

## **Item 5.10 Follow on appendix 2**

### **Midlothian Integration Scheme (Body Corporate)**

**21 June 2019**

**The Midlothian Integration Joint Board was established on 27 June 2015. The parties have reviewed and updated the integration scheme to incorporate new responsibilities arising from the Carers (Scotland) Act 2016 and associated regulations. Midlothian Council reviewed and approved this scheme for submission on 26 March 2019, and the NHS Board did so on 4 April 2019. The Scottish Government confirmed on 29 April 2019 that the Cabinet Secretary approved this revised scheme.**

**This is the final version of the revised scheme, which reflects a smaller number of consequential amendments to other law in the schedules arising from the Carers (Scotland) 2016.**

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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. 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 the Midlothian Area
  
- 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 Part 1 Annex 1 (subject to the exceptions and restrictions also specified or referred to in Part 1 of Annex 1). 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 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 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 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. The Integration Dataset and the core set of indicators will provide information for the performance framework developed in the process described in 5.4.4.

- 5.4.8. 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.
- 5.4.9. 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.
- 5.4.10. 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.
- 5.4.11. 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.
- 5.4.12. 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. 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.
- 6.1.2. 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.

- 6.1.3. This section describes the relationship between the Parties' clinical and care governance systems and the IJB. The relationship between these systems and the Strategic Planning Group and delivery of services within localities will be via the Chair and Chief Officer of the IJB. The IJB non-voting membership includes the Chief Social Work Officer and three health professionals who are determined by NHS Lothian. These members will provide a further link between the Parties clinical and care governance systems and the IJB as described in section 6.2. It is for the IJB to ensure that the Strategic Planning Group has sufficient information to undertake its function and the Parties shall provide such information to the IJB as is necessary for it to do so. This is in line with the commitment in this scheme at 5.3.1 to provide the IJB with the corporate support services required to fully discharge its responsibilities under the Act, which includes support to the IJB, its Strategic Planning and localities,.
- 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:
- The Chief Officer for NHS Lothian acute hospital services and directors responsible for the Western General Hospital, the Royal Infirmary of Edinburgh, 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.
- 7.6. A group consisting of Directors responsible for hospital functions delegated to the IJB and the Chief Officers of the four IJBs in Lothian will be established before the IJBs are established to ensure close working arrangements between a) IJB Chief Officers, the Chief Officer, for NHS Lothian acute hospital services and the Hospital Site Directors and b) Chief Officers responsible for the management of a hosted service on behalf of the other three Lothian Chief Officers.

## **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 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. The balancing payment will be reviewed throughout the year and depending on the expected value for the adjusting payment, it will be either made one-off prior to year-end or on a quarterly basis.

#### 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. NHS Lothian will follow the same process for subsequent years:
- 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.

9.2.33. It is expected by the Parties that as a minimum there will be quarterly financial reports to Chief Officer, Quarterly reports to the IJB for section 1(3) e and 6 monthly reports to the Chief Officers and the IJB on the set-aside and hosted service budgets. The IJB can request more reports if required.

### **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 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. As part of the financial year end procedures and in order to develop the year-end financial statement, the Chief Financial officer and the Parties will work together to coordinate an exercise agreeing the value of balances and transactions with Council and NHS Finance teams. Each Party will provide information to this process on their recorded income, expenditure, receivable and payable balance with the IJB. The Chief Finance Officer will lead with the Parties on resolving any differences.
- 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 Parties expect that 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 the Parties expect that 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. This will also form the process for amending the Pan Lothian and Borders General Information Sharing Protocol.
- 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.

- 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. This will follow the process described in 11.3.
- 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 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 Midlothian Council by:

Telephone: 0131 561 5444

Email: [feedback@midlothian.gov.uk](mailto:feedback@midlothian.gov.uk)

Online: [www.midlothian.gov.uk/feedback](http://www.midlothian.gov.uk/feedback)

In writing to Midlothian Council feedback, Freepost SCO5613, Dalkeith, EH22 0BR

- 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, so that a service user only needs to submit a complaint once.

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. A shared risk management strategy which will include risk monitoring and a reporting process for the Parties and Integration Joint Board will be established in the first year of the Integration Joint Board. In developing this shared risk management strategy the Parties and the Integration Joint Board will review the shared risk management arrangements currently in operation. This in turn will provide a list of risks to be reported on.

14.1.2. The Parties will provide to the Integration Joint Board sufficient support to enable it to fully discharge its duties in relation to risk management. This will be determined through the process describe in section 5.3.

14.1.3. The Parties anticipate that the IJB will also 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.

14.1.4. 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.

14.1.5. 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

## Midlothian Integration Scheme

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.
- 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 1

### 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 in compliance with the Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014.

<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 48 (provision of residential and practice accommodation); section 55 <sup>(3)</sup> (hospital accommodation on part payment);

<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> 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.

section 57 (accommodation and services for private patients);

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

section 75A<sup>(4)</sup> (remission and repayment of charges and payment of travelling expenses);

section 75B<sup>(5)</sup>(reimbursement of the cost of services provided in another EEA state);

section 75BA <sup>(6)</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>(7)</sup> use and administration of certain endowments and other property held by Health Boards);

section 83<sup>(8)</sup> (power of Health Boards and local health councils to hold property on trust);

section 84A<sup>(9)</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>(10)</sup> (charges in respect of non-residents); and

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

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<sup>(4)</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>(5)</sup> Section 75B was inserted by S.S.I. 2010/283, regulation 3(3) and amended by S.S.I. 2013/177.

<sup>(6)</sup> Section 75BA was inserted by S.S.I. 2013/292, regulation 8(4).

<sup>(7)</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>(8)</sup> There are amendments to section 83 not relevant to the exercise of a Health Board's functions under that section.

<sup>(9)</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>(10)</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.

and functions conferred by—

The National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 <sup>(11)</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

The National Health Service (Free Prescription and Charges for Drugs and Appliances) (Scotland) Regulations 2011/55<sup>(12)</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**

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<sup>(11)</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.

<sup>(12)</sup> S.S.I. 2011/55, to which there are amendments not relevant to the exercise of a Health Board's functions.

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>(13)</sup>;

section 38 (Duties on hospital managers: examination notification etc.)<sup>(14)</sup>;

section 46 (Hospital managers' duties: notification)<sup>(15)</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);

section 264 (Detention in conditions of excessive security: state hospitals);

section 267 (Orders under sections 264 to 266: recall);

section 281<sup>(16)</sup> (Correspondence of certain persons detained in hospital);

and functions conferred by—

The Mental Health (Safety and Security) (Scotland) Regulations 2005<sup>(17)</sup>;

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<sup>(13)</sup> There are amendments to section 34 not relevant to the exercise of a Health Board's functions under that section.

<sup>(14)</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>(15)</sup> Section 46 is amended by S.S.I. 2005/465.

<sup>(16)</sup> Section 281 is amended by S.S.I. 2011/211.

<sup>(17)</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.

The Mental Health (Cross Border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2005<sup>(18)</sup>;

The Mental Health (Use of Telephones) (Scotland) Regulations 2005<sup>(19)</sup>; and

The Mental Health (England and Wales Cross border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2008<sup>(20)</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>(21)</sup>.

### **Carers (Scotland) Act 2016**

#### Section 12

(duty to prepare young carer statement)

#### Section 31

(duty to prepare local carer strategy)

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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 so far as they extend to the services detailed in Part 2 of Annex 1 of this Scheme.

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<sup>(18)</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>(19)</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>(20)</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>(21)</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 2**

### **Services currently provided by NHS Lothian which are to be delegated**

#### **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>(22)</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.

The functions listed in Part 1 of Annex 1 are delegated to the extent that they are exercisable in the provision of the following services:

#### **Part 2 A**

##### **Provision for people over the age of 18**

The functions listed in Part 1 are delegated to the extent that:

- a) the function is exercisable in relation to the persons of at least 18 years of age;
- b) the function is exercisable in relation to care or treatment provided by health professionals for the purposes of the health care services listed at numbers 1-6 in the list below: and
- c) the function is exercisable in relation to the health services listed in this part 2A

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.

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<sup>(22)</sup> S.S.I. 2004/115.

- 6.** Mental health services provided in a hospital, except secure forensic mental health services.
- 7.** District nursing services.
- 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>(23)</sup>.
- 12.** General dental services provided under arrangements made in pursuance of section 25 of the National Health (Scotland) Act 1978<sup>(24)</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>(25)</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>(26)</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.

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<sup>(23)</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>(24)</sup> Section 25 was relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 15.

<sup>(25)</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>(26)</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.

## **Part 2B**

NHS Lothian has also chosen to delegate the functions listed in Part 1 of Annex 1 in relation to the following services.

### **Provision for people under the age of 18**

The functions listed in Part 1 are also delegated to the extent that:

- a) The function is exercisable in relation to persons of less than 18 years of age; and
- b) The function is exercisable in relation to the services listed in this part 2B

- 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 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

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<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>

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**National Assistance Act 1948<sup>(27)</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>(28)</sup>**

Section 3  
(Provision of sheltered employment by local authorities)

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<sup>(27)</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>(28)</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>(29)</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>(29)</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 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>(30)</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>(31)</sup></b>	
Section 2 (Rights of authorised representatives of disabled persons.)	
Section 3 (Assessment by local authorities of needs of disabled persons.)	

<sup>(30)</sup> 1982 c.43; section 24(1) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), schedule 13.

<sup>(31)</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>Enactment conferring function</i>	<i>Column B</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>(32)</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 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>(33)</sup></b>	

<sup>(32)</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.

<sup>(33)</sup> 2001 asp 10; section 92 was amended by the Housing (Scotland) Act 2006 (asp 1), schedule 7.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
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>(34)</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>(35)</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.)	
Section 228 (Request for assessment of needs: duty on local authorities and Health Boards.)	
Section 259 (Advocacy.)	
<b>The Housing (Scotland) Act 2006<sup>(36)</sup></b>	

<sup>(34)</sup> 2002 asp 5.

<sup>(35)</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.

<sup>(36)</sup> 2006 asp 1; section 71 was amended by the Housing (Scotland) Act 2010 (asp 17) section 151.

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<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 71(1)(b) (Assistance for housing purposes.)	Only in so far as it relates to an aid or adaptation.

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**The Adult Support and Protection (Scotland) Act 2007<sup>(37)</sup>**

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.)

**Social Care (Self-directed Support) (Scotland) Act 2013<sup>(38)</sup>**

Section 5  
(Choice of options: adults.)

Section 6  
(Choice of options under section 5: assistances.)

Section 7  
(Choice of options: adult carers.)

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<sup>(37)</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>(38)</sup> 2013 asp 1.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
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.)	
<b>Carers (Scotland) Act 2016</b>	
Section 6 (Duty to prepare adult carer support plan)	
Section 21 (Setting of local eligibility criteria.)	
Section 24 (Duty to provide support)	
Section 25) (Provision of support to carers: breaks from caring)	
Section 31) (Duty to prepare local carer strategy)	
Section 34 (Information and advice service for carers)	
Section 35 (Short breaks services statements)	

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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<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>(39)</sup>	
The functions conferred by Regulation 2 of the Community Care (Additional Payments) (Scotland) Regulations 2002 <sup>(40)</sup>	

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<sup>(39)</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>(40)</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.

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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
- 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 hospital acute services and 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)

## Annex 3:Operational Management Arrangements

- SMART Centre (Edinburgh)
- 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 Chief Officer for NHS Lothian acute hospital services and 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

## Annex 4: Integration Scheme Consultation

### Consultation for the amendment to the Integration Scheme in February 2019

The scheme has been updated to take account of the Carers (Scotland) Act 2016. There are no other substantive changes and in view of this there is considered no need to undertake a major consultation programme. However the document was published on the websites of both Midlothian Council and NHS Lothian for a four week period starting the week beginning the 11<sup>th</sup> February.