

LOTHIAN NHS BOARD

Minutes of the meeting of Lothian NHS Board held at 09.30am on Wednesday 04 October 2023 in the Carrington Room, Inverleith Building, Western General Hospital, Edinburgh EH4 2LF.

Present:

Non-Executive Board Members: Mr P. Murray (Vice Chair) **Chairing**; Cllr S. Akhtar; Ms N. Akta; Mr P. Allenby; Cllr H. Cartmill; Mr A. Cogan; Mr M. Connor; Mr A. Fleming; Ms E. Gordon; Mr G. Gordon; Prof J. Innes; Cllr S. Jenkinson; Mr P. Knight; Mr B. McQueen; 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); Ms D. Milne (Director of Public Health and Health Policy) and Mr C. Marriott (Director of Finance).

In Attendance: Mr J. Crombie (Deputy Chief Executive); Ms J. Butler (Director of Human Resources & Organisational Development); Ms M. Campbell (Director of Estates & Facilities); Ms M. Carr (Chief Officer, Acute Services); Dr J. Long (Director of Primary Care); Ms J. Mackay (Director of Communications & Public Engagement); Ms T. McKigen (Services Director, Royal Edinburgh Hospital & Associated Services); Ms M. Barrow (Chief Officer, Midlothian IJB); Ms L. Berry (General Manager, East Lothian Rehab Service & Chief AHP attending for Ms F. Wilson); Mr D. Thompson (Board Secretary) and Mr C. Graham (Secretariat Manager, minutes).

In Attendance for Item 47: Ms L. Hutchison, Head of Equality & Human Rights, NHS Lothian; Ms C. Maitland Francis, Education Facilitator, Theatres & Anaesthetics, RIE; Dr S. Buck, Independent Researcher on Project Team and Ms J. Ferguson, NHS Lothian Charity Director

Apologies for absence: Prof. J. Connaghan (Chair); Ms T. A. Miller (Employee Director and Non-Executive Board Member); Mr A. McCann (Non-Executive Board Member); Ms K. Kasper (Non-Executive Board Member); Miss F. Ireland (Non-Executive Board Member); Cllr D. Milligan (Non-Executive Board Member); Mr C. Briggs (Director of Strategic Planning) and Ms F. Wilson (Chief Officer, East Lothian IJB).

42. Declaration of Interests

- 42.1 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

43. Items proposed for Approval or Noting without further discussion

- 43.1 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.
- 43.2 Minutes of Previous Board Meeting held on 23 August 2023 – Minutes were approved.
- 43.3 Healthcare Governance Committee Minutes – 18 July 2023 – Minutes were noted.
- 43.4 Audit and Risk Committee Minutes – 19 June 2023 – Minutes were noted.
- 43.5 Midlothian Integration Joint Board Minutes – 22 June 2023 – Minutes were noted.
- 43.6 East Lothian Integration Joint Board Minutes – 22 June 2023 – Minutes were noted.
- 43.7 Edinburgh Integration Joint Board Minutes – 08 August 2023 – Minutes were noted.
- 43.8 West Lothian Integration Joint Board Minutes – 08 August 2023 – Minutes were noted.
- 43.9 Pharmacy Practices Committee Decisions Quarterly Report – The Board noted the report and the intention that future reports on Pharmacy Practices Decisions would be provided to the Board on a quarterly basis.
- 43.10 NHS Lothian 2024/5 Board and Committee Meeting Dates – The Board approved the submitted meeting dates for 2024/5
- 43.11 Appointment of Members to Committees and Integration Joint Boards – The Board agreed the recommendations in the paper, as follows:
- **To appoint Dr Donald Noble** as a non-voting member of the West Lothian Integration Joint Board and specifically as the “registered medical practitioner who is not providing primary medical services” with immediate effect and until 3 October 2026.
 - **To appoint Sarah Gossner** as a non-voting member of the East Lothian Integration Joint Board and specifically as the “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” from 27 November 2023 and until 26 November 2026.

ITEMS FOR DISCUSSION

44. Board Chair's Report – August 2023

44.1 The Chair gave a verbal update, highlighting the following:

- NHS Lothian Celebrating Success Awards – September 2023 – This had been a professional and enjoyable event and it had been a joy to see the happiness of staff, both nominees and award winners.
- NHS Lothian Ministerial Annual Review – This had been scheduled for 18 October but had now been cancelled by Scottish Government and would be rescheduled to take place in March 2024.
- City of Edinburgh IJB Chief Officer Appointment – To note Mr Pat Togher's appointment to the post. Mr Togher would be starting in early November. The Chair thanked Mr Massaro-Mallinson for his contributions in undertaking the interim Chief Officer role.
- IJB Chairs and Vice Chairs Event Glasgow – The Chair mentioned the recent event which had been useful for information sharing around areas such as the proposed establishment of a National Social Work Agency.

45. Board Executive Team (BET) Report – October 2023

45.1 The Chief Executive presented the report. Discussions and questions from Board members highlighted more detail on the following points:

- Capital Reprioritisation – The Board noted that a Scottish Government decision is still pending around availability of funding for capital projects. The Deputy Chief Executive confirmed that a report on the results of the Board's most recent prioritisation of capital projects would be brought to the December Board Meeting.
- Healios Funding (CAMHS) – The reduction in Healios funding from Scottish Government, three weeks prior, had been greater than expected. The second tranche of funding was not expected until December. This would mean a shortfall, stopping the use of the Healios system. Modelling was underway to analyse and understand the impact of this. An expected impact was that CAMHS waiting times would reduce more slowly than previously anticipated.
- Bed System and Capacity Model – The Deputy Chief Executive reported on the ambition to have the model in place earlier, but this was now expected to be the start of November 2023. A mobilisation session had already taken place and the development of appropriate governance arrangements around access to data was progressing.
- Strategic Review of Analytics – This was part of the overall approach to big data and what to do going forward. Following the report commissioned in 2022 by NHS Lothian and the need to review the current SLA with Public Health Scotland (PHS), progress would now be made, with support from Partnership, oversight from the Executive Leadership Team and the equivalent oversight structure in PHS.
- Nursing & Midwifery Workforce Supply & Demand – The improving numbers in the update were noted. The initiative around offering one shift/week to final year student nurses was welcomed.

- Lothian Clinical Academic Research Gateway Awards – This good news story was noted. There was discussion around publicity of such achievements. The Executive Medical Director reported that an R&D Office Annual Report is produced detailing such achievements and last year's report would be circulated for the Board's interest.
- Open University Programme Pilot – The Executive Nurse Director confirmed this programme would continue but noted that numbers were restricted due to the funded places available to the Open University. Discussions with other universities on a similar approach were taking place.
- Consort and RIE – The Director of Finance highlighted the Audit Scotland infrastructure report and capital liability against PFI projects. The current primary focus with Consort remained on resolving key fire safety issues at the Royal Infirmary of Edinburgh.
- Emergency Access Standard (EAS) Improvement Programme - The Chief Officer for Acute Services outlined progress with the programme. The Board noted that the 70% access target had not been achieved but there had been a number of demonstrated safety and patient flow improvements, as well as a reduction in patient waits. The introduction of the "Manchester Triage System" was also noted. The Improvement Programme had now been extended to end of December 2023, with external partners now involved to assist the programme widening out to pathways in RIE and out to the HSCPs.
- Wellbeing Strategy 'Work Well' – The Director for HR & OD explained that the Wellbeing Strategy was in its third year and that progress continued to be monitored via the Staff Governance Committee.

46. Opportunity for committee chairs or IJB leads to highlight material items for awareness

- Midlothian IJB – Ms de Souza reported on a recent meeting between the IJB, senior civil servants and COSLA. This had been to discuss £1.4M of Scottish Government funding that had not been transferred across to the IJB from the local authority. It had been clear from the meeting that the intent of the funding letter from Scottish Government had been interpreted differently by the local authority/COSLA and the IJB. Unfortunately, the Scottish Government had not provided clarification on its original intent. Concerns had been raised by the IJB Chair with the Cabinet Secretary, in writing. The Director of Finance commended Ms de Souza for taking these issues forward as the number of contentious areas between local authorities and IJBs was growing. Board members acknowledged the need to continue highlighting amongst all stakeholders and partners the projected future population growth in Lothian and the significant resource impacts this was expected to have for health and social care delivery.
- Healthcare Governance Committee - Mr Fleming provided an update from the September committee meeting (having chaired the meeting on behalf of Ms Ireland):
 - The committee had received annual reports from all four HSCPs, reporting on the systems and activities in place to deliver safe effective and person-centred care. As part of this, the Edinburgh HSCP annual report and risk mitigation plan on Bed occupancy and delayed discharges had been discussed. In light of the performance and workforce pressures, the Committee had agreed to take only limited assurance that Edinburgh HSCP had appropriate systems in place to manage safe, effective, and person-centred care at this time. The Executive Medical Director emphasised that this assurance level was in relation to the systems in place to deliver patient care and in balancing care in patients' own homes against those in hospital waiting

to come out. This was of particular concern moving into the winter months. A further report would come back to the January 2024 HGC meeting.

- It was noted that the HGC planned to simplify and standardise its assurance reporting. This would make it easier for officers to prepare the reports but also easier for the Committee to assess the assurance level and draw appropriate comparisons across HSCPs and different service areas.

47. Independent Advisory Group on NHS Lothian's Historical Connections to Transatlantic Slavery: Recommendations to NHS Lothian Board

- 47.1 The Deputy Chief Executive introduced the Report to the Board. This included a number of recommendations, based on the work of an Independent Advisory Group, through which the Board might acknowledge and respond to the Royal Infirmary of Edinburgh's historical connections with slavery and further progress the Board's commitment to be an anti-racist organisation. He acknowledged that everyone involved in the underpinning research and in the drafting of the final report and recommendations had approached the complex and challenging subject matter with a great deal of careful thought and balance. It was noted that the initial research behind the recommendations had been funded by the NHS Lothian Charity.
- 47.2 The Head of Equalities and Human Rights was welcomed to the meeting and she introduced two members of the Independent Advisory Group (Ms Maitland Francis and Dr Buck). Together, they explained the background to the Independent Advisory Group's work, its research findings, and the reasons for the recommendations presented to the Board. They each reflected upon their personal contributions and experiences during the project. The Head of Equalities and Human Rights commended the proposed recommendations to the Board, as a suitable means of acknowledging the past and offering non-financial reparative actions.
- 47.3 Board members welcomed this important piece of work and offered thanks to everyone involved with the Independent Advisory Group for their time, expertise, and commitment to engaging with complex and challenging issues in order to develop the recommendations presented.
- 47.4 In scrutinising the Report's content and its recommendations, Board members discussed and sought greater understanding on a range of issues, including:
- Comparative approaches taken by other public and private institutions with similar historical connections, and the extent and scope of their resulting actions.
 - The potential format and content of a public apology, as called for by one of the Report's recommendations, and how this could be made in a meaningful way.
 - The likely composition and leadership of the proposed Implementation Group, and how this might continue to harness expertise from within the previous Independent Advisory Group.
- 47.5 It was agreed that any Implementation Group should be chaired by a non-executive member of the Board. Proposed actions would first be considered through the Corporate Management Team, particularly those requiring any additional resources, and governance and assurance oversight would be provided by the Healthcare Governance Committee. The Group's first priority should be to consider the format and content of an apology.
- 47.6 The Board offered its thanks to all involved in the Independent Advisory Group and particularly to the members who had come to present the Report. Noting that the specific

details of delivery would be subject to further planning and consideration by the proposed Implementation Group, the Board agreed to accept the recommendations within the paper.

48. Winter Planning

- 48.1 The Deputy Chief Executive introduced the paper, updating the Board on progress with winter planning and highlighting the proforma responses made to Scottish Government on the current NHS Lothian position.
- 48.2 The Board noted previously reported resilience initiatives for winter, around discharge without delay, hospital to home, ringfencing of orthopaedic care and delayed discharge patients support. There would also be additional capacity in place from 06 November 2023, with the opening of the new vanguard unit.
- 48.3 Another part of the Board's resilience had been the introduction of whole system pressures leadership meetings which had been brought during the previous winter.
- 48.4 The Board acknowledged the completed winter planning checklist submitted to Scottish Government, using the template provided. The desire to offer an accurate and honest reflection of the anticipated challenges for the Board had resulted in the inclusion of a number of "No/Partial" responses to sections of the questionnaire. It was felt this was the appropriate and right thing to do.
- 48.5 It was noted that the format of the template checklist had not been the subject of consultation prior to its issue by the Scottish Government. The Board acknowledged and endorsed the Chief Executive's view that a transparent response, such as the one provided, was the most appropriate and useful approach for planning purposes. The Board noted that there had been no response from Scottish Government on the submitted checklist and, as of yet, no opportunity for discussion as Scottish Government had cancelled several scheduled meetings.
- 48.6 The Board also discussed the potential for late funding from Scottish Government for areas such as interim beds, business continuity planning and resilience exercises. The Director of Public Health reported that an annual assurance report on resilience planning is provided to Healthcare Governance Committee. It was agreed that there would be further discussion on this scheduled for one of the Strategy, Planning and Performance Committee meetings, to ensure a shared awareness amongst all non-executive Board members.
- 48.7 There was consideration around the risks on the Board's Corporate Risk Register and the high levels these were at which meant little room for adjustment or manoeuvre with mitigation plans. New covid variants were also mentioned and the Director of Public Health confirmed there had been a variant of interest identified but this was a variant of not concern but was being monitored. The National IMT had been stood up for weekly meetings and then stood down again. Currently there were no significant concerns, and the new vaccine was now being used.
- 48.8 The Board agreed to note the submission of the winter planning checklist to the Scottish Government and the major risks identified within this submission.

49. NHS Lothian Board Performance Report

- 49.1 The Deputy Chief Executive presented the Board Performance Paper, highlighting key messages around primary care activity; population and demographic challenges to primary care and GP out of hours (LUCS) performance.
- 49.2 The Board noted that the report had used July data, as the most up to date validated information and whilst there was an improvement against previously reported waiting times, current management information was showing a significant increase in delayed discharges. The Scottish Government's decision not to replace interim care bed funding was likely to add to the acute sector backlog.
- 49.3 The updates around the Emergency Access Standard (EAS) Improvement Programme and REAS situation as previously referred to under the Board Executive Team report, were noted.
- 49.4 The Board discussed the flatlining of the 12 weeks 1st Outpatient appointment chart, improvement actions, timescales and when improvements may be seen. The Deputy Chief Executive explained that the activity profile was now up to and beyond pre-pandemic levels, using both face-to-face and virtual appointments to drive that performance. However, changes to referral urgencies had seen allocation of first appointments going to the most prioritised patients, with more routine patients having to wait longer. It was recognised that there was not sufficient context to explain the graph, and a further deep dive could be picked up in Strategy, Planning and Performance Committee (SPPC) as the Board's committee structure allows for. Discussion at SPPC should also consider the Performance Overview coversheet and whether this could be adapted to better highlight immediate performance concerns for focus to the Board.
- 49.5 There was further discussion on trends, stability, and significant challenges within primary care. The Director for Primary Care explained that activity remained stable and in line with normal variation. However, data measured activity, rather than demand. Some indication of demand was provided where practices had to close their lists and eight practices in Lothian were operating with closed lists. As such, whilst the position was stable overall, there were pockets of relative instability that needed to be managed and these areas of heightened risk had been recognised in risk mitigation plans.
- 49.6 Discussion also covered access to additional capacity from NHS Fife's National Treatment Centre for orthopaedics and the Golden Jubilee National Treatment Centre. The Chief Officer for Acute Services confirmed that the process for using Fife had started, with the first patients expected to be treated in November. However, these numbers were small, around fifty per month. In relation to Golden Jubilee the Chief Executive indicated his intention to raise with Scottish Government the fact that additional resources appeared to have been allocated without full and fair consideration of the needs of each Board.
- 49.7 The Board agreed to note the performance across NHS Lothian in relation to the metrics included in the paper. Assurance levels for expected delivery against key national standards and local trajectories by the end of 2023/24 were noted and the Board acknowledged that deeper analysis regarding the mitigation plans, or assurance provided for the corporate risks would be addressed via existing governance channels and designated board sub-committees.

50. Corporate Risk Register

- 50.1 The Executive Medical Director presented the paper. The Board noted that there were no new risks or risks being de-escalated for discussion. There were several risks sitting at the highest level which, as previously discussed by the Board, meant that the impacts of additional risk mitigation were constrained with less opportunity for manoeuvre.
- 50.2 There was discussion on the improved narrative in the report. The Executive Medical Director explained that it was important for the Board to have an indication of the number of Board risks that remain at the highest level of risk overtime and were not able to be reduced.
- 50.3 The Chief Executive added that, in the face of such sustained and extremely high risks, it was likely that significant and difficult decisions would need to be considered at both national and local levels around revenue funding, capital infrastructure, and staffing. The Board discussed the mechanisms available to consider its choices locally and in concert with other boards, recognising that it was challenging to do so without clarity, at a national level, on strategic direction and available resources. The current approach to developing Board Annual Delivery Plans was insufficient for this purpose. It was acknowledged that the coming winter would be especially challenging and would exacerbate existing risks even further.
- 50.4 The Board accepted the August 2023 updates provided by leads concerning the risk mitigations, as set out in the assurance table in Appendix 1 of the paper.

51. NHS Lothian 2022/23 Financial Position

- 51.1 The Director of Finance provided an update to the Board on NHS Lothian's financial position at Month 5. Although the position was ahead of trajectory, the year-end forecast remained unchanged as the impact of winter, fuel and inflation was still to work through. There was also sustainability funding received that had not been allocated out yet. Allocation decisions would go through the Corporate Management Team.
- 51.2 There was discussion on recurrent and non-recurrent pay award funding; the 3% efficiency target; concerns around the delays with GP prescribing data which can have a significant financial impact; nurse agency use and the need to switch off agency use over the next couple of months with a lot of staff coming in. Mid-year reviews and year end forecasting was progressing with a view to thinking about 2024/25 and financial planning for the year ahead.
- 51.3 The potential cost impact of unused prescribed medication was raised and considered, based on the anecdotal experience of one non-executive Board member. The Executive Medical Director explained that legislation in this area, including the Medicines Act, imposed restrictions on how unused medicines must be disposed of, once prescribed. However, there were protocols in place to try and prevent oversupply and manage resources efficiently. She agreed to provide further detail if required. It was also noted that the Finance and Resources Committee was planning to hold a development session on prescribing within NHS Lothian, where this issue would be covered.
- 51.4 The Board accepted that based on information available at this stage, only limited assurance could be agreed on NHS Lothian's ability to deliver a breakeven position in 2023/24, based on assumptions around additional funding.

52. Any Other Business

52.1 No other items of competent business were identified.

53. Reflections on the Meeting

53.1 The Chair reflected on the excellent work by the Transatlantic Slavery Independent Advisory Group and looked forward to the Implementation Group phase. The stark position around winter planning and the difficulties staff on the frontline would face this winter were of concern to the Board. The likely need for difficult decisions, indicated by the current levels of performance and highly graded risks, was also acknowledged.

53.2 The Chair highlighted the need for non-executive Board member representatives to attend the following meetings/events:

- Edinburgh IJB – 16 November 2023: Mr Connor agreed to attend this meeting as a proxy voting member.
- Astley Ainslie Hospital 100 years celebration – 28 October 2023: Mr Innes agreed to attend this event which the Executive Nurse Director would also be attending.

54. Date of Next Board Meeting

- 06 December 2023

Signed by Chair at Board on 06/12/2023