 1978<sup>(27)</sup>.
14. Ophthalmic services provided under arrangements made in pursuance of section 17AA or section 26 of the National Health Service (Scotland) Act 1978<sup>(28)</sup>.
15. Pharmaceutical services and additional pharmaceutical services provided under arrangements made in pursuance of sections 27 and 27A of the National Health Service (Scotland) Act 1978<sup>(29)</sup>.
16. Services providing primary medical services to patients during the out-of-hours period.
17. Services provided outwith a hospital in relation to geriatric medicine.
18. Palliative care services provided outwith a hospital.
19. Community learning disability services.
20. Mental health services provided outwith a hospital.

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<sup>(26)</sup> Section 2C was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 1(2) and relevantly amended by the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 1, and the Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), section 37.

<sup>(27)</sup> Section 25 was relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 15.

<sup>(28)</sup> Section 17AA was inserted by the National Health Service (Primary Care) Act 1997 (c.46), section 31(2) and relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 25. Section 26 was relevantly amended by the Health and Social Security Act 1984 (c.48), Schedule 1, and the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) section 13.

<sup>(29)</sup> Section 27 was relevantly amended by the Health Services Act 1990 (c.53), section 20; the National Health Service and Community Care Act 1990 (c.19), Schedule 9; the Medicinal Products: Prescription by Nurses etc. Act 1992 (c.28), section 3; the National Health Service and Community Care Act 1997 (c.46), Schedule 2 and the Health and Social Care Act 2001 (c.15), section 44.

- 21.** Continence services provided outwith a hospital.
- 22.** Kidney dialysis services provided outwith a hospital.
- 23.** Services provided by health professionals that aim to promote public health.

In addition to the services (as set out above) associated with the carrying out of the functions that must be delegated, NHS Lothian has chosen to delegate the following health services as they relate to provision for people under the age of 18:

- 24.** Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
- 25.** General Dental Services, Public Dental Services and the Edinburgh Dental Institute
- 26.** General Ophthalmic Services
- 27.** General Pharmaceutical Services
- 28.** Out of Hours Primary Medical Services
- 29.** Learning Disabilities
- 30.** Health Visiting
- 31.** School Nursing

## ANNEX 2

### PART 1A

#### Functions delegated by the Council to the Integration Joint Board

Set out below is the list of functions that must be delegated by the Council to the Integration Joint Board.

Functions prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>

#### **National Assistance Act 1948<sup>(30)</sup>**

##### Section 48

(Duty of councils to provide temporary protection for property of persons admitted to hospitals etc.)

#### **The Disabled Persons (Employment) Act 1958<sup>(31)</sup>**

##### Section 3

(Provision of sheltered employment by local authorities)

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<sup>(30)</sup> 1948 c.29; section 48 was amended by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 39, paragraph 31(4) and the Adult Support and Protection (Scotland) Act 2007 (asp 10) schedule 2 paragraph 1.

<sup>(31)</sup> 1958 c.33; section 3 was amended by the Local Government Act 1972 (c.70), section 195(6); the Local Government (Scotland) Act 1973 (c.65), Schedule 27; the National Health Service (Scotland) Act 1978 (c.70), schedule 23; the Local Government Act 1985 (c.51), Schedule 17; the Local Government (Wales) Act 1994 (c.19), Schedules 10 and 18; the Local Government etc. (Scotland) Act 1994 (c.49), Schedule 13; and the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1.



<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
<b>The Social Work (Scotland) Act 1968<sup>(32)</sup></b>	
Section 1 (Local authorities for the administration of the Act.)	So far as it is exercisable in relation to another integration function.
Section 4 (Provisions relating to performance of functions by local authorities.)	So far as it is exercisable in relation to another integration function.
Section 8 (Research.)	So far as it is exercisable in relation to another integration function.
Section 10 (Financial and other assistance to voluntary organisations etc. for social work.)	So far as it is exercisable in relation to another integration function.
Section 12 (General social welfare services of local authorities.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 12A (Duty of local authorities to assess needs.)	So far as it is exercisable in relation to another integration function.

<sup>(32)</sup> 1968 c.49; section 1 was relevantly amended by the National Health Service (Scotland) Act 1972 (c.58), schedule 7; the Children Act 1989 (c.41), Schedule 15; the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), schedule 10; S.S.I. 2005/486 and S.S.I. 2013/211. Section 4 was amended by the 1990 Act, Schedule 9, the Children (Scotland) Act 1995 (c.36) (“the 1995 Act”), schedule 4; the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) (“the 2003 Act”), schedule 4; and S.S.I. 2013/211. Section 10 was relevantly amended by the Children Act 1975 (c.72), Schedule 2; the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13; the Regulation of Care (Scotland) Act 2001 (asp 8) (“the 2001 Act”) schedule 3; S.S.I. 2010/21 and S.S.I. 2011/211. Section 12 was relevantly amended by the 1990 Act, section 66 and Schedule 9; the 1995 Act, Schedule 4; and the Immigration and Asylum Act 1999 (c.33), section 120(2). Section 12A was inserted by the 1990 Act, section 55, and amended by the Carers (Recognition and Services) Act 1995 (c.12), section 2(3) and the Community Care and Health (Scotland) Act 2002 (asp 5) (“the 2002 Act”), sections 8 and 9(1). Section 12AZA was inserted by the Social Care (Self Directed Support) (Scotland) Act 2013 (asp 1), section 17. Section 12AA and 12AB were inserted by the 2002 Act, section 9(2). Section 13 was amended by the Community Care (Direct Payments) Act 1996 (c.30), section 5. Section 13ZA was inserted by the Adult Support and Protection (Scotland) Act 2007 (asp 10), section 64. Section 13A was inserted by the 1990 Act, section 56 and amended by the Immigration and Asylum Act 1999 (c.33), section 102(2); the 2001 Act, section 72 and schedule 3; the 2002 Act, schedule 2 and by S.S.I. 2011/211. Section 13B was inserted by the 1990 Act sections 56 and 67(2) and amended by the Immigration and Asylum Act 1999 (c.33), section 120(3). Section 14 was amended by the Health Services and Public Health Act 1968 (c.46), sections 13, 44 and 45; the National Health Service (Scotland) Act 1972 (c.58), schedule 7; the Guardianship Act 1973 (c.29), section 11(5); the Health and Social Service and Social Security Adjudications Act 1983 (c.41), schedule 10 and the 1990 Act, schedule 9. Section 28 was amended by the Social Security Act 1986 (c.50), Schedule 11 and the 1995 Act, schedule 4. Section 29 was amended by the 1995 Act, schedule 4. Section 59 was amended by the 1990 Act, schedule 9; the 2001 Act, section 72(c); the 2003 Act, section 25(4) and schedule 4 and by S.S.I. 2013/211.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 12AZA (Assessments under section 12A - assistance)	So far as it is exercisable in relation to another integration function.
Section 12AA (Assessment of ability to provide care.)	
Section 12AB (Duty of local authority to provide information to carer.)	
Section 13 (Power of local authorities to assist persons in need in disposal of produce of their work.)	
Section 13ZA (Provision of services to incapable adults.)	So far as it is exercisable in relation to another integration function.
Section 13A (Residential accommodation with nursing.)	
Section 13B (Provision of care or aftercare.)	
Section 14 (Home help and laundry facilities.)	
Section 28 (Burial or cremation of the dead.)	So far as it is exercisable in relation to persons cared for or assisted under another integration function.
Section 29 (Power of local authority to defray expenses of parent, etc., visiting persons or attending funerals.)	
Section 59 (Provision of residential and other establishments by local authorities and maximum period for repayment of sums borrowed for such provision.)	So far as it is exercisable in relation to another integration function.

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>

**The Local Government and Planning (Scotland) Act 1982<sup>(33)</sup>**

Section 24(1)

(The provision of gardening assistance for the disabled and the elderly.)

**Disabled Persons (Services, Consultation and Representation) Act 1986<sup>(34)</sup>**

Section 2

(Rights of authorised representatives of disabled persons.)

Section 3

(Assessment by local authorities of needs of disabled persons.)

Section 7

(Persons discharged from hospital.)

In respect of the assessment of need for any services provided under functions contained in welfare enactments within the meaning of section 16 and which have been delegated.

Section 8

(Duty of local authority to take into account abilities of carer.)

In respect of the assessment of need for any services provided under functions contained in welfare enactments (within the meaning set out in section 16 of that Act) which are integration functions.

**The Adults with Incapacity (Scotland) Act 2000<sup>(35)</sup>**

Section 10

(Functions of local authorities.)

Section 12

(Investigations.)

Section 37

(Residents whose affairs may be managed.)

Only in relation to residents of establishments which are managed under integration functions.

<sup>(33)</sup> 1982 c.43; section 24(1) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), schedule 13.

<sup>(34)</sup> 1986 c.33. There are amendments to sections 2 and 7 which are not relevant to the exercise of a local authority's functions under those sections.

<sup>(35)</sup> 2000 asp 4; section 12 was amended by the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), schedule 5(1). Section 37 was amended by S.S.I. 2005/465. Section 39 was amended by the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1 and by S.S.I. 2013/137. Section 41 was amended by S.S.I. 2005/465; the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1 and S.S.I. 2013/137. Section 45 was amended by the Regulation of Care (Scotland) Act 2001 (asp 8), Schedule 3.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 39 (Matters which may be managed.)	Only in relation to residents of establishments which are managed under integration functions.
Section 41 (Duties and functions of managers of authorised establishment.)	Only in relation to residents of establishments which are managed under integration functions
Section 42 (Authorisation of named manager to withdraw from resident's account.)	Only in relation to residents of establishments which are managed under integration functions
Section 43 (Statement of resident's affairs.)	Only in relation to residents of establishments which are managed under integration functions
Section 44 (Resident ceasing to be resident of authorised establishment.)	Only in relation to residents of establishments which are managed under integration functions
Section 45 (Appeal, revocation etc.)	Only in relation to residents of establishments which are managed under integration functions
<b>The Housing (Scotland) Act 2001<sup>(36)</sup></b>	
Section 92 (Assistance to a registered for housing purposes.)	Only in so far as it relates to an aid or adaptation.
<b>The Community Care and Health (Scotland) Act 2002<sup>(37)</sup></b>	
Section 5 (Local authority arrangements for of residential accommodation outwith Scotland.)	
Section 14 (Payments by local authorities towards expenditure by NHS bodies on prescribed functions.)	
<b>The Mental Health (Care and Treatment) (Scotland) Act 2003<sup>(38)</sup></b>	
Section 17 (Duties of Scottish Ministers, local authorities and others as respects Commission.)	

<sup>(36)</sup> 2001 asp 10; section 92 was amended by the Housing (Scotland) Act 2006 (asp 1), schedule 7.

<sup>(37)</sup> 2002 asp 5.

<sup>(38)</sup> 2003 asp 13; section 17 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), section 111(4), and schedules 14 and 17, and by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7. Section 25 was amended by S.S.I. 2011/211. Section 34 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedules 14 and 17.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 25 (Care and support services etc.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 26 (Services designed to promote well-being and social development.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 27 (Assistance with travel.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 33 (Duty to inquire.)	
Section 34 (Inquiries under section 33: Co-operation.)	
Section 228 (Request for assessment of needs: duty on local authorities and Health Boards.)	
Section 259 (Advocacy.)	
<b>The Housing (Scotland) Act 2006<sup>(39)</sup></b>	
Section 71(1)(b) (Assistance for housing purposes.)	Only in so far as it relates to an aid or adaptation.
<b>The Adult Support and Protection (Scotland) Act 2007<sup>(40)</sup></b>	
Section 4 (Council's duty to make inquiries.)	
Section 5 (Co-operation.)	
Section 6 (Duty to consider importance of providing advocacy and other.)	
Section 11 (Assessment Orders.)	
Section 14 (Removal orders.)	

<sup>(39)</sup> 2006 asp 1; section 71 was amended by the Housing (Scotland) Act 2010 (asp 17) section 151.

<sup>(40)</sup> 2007 asp 10; section 5 and section 42 were amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedules 14 and 17 and by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7. Section 43 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 14.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 18 (Protection of moved persons property.)	
Section 22 (Right to apply for a banning order.)	
Section 40 (Urgent cases.)	
Section 42 (Adult Protection Committees.)	
Section 43 (Membership.)	
<b>Social Care (Self-directed Support) (Scotland) Act 2013<sup>(41)</sup></b>	
Section 3 (Support for adult carers.)	Only in relation to assessments carried out under integration functions.
Section 5 (Choice of options: adults.)	
Section 6 (Choice of options under section 5: assistances.)	
Section 7 (Choice of options: adult carers.)	
Section 9 (Provision of information about self-directed support.)	
Section 11 (Local authority functions.)	
Section 12 (Eligibility for direct payment: review.)	
Section 13 (Further choice of options on material change of circumstances.)	Only in relation to a choice under section 5 or 7 of the Social Care (Self-directed Support) (Scotland) Act 2013 .
Section 16 (Misuse of direct payment: recovery.)	
Section 19 (Promotion of options for self-directed support.)	

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<sup>(41)</sup> 2013 asp 1.

Functions, conferred by virtue of enactments, prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014

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*Column A*

*Column B*

*Enactment conferring function*

*Limitation*

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**The Community Care and Health (Scotland) Act 2002**

Section 4<sup>(42)</sup>

The functions conferred by  
Regulation 2 of the Community Care  
(Additional Payments) (Scotland)  
Regulations 2002<sup>(43)</sup>

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In each case, so far as the functions are exercisable in relation to persons of at least 18 years of age.

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<sup>(42)</sup> Section 4 was amended by the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), schedule 4 and the Adult Support and Protection (Scotland) Act 2007 (asp 10), section 62(3).

<sup>(43)</sup> S.S.I. 2002/265, as amended by S.S.I. 2005/445.

## **PART 1B**

In addition to the functions that must be delegated, the Council has chosen to delegate the following functions to the IJB.

Functions, conferred by virtue of enactments, prescribed for the purposes of section 1(5) of the Public Bodies (Joint Working) (Scotland) Act 2014

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<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>

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### **Criminal Procedure (Scotland) Act 1995**

Sections 51(1)(aa), 51(1)(b) and 51(5)  
(Remand and committal of children and young persons in to care of local authority).

Section 203  
(Local authority reports pre-sentencing.)

Section 234B  
(Report and evidence from local authority officer regarding Drug Treatment and Testing Order.)

Section 245A  
(Report by local authority officer regarding Restriction of Liberty Orders.)

### **Management of Offenders etc. (Scotland) Act 2005**

Section 10  
(Arrangements for assessing and managing risks posed by certain offenders.)

Section 11  
(Review of arrangements.)



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*Column A*  
*Enactment conferring function*

*Column B*  
*Limitation*

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**Social Work (Scotland) Act 1968**

Section 27  
(Supervision and care of persons put  
on probation or released from prison.)

Section 27ZA  
(Advice, guidance and assistance to  
persons arrested or on whom sentence  
is deferred.)

## **PART 2**

### **Services currently associated with the functions delegated by the Council to the IJB**

Set out below is an illustrative description of the services associated with the functions delegated by the Council to the Integration Joint Board as specified in Part 1A and 1B of Annex 2.

- Social work services for adults and older people
- Services and support for adults with physical disabilities and learning disabilities
- Mental health services
- Drug and alcohol services
- Adult protection and domestic abuse
- Carers support services
- Community care assessment teams
- Support services
- Care home services
- Adult placement services
- Health improvement services
- Aspects of housing support, including aids and adaptations
- Day services
- Local area co-ordination
- Respite provision
- Occupational therapy services
- Re-ablement services, equipment and telecare
- Criminal Justice Social Work services including youth justice

## ANNEX 3

### **Proposed Management Arrangements for functions delegated to the IJB**

The provisions within this annex are not intended to create legally binding obligations. They are intended to be illustrative of the proposed management arrangements for the functions delegated to the IJB.

The IJB will issue directions to the Parties via its Chief Officer. Those directions will in the main require that the Chief Officer take forward the development of the Integration Joint Board's Strategic Plan, and lead on ensuring that the plan is delivered. As the Chief Officer will not be personally managing all of the integration functions, ensuring the Strategic Plan is being delivered will include getting assurance from other chief officers (for hosted services – see below) and other managers in NHS Lothian and the four local authorities in Lothian.

The Chief Officer will have direct management responsibility for the following services:

- All Council services described in Annex 2, Part 2.
- All NHS Lothian services described in Annex 1, Part 2 with the exception of the following:

a) Hosted Services

There are NHS Lothian services for which it would not be suitable for the Chief Officer to have operational management responsibility. The factors contributing to determining these services are the degree of medical specialism of the service and scale of the service required for it to be safe, efficient and effective.

It is proposed that the following services are proposed will be managed at a pan-Lothian level by one of the Chief Officers of the Lothian IJBs in their role as Joint Director of NHS Lothian (area in brackets confirms the Chief Officer who would manage this service)

- Dietetics (Midlothian)
- Art Therapy (Midlothian)
- Lothian Unscheduled Care Service (East Lothian)
- Integrated Sexual and Reproductive Health service (Edinburgh)
- Clinical Psychology Services (West Lothian)
- Continence Services (Edinburgh)
- Public Dental Service (including Edinburgh Dental Institute (West Lothian))
- Podiatry (West Lothian)
- Orthoptics (West Lothian)
- Independent Practitioners (East Lothian via the Primary Care Contracting Organisation)
- SMART Centre (Edinburgh)
- Royal Edinburgh and Associated Services (Director of Mental Health accountable to the Chief Officer of Edinburgh and the NHS Lothian's Chief Executive)
- Substance Misuse (only Ritson Inpatient Unit, LEAP and Harm Reduction (Director of Mental Health accountable to the Chief Officer of Edinburgh and NHS Lothian's Chief Executive))

b) Acute Hospitals

Services provided on the three acute hospitals in NHS Lothian (Western General Hospital, Edinburgh Royal Infirmary, St Johns Hospital) will be managed by the relevant Hospital Site Director.

c) Prison Healthcare

NHS Lothian has agreed to delegate the function of prison health care to Edinburgh IJB for the prison health care service provided within HMP Edinburgh and HMP Addiewell. For the avoidance of doubt this means that Edinburgh IJB will be responsible for the strategic planning of this function and have operational oversight as described in section 5. East Lothian IJB, Midlothian IJB and West Lothian IJB will not be responsible for the strategic planning of this function.

The Edinburgh Chief Officer will have direct operational responsibility for prison healthcare in HMP Edinburgh and HMP Addiewell. This responsibility will be discharged to the Director of Mental Health who is accountable to the Chief Officer of Edinburgh and the NHS Lothian Chief Executive.

## **ANNEX 4**

### **Integration Scheme Consultation**

Further details of the people and groups involved in the engagement and consultation on this Scheme are set out below:

Public and Staff consultation from December 17<sup>th</sup> 2014 to February 17<sup>th</sup> 2015 with responses received from:

- Members of the public
- Members of staff in East Lothian Council
- Clinical and non-clinical staff in NHS Lothian
- Third Sector Organisations and representative bodies

The members and organisations on the following groups and committees were consulted on this Integration Scheme:

East Lothian Council Corporate Management Team  
East Lothian Council  
East Lothian Council's Audit and Governance Committee  
East Lothian Health and Social Care Partnership Shadow Board  
East Lothian Health and Social Care Partnership Shadow Strategic Planning Group  
East Lothian Area Partnerships  
NHS Lothian Corporate Management Team  
NHS Lothian Board  
NHS Lothian Strategic Planning Group  
NHS Lothian Strategic Programme Managers  
NHS Lothian Healthcare Governance committee  
Lothian Area Clinical Forum  
All staff of East Lothian CHP and East Lothian Council's Adult Wellbeing department  
East Lothian Partnership forum  
East Lothian joint planning groups  
TSI (STRiVE) for all third sector members  
East Lothian independent sector care at home and care home providers  
Scottish Care  
Carers of East Lothian  
East Lothian Council Strategic Housing Department (including RSLs within East Lothian)  
All General Practitioners in East Lothian  
All Community Pharmacists in East Lothian  
All Optometrists in East Lothian  
All General Dental Practitioners in East Lothian  
Press release and use of social media  
Advert in East Lothian Courier Newspaper  
Lothian Medical Committee  
East Lothian Community Planning Partnership  
MSPs (including all list MSPs)  
Local MP

Midlothian, West Lothian, City of Edinburgh and Scottish Borders Councils  
NHS Borders  
Scottish Government Policy Department  
Joint Improvement Team