

LOTHIAN NHS BOARD

Minutes of the meeting of Lothian NHS Board held at 09.30am on Wednesday 23 August 2023 in the Carrington Room, Inverleith Building, Western General Hospital, Edinburgh EH4 2LF.

Present:

Non-Executive Board Members: Prof. J. Connaghan (Chair); Ms N. Akta; Mr P. Allenby; Cllr H. Cartmill; Mr A. Cogan; Mr M. Connor; Ms E. Gordon; Mr G. Gordon; Ms F. Ireland; Ms K. Kasper (from 10.20am); Mr P. Knight; Mr A. McCann; Mr B. McQueen; Cllr D. Milligan; Mr P. Murray and Ms V. de Souza.

Executive Board Members: Mr C. Campbell (Chief Executive); Ms T. Gillies (Executive Medical Director); Ms A. MacDonald (Executive Nurse Director) and Mr C. Marriott (Director of Finance).

In Attendance: Mr J. Crombie (Deputy Chief Executive); Ms J. Butler (Director of Human Resources); Ms M. Carr (Chief Officer, Acute Services); Ms J. Long (Director of Primary Care); Ms J. Mackay (Director of Communications & Public Engagement); Ms T. McKigen (Services Director, Royal Edinburgh Hospital & Associated Services); Dr R. Gill (Lead Consultant – Health Care Public Health); Mr S. McAllister (Participant in the NHS Scotland Aspiring Chairs Programme); Mr M. Massaro-Mallinson (Interim Chief Officer, City of Edinburgh IJB); Ms F. Wilson (Chief Officer, East Lothian IJB); Mr O. Campbell (Strategic Programme Manager: Maternal & Child Health); Mr D. Thompson (Board Secretary) and Mr C. Graham (Secretariat Manager, minutes);

Apologies for absence: Cllr S. Akhtar (Non-Executive Board Member); Mr A. Fleming (Non-Executive Board Member); Prof J. Innes (Non-Executive Board Member); Cllr S. Jenkinson (Non-Executive Board Member); Ms T. A. Miller (Employee Director and Non-Executive Board Member); Ms D. Milne (Director of Public Health and Health Policy); Mr C. Briggs (Director of Strategic Planning); Ms M. Barrow (Chief Officer, Midlothian IJB) and Ms A. White (Chief Officer, West Lothian IJB).

31. Declaration of Interests

- 31.1 The Chair reminded members that they should declare any financial and non-financial interests they had in the items of business for consideration, identifying the relevant agenda item and the nature of their interest. No declarations of interest were made.

ITEMS FOR APPROVAL OR NOTING

32. Items proposed for Approval or Noting without further discussion

- 32.1 The Chair reminded those present that the Board agenda was made up of two separate sections. The first was the section for approval commonly referred to as “the consent agenda.” The Chair reminded members that they had the opportunity to advise in advance if they wished any matter to be moved out of this section, for discussion. The Board noted that no such requests had been made.
- 32.2 Minutes of Previous Board Meeting held on 21 June 2023 – Minutes were approved.
- 32.3 Healthcare Governance Committee Minutes – 23 May 2023 – Minutes were noted.
- 32.4 Healthcare Governance Committee Revised Terms of Reference – The revised terms of reference were approved.

- 32.5 Finance and Resources Committee Minutes – 07 June 2023 – Minutes were noted.
- 32.6 Staff Governance Committee Minutes – 31 May 2023 – Minutes were noted.
- 32.7 Audit and Risk Committee Minutes – 17 April 2023 – Minutes were noted.
- 32.8 Midlothian Integration Joint Board Minutes – 16 March & 13 April 2023 – Minutes were noted.
- 32.9 East Lothian Integration Joint Board Minutes – 25 May 2023 – Minutes were noted.
- 32.10 Edinburgh Integration Joint Board Minutes – 21 March, 13 & 27 June 2023 – Minutes were noted.
- 32.11 West Lothian Integration Joint Board Minutes – 21 March, 18 April & 27 June 2023 – Minutes were noted.
- 32.12 National Whistleblowing Standards - Performance Report Quarter 1 2023/24 – The Board noted the report.
- 32.13 Appointment of Contractor Pharmacist Member to Pharmacy Practices Committee – The Board agreed the recommendations in the paper, as follows:
- **To appoint** Chris Freeland, Contractor Pharmacist, to the Pharmacy Practices Committee, for a three-year term with immediate effect (23 August 2023 to 22 August 2026).

ITEMS FOR DISCUSSION

33. Board Chair's Report – August 2023

- 33.1 The Chair gave a verbal update, highlighting the following:
- **Board Vice Chair** - Expressions of interest had been sought from eligible non-executive members for the expected vacancy in the Board Vice-Chair role. This was open until the end of August.
 - **Board's Ministerial Annual Review 2023** - This had been scheduled for Wednesday 18 October 2023, at the Western General Hospital. This marked a return to the format of previous years (pre-Covid), with stakeholder sessions and a public session with Q&A from members of the public. The Review would be conducted by the Cabinet Secretary and the Chief Operating Officer, NHS Scotland. Planning arrangements were underway. The outcome would be formally presented to the Board in the form of the Cabinet Secretary's follow-up letter, which was expected to follow 4-6 weeks after the Review meeting. **It was agreed that a high level summary of key performance data for public consumption would be produced in slide format to supplement the Chair's presentation at the Public Session.**
- JC/CB**
- **Royal Visits** - Successful Royal Visits had been held on 4 and 5 July, respectively. Their Majesties the King and Queen had visited the Royal Infirmary of Edinburgh on 4 July, in celebration of 75 years of the NHS and HRH The Princess Royal had officially open the Royal Hospital for Children and Young People (RHCYP) and Department of Clinical Neurosciences (DCN) on 5 July.

- **Scotland Organ Donation Group** – The Chair congratulated Mr George Gordon on his appointment as “chair of chairs” for Scotland’s local Organ Donation Sub-Committees.
- **NHS Lothian Performance & Relative Position** – The Chair had recently attended a meeting with the Cabinet Secretary where a range of performance issues had been discussed in detail.
- **Lucy Letby Case** – It was noted that, following the verdict in the Lucy Letby criminal case, the Cabinet Secretary would be writing to boards to seek assurance that appropriate systems were in place relating to how patient safety concerns were raised and addressed. The Director of HR & OD briefly reminded the Board of its current arrangements for dealing with Whistleblowing concerns, which aligned with the national standards set by the Independent National Whistleblowing Officer (INWO). The Executive Medical Director added that the Board participated in EMBRACE, the UK-wide benchmarking exercise on neonatal deaths, with trend data also monitored by Public Health Scotland and reviewed internally by the Board’s Healthcare Governance Committee.

34. Board Executive Team (BET) Report – August 2023

- 34.1 The Chief Executive presented the report, and the Board was briefed in more detail on the following points:
- 34.2 **Allegations of Inappropriate Removal of Patients from Waiting Lists** - The Chief Executive commented on recent media around this issue. He confirmed that an internal review had taken place immediately and that no concerns had been identified. It was considered that the Board was fully compliant with current requirements but an independent review had also been commissioned to ensure an appropriate level of assurance. The results of this would be presented at an executive level initially, via the Access Compliance and Assurance Group.
- 34.3 **Hospital Standardised Mortality Ratio (HSMR)** – The Chief Executive alerted the Board to a recent variation in the HSMR recorded at the Royal Infirmary of Edinburgh (RIE). An initial review of fifty cases had been carried out in response but no issues had been identified. Further work would be undertaken with Public Health Scotland and any relevant findings would be shared via the Healthcare Governance Committee.
- 34.4 **4-hour wait in Emergency Department** – The Chief Executive referred to recent media reports that had suggested a rise in deaths amongst patients who had waited for more than four hours in Scottish emergency departments (EDs). He highlighted several issues with how the data, provided in response to Freedom of Information requests, had been interpreted and reported, particularly in relation to NHS Lothian. Firstly, several large boards in Scotland had not provided data and therefore NHS Lothian’s figures appeared to have a disproportionate impact on the whole. Secondly, some headlines included the cumulative figures for years 2018 to 2023 and therefore risked giving an inaccurate impression. Finally, the reports had failed to compare the number of deaths with the number of patients presenting to the ED, which had also increased over the period. Doing so would have demonstrated that there had been no significant increase in the ratio of deaths to presentations. The Board expressed its disappointment that data had not been interpreted and presented appropriately.
- 34.5 **Bed System and Capacity Model** – The Deputy Chief Executive confirmed that the procurement process had now concluded and was into the formal appointment stage. Discussions were ongoing as to what the Lothian team would look like that would be supporting this work. The Chair added that this was an important piece of work for the Board and that capacity requirements against anticipated demand was also being looked at nationally.

- 35.1 There was also conversation around the connections with other services that would help to support the bed system and capacity model. The Vice Chair referred to the local authorities' "care and repair" services and their impact on the wider system, including delayed discharges. He noted that funding for such services was being reduced. The Board noted that it was planned to hold an IJB Development Session for Board Members after the SPPC meeting on 8 November 2023 where such issues could be discussed. The detail around this session would be issued to Board members in the coming weeks.
- 34.6 **Recruitment & Workforce** – The Director for HR & OD outlined the differences between the NHS Scotland and NHS England workforce plans. The Board noted that the NHS England plans were long term in nature (10-15 years) with clear projections, however, this was not available yet in Scotland with the Scottish Government still considering how to undertake projections to understand what the future numbers may look like. One of the key issues to consider was investment in the training pipeline, which was not sufficient to meet the projected workforce demands, particularly in nursing. A detailed report on the workforce pipeline for the East Region had recently been discussed by the Board's Staff Governance Committee and subsequently shared with the Scottish Government, to highlight the significant challenges and support the discussion of potential solutions.
- 34.7 **Perinatal Intensive Care Unit** – The Board noted that a new intensive care model for the highest risk pre-term babies had been agreed nationally. Three specialist intensive care neonatal units for babies born at highest risk would be based in Aberdeen Maternity Unit, Edinburgh Royal Infirmary and Queen Elizabeth University Hospital. The Chief Executive had accepted the position of South-East Scotland lead for the new model.
- 34.8 **Associate Director of Quality** – The Board noted that Ms Jill Gillies would be starting in this role in September, following the recent retirement of Ms Jo Bennett.
- 34.9 **NHS Lothian Leadership Conference – 25 October 2023: 'Make It Happen, Make it Matter'** - The Board noted that the event would be held both in person and live streamed. The Chair would discuss the event further with the Director for HR & OD outside the meeting.
- 34.10 Whilst acknowledging a range of ongoing challenges, Board members also noted a number of positive developments highlighted within the circulated Report. The Chair offered his thanks, on behalf of the Board, to all staff who continued to give their best efforts in delivering high quality services.
- 35. Opportunity for committee chairs or IJB leads to highlight material items for awareness**
- 35.1 **Healthcare Governance Committee** – The Chair of the Healthcare Governance Committee reported to the Board that following the investigation into concerns with the NHS Lothian audiology service, work had been commissioned to look at all physiology services and an interim paper had now been received and reviewed at the recent Healthcare Governance Committee meeting. The outcome had been satisfactory and there was follow up work to do with the services.
- 35.1.1 The Board also noted that the Healthcare Governance Committee continued to monitor the delivery of the HIS/RIE action plan following the Healthcare Improvement Scotland Inspection in March 2023 and there would be further detail coming to a subsequent Healthcare Governance Committee meeting. The Chair sought assurance that any learning from the RIE report has been applied to the other acute hospital sites.

- 35.2 *Finance and Resources Committee* - The Chair of the Finance and Resources Committee highlighted the ongoing monitoring of capital plans in relation to the Edinburgh Cancer Centre and Princess Alexandra Eye Pavilion. The Board was reminded that the Scottish Government intends on reviewing capital spend over the coming years and completion dates and costs may change. The Finance and Resources Committee continued to review the potential to maximise developers' contributions related to healthcare.
- 35.3 *Staff Governance Committee* – The Chair of the Staff Governance Committee reported on recent updates around agency staffing use. The Executive Nurse Director confirmed that the position remained steady for June, July, and August due to the large vacancy gap, but there had been increased recruitment and staff bank availability. There had been a significant recruitment campaign resulting in one thousand new recruits starting between July and October. The exit plans for agency use remained ongoing with the most expensive agency not being used since June. There were also plans to bring 130-140 final year students into the pipeline. In relation to forty overseas recruits, the Director of HR & OD confirmed this was a result of ethical recruitment practices, aligned with the UK Code of Practice for International Recruitment.
- 35.4 *Midlothian Integration Joint Board* – The Chair of the Midlothian IJB advised that the IJB had written to the Cabinet Secretary regarding funding challenges and there was to be a meeting on 25 August between IJBs and the Scottish Government to discuss the awareness of the funding challenges of the whole system and to strengthen the expectation that local government should pass allocated funding over to IJBs fully and timeously. Further updates would come back to the Board.

36. NHS Lothian Board Performance Report

- 36.1 The Deputy Chief Executive presented the Board Performance Paper, highlighting key messages around workforce; primary care; flow and work with IJBs around delayed discharge performance trajectories; 4-hour emergency access performance; Royal Edinburgh Hospital occupancy levels and actions being taken to support the corporate risk; scheduled care performance; capital development prioritisation and improvement in cancer performance.
- 36.2 The suitability of the Report's comparison between February and June emergency department performance was questioned given the expected seasonal variation. The Deputy Chief Executive clarified that pressures were now ongoing and less restricted to the winter period but acknowledged that data points should generally compare like-for-like points in time.
- 36.3 In relation to the current mitigating actions being taken by HSCPs on delayed discharge performance, these were expected to provide stability and potentially moderate improvements, rather than significant reductions.
- 36.4 The Board noted that activity levels for unscheduled care were now demonstrating similar levels to that of pre-Covid. Levels for inpatients and day cases were at around 90% of pre-Covid levels.
- 36.5 The Chief Officer for Acute Services updated on ongoing work within orthopaedics to address waits which involved ring-fencing starting in September with procedures taking place within the East Lothian Community Hospital.
- 36.6 Board members asked if data existed to show whether challenges in primary care provision may be driving increased presentations in emergency departments and if this might strengthen the case for increased primary care investment in Lothian. It was noted that the

available primary care data mainly showed activity, rather than demand. The Chief Executive and Executive Medical Director agreed to discuss outside the meeting the best way to understand and highlight any primary care gap and its potential impact on unscheduled care at the upcoming Annual Review. This should also be a subject for consideration by the Healthcare Governance Committee.

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- 36.7 The Board agreed to accept the recommendations in the paper.

37. Corporate Risk Register

- 37.1 The Executive Medical Director presented the previously circulated paper. The Board reviewed the June/July 2023 updates provided by leads concerning risk mitigations, as set out in the assurance table in Appendix 1 of the paper.
- 37.2 There was discussion on the request to remove three risks from the Corporate Risk Register (CRR). These new risks were #5360-COVID; #5188-Access to CAMHS and #5187-Access to Psychological Therapies. The Board was also invited to accept the Corporate Management Team recommendation, to add the 'Inappropriate and inadequate accommodation in the secure estate' risk onto the CRR. The Executive Medical Director explained that patients or their carers were entitled to seek legal intervention if they believed that they had been placed in a level of security that was inappropriate to their health needs. This therefore increased the impact of the risk of being unable to provide the correct level of secure accommodation.
- 37.3 The Vice Chair sought information on the process of how new risks were proposed for escalation to the CRR, including consideration by the Board's governance committees. The Executive Medical Director agreed to discuss the operation of this process in more detail outside the meeting.

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- 37.4 In relation to 'Inappropriate and inadequate accommodation in the secure estate', the Board noted that the steps required to mitigate this risk were dependent on decisions taken at a national level and an outcome was awaited from Scottish Government considerations. The Minister for Mental Health had asked Board Chief Executives to revisit where female high secure accommodation could be provided. There was an initial agreement with Scottish Government with respect to low secure accommodation, as part of phase 2a for the Royal Edinburgh Hospital re-provision and this was included in NHS Lothian capital prioritisation. However, any further progress was dependent on capital allocation from Scottish Government.
- 37.5 The Board approved the CMT recommendations to remove the three risks from the register (#5360-COVID; #5188-Access to CAMHS and #5187-Access to Psychological Therapies).
- 37.6 The Board also approved the CMT recommendation, to accept the risk regarding 'Inappropriate and inadequate accommodation in the secure estate' onto the CRR and noted that there would be further discussion on this risk following receipt of the option appraisal plans from Scottish Government.

38. Estates & Facilities Reinforced Autoclaved Aerated Concrete (RAAC) Briefing

- 38.1 The Deputy Chief Executive presented a briefing paper setting out the NHS Lothian Estates and Facilities Directorate's response to the Safety Action Notice (SAN2302) issued in

February 2023 by Health Facilities Scotland relating to the potential for Reinforced Autoclaved Aerated Concrete (RAAC) presence within NHS Lothian buildings.

- 38.2 He explained that the current evaluation of NHS Lothian's estate, set out in the paper, was based on an initial desk-top exercise undertaken to assess the *likelihood* of RAAC being present in a building. This assessment had been conducted by Currie and Brown; a specialist surveyor engaged at a national level by NHS Scotland Assure.
- 38.3 The Deputy Chief Executive emphasised that the "high risk" rating assigned to eight NHS Lothian buildings indicated a high likelihood of RAAC being present somewhere in those buildings but did not relate to their overall risk profile. This was an important distinction to make so as not to add to the anxiety of staff.
- 38.4 It was noted that, following the drafting of the paper, an updated approach to the undertaking of more detailed, onsite discovery surveys had been agreed. Instead of taking each board in turn, Currie and Brown would now prioritise the surveys of those buildings deemed to be at highest risk. It was expected that survey reports of individual buildings would be received as they became available, ensuring that boards were aware of any issues as soon as possible.
- 38.5 The implications associated with any potential operational disruption to the work at Princess Alexandra Eye Pavilion and Lauriston Building were discussed, as these were both active outpatient hubs. Any reinforcement or structural support requirements could lead to disruption and if RAAC was present to a significant level then the buildings may be required to close quickly to allow for remedial works. Any such instance would require the enactment of appropriate resilience and contingency plans. The Chief Executive stated that all Site Directors had been asked to review their existing contingency plans and appropriate risk assessments would be conducted.
- 38.6 The Board noted that local authorities would also be going through this same process and as yet there had been no indication of funding from Scottish Government to address the financial implications of any required works. The Director of Finance confirmed there was awareness around this issue nationally.
- 38.7 The Board accepted the recommendations in the paper and noted that a further update would come to the Board in December 2023, following completion of physical surveys by Currie and Brown.

39. NHS Lothian 2022/23 Financial Position

- 39.1 The Director of Finance provided an update to the Board on NHS Lothian's financial position at Month 3 and also the current year end forecast based on Quarter 1 information.
- 39.2 There was discussion on the current deficit position at Month 3; ongoing work to deliver the required efficiency savings schemes; two additional funding allocations received from Scottish Government in relation to sustainability and new medicines fund; delivery against the corporate finance objectives and the flexibility and risks associated with removal of ring-fencing.
- 39.3 It was noted that the current financial projections did not include the in-year impact of recent pay awards, which it was understood would be fully funded by the Scottish Government.
- 39.4 The Board noted that the Finance and Resources Committee had considered the year-to-date position at Month 3 and the Quarter 1 Forecast, and accepted that at this stage, NHS

Lothian was only able to provide limited assurance on its ability to deliver a breakeven position in 2023/24, based on assumptions around additional funding.

40. Any Other Business

40.1 No other items of competent business were identified.

41. Reflections on the Meeting

41.1 Board members were invited to contact the Chair or the relevant Executive Director if they had further questions on any of the areas presented to the Board.

41. 2023 Board Meeting Dates

41.1 The remaining Board meeting dates for 2023 were noted:

- 04 October 2023
- 06 December 2023

Signed by Chair at Board on 04/10/2023 (Peter Murray)