

**Final Integration Scheme  
(Body Corporate)**

**Edinburgh Integration Joint Board**

**Version 2 - 19 September 2019**

## Contents

	<b>Preamble</b>	
	Aims and Vision	4
	<b>Integration Scheme</b>	
<b>Section</b>		
1	Definitions and Interpretation	5
2	The Model to be Implemented	7
3	Local Governance Arrangements <ul style="list-style-type: none"> <li>• Membership</li> <li>• Chairperson and Vice Chairperson</li> <li>• Disqualification etc</li> </ul>	7
4	Delegation of Functions	8
5	Local Operational Delivery Arrangements <ul style="list-style-type: none"> <li>• Operational Role of the IJB</li> <li>• Support for Strategic Planning</li> <li>• Lothian Hospital Strategic Plan</li> <li>• Professional Technical and Administrative support services</li> <li>• Performance targets, improvement measures and reporting arrangements</li> </ul>	9
6	Clinical and Care Governance <ul style="list-style-type: none"> <li>• Introduction</li> <li>• Professional Advice</li> <li>• Professionals informing the IJB Strategic Plan</li> <li>• Service User and Carer Feedback</li> </ul>	17
7	Chief Officer	26
8	Workforce	27
9	Finance <ul style="list-style-type: none"> <li>• Financial Governance</li> <li>• Payments to IJB</li> <li>• Financial Reporting</li> <li>• Process for Addressing Variance</li> <li>• Redetermination of Payments</li> <li>• Redetermination of Set-aside Amounts</li> <li>• Use of Capital Assets</li> <li>• Financial Statement and External Audit</li> </ul>	28
10	Participation and Engagement	39

	<ul style="list-style-type: none"> <li>• Integration Scheme</li> <li>• Participation and Engagement Strategy</li> </ul>	
11	Information- Sharing and Data Handling	41
12	Complaints	42
13	Claims Handling, Liability and Indemnity	45
14	Risk Management <ul style="list-style-type: none"> <li>• IJB</li> <li>• NHS Lothian and Council</li> </ul>	48
15	Dispute resolution	50

<b>Annex</b>		
Annex 1 Part 1:	Functions Delegated by NHS Lothian to the IJB	51
Annex 1 Part 2:	Services associated with the functions delegated by NHS Lothian to the IJB	58
Annex 2 Part 1:	Functions Delegated by CEC to the IJB	61
Annex 2 Part 2:	Services currently associated with the functions delegated by CEC to the IJB	69
Annex 3	Shadow Strategic Planning Group Consultees	70
Annex 4	List of Consultees	71
Annex 5	Summary of main features 'Consulting Edinburgh Framework'	74

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

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

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

The Parties' ambition for the IJB is as follows:

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

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

## **Integration Scheme**

**between**

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

**and**

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

(together the **"Parties"**, and each a **"Party"**)

## **Background**

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

The Parties agree as follows:

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

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

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

"Edinburgh Area" means the local authority area served by CEC;

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

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

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

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

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

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

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

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

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

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

“Scheme” means this integration scheme;

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

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

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

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

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

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

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

2.2 This Scheme comes into effect on the Relevant Date.

## **3. Local Governance Arrangements**

### **3.1 Membership**

3.1.1 The IJB shall have the following voting members:

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

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

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

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

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

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

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

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

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

3.2.5 The chairperson shall not have a casting vote.

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

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

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

## **4. Delegation of Functions**

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

4.2 The functions that are to be delegated by CEC to the IJB (subject to the restrictions and limitations specified or referred to in Part 1 of Annex 2) are set out in Part 1 of Annex 2. For indicative purposes only, the services which are currently provided by CEC in carrying out these functions are described in Part 2 of Annex 2.



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

### **Operational Role of IJB**

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

supplying such further information and evidence in respect of that matter as the IJB may reasonably request.

- 5.1.7 The Parties shall ensure that their respective standing orders, schemes of delegation and other governance documents are amended (if and in so far as required) to reflect the IJB's powers and remit, and its place as a common decision-making body within the framework for delivery of health and social care within the Edinburgh Area.
- 5.1.8 The voting members of the Integration Joint Board are councillors of CEC and non-executive directors (or other board members) of NHS Lothian. In their capacity as councillors and non-executive directors, they will be engaged in the governance of their respective constituent bodies, and it is likely that they will be members of one or more committees of those constituent bodies.
- 5.1.9 Given the overall vision as outlined in the preamble to the Scheme, it is the intention that the interests of NHS Lothian, CEC, and the Integration Joint Board should be integrated. In all matters associated with the work of the Integration Joint Board, the voting members of the Integration Joint Board will be expected by the Parties to play a crucial role in:
- (a) communicating, and having due regard to, the interests of NHS Lothian or (as the case may be) CEC, but on the understanding that, in carrying out their role as a member of the Integration Joint Board, their primary duties and responsibilities are those which attach to them in that capacity;
  - (b) communicating, and having due regard to, the interests of the Integration Joint Board whilst discharging their role as a councillor or (as the case may be) as a non-executive director, but on the understanding that, in carrying out their role as a councillor or non-executive director, their primary duties and responsibilities are those which attach to them in that capacity.
- 5.1.10 Without prejudice to the role of the voting members of the Integration Joint Board (as specified above) in relation to oversight of operational delivery of services in accordance with directions issued to either or both of the Parties by the Integration Joint Board, the Integration Joint Board will, through the Chief Officer, have an appropriate role in the operational delivery of services by the Parties in the carrying out of integration functions. The Parties acknowledge that the Chief Officer's role in operational delivery will represent an important means by which closer integration of services, in accordance with the integration delivery principles specified in the Act, can be achieved.

For the avoidance of doubt, the Chief Officer's role in operational delivery shall not displace

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

5.1.11 This Scheme sets out, in various sections of the Scheme, the detailed measures regarding the governance of integration functions. Over and above these measures, the Parties will use all reasonable endeavours to ensure that the members of the IJB are fully involved in overseeing the carrying out of integration functions through the following measures:

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

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

### **Support for Strategic Planning**

5.1.13 The Parties will provide the IJB with all information that it may reasonably require to prepare its Strategic Plan, including information that is pertinent specifically to localities.

5.1.14 The Parties will advise the IJB of any intention to change service provision where that change would have a significant impact on the Strategic Plan.

5.1.15 The Parties will support the IJB in ensuring that the consultation process associated with the preparation of each Strategic Plan for the Edinburgh Area includes other integration authorities likely to be affected by the Strategic Plan. The integration authorities that are most likely to be affected by the Strategic Plan for the Edinburgh Area are:

- (a) East Lothian integration joint board
- (b) Midlothian integration joint board
- (c) West Lothian integration joint board.

5.1.16 NHS Lothian will procure that reciprocal provisions to those set out in Sections 5.1, 5.2 and to 5.3 are contained in the integration schemes of the Neighbouring IJBs.

5.1.17 The Parties will provide appropriate support (through the measures specified in Section 5.1.18) with a view to ensuring that the IJB can:

- (a) effectively engage in all of the planning processes and support the Neighbouring IJBs in discharging their role, including contributing to the work of the Strategic Planning Groups for the Neighbouring IJBs as required;
- (b) provide such information and analysis as Neighbouring IJBs reasonably require for the production of their Strategic Plans;
- (c) inform Neighbouring IJBs as to how the services, facilities and resources associated with the functions delegated to the IJB by the Parties are being or are intended to be used with respect to carrying out of those functions in line with these planning processes;
- (d) in a situation where Strategic Plans in one area are likely to have an impact on the plans in another area, ensure that these matters are raised with other relevant integration joint boards and resolved in an appropriate manner;
- (e) in a situation where Strategic Plans in another area are likely to have an impact on the Edinburgh Area, ensure that these matters are raised and any associated risks are mitigated for the benefit of service users.

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

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

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

## 5.2 Lothian Hospitals Strategic Plan

5.2.1 NHS Lothian will develop a plan (the “**Lothian Hospitals Strategic Plan**”) to avoid destabilisation of hospital provision and to support the Lothian IJBs to achieve their purpose. The Lothian Hospitals Strategic Plan will encompass both functions delegated to the Lothian IJBs and functions that are not so delegated.

5.2.2 The Lothian Hospitals Strategic Plan will be developed in partnership with the Lothian IJBs where integration functions are delivered by NHS Lothian in a hospital. It will reflect the relevant provisions of the Strategic Plans prepared by the respective Lothian IJBs, as well as NHS Lothian plans for non delegated functions. The first Lothian Hospitals Strategic Plan will be published by 1 December 2015.

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

- (a) responsive to and supports each Strategic Plan prepared by the Lothian IJBs for delegated functions; and
- (b) supports the requirement of NHS Lothian to deliver hospital services required by the IJB and other hospital services that are not the responsibility of the Lothian IJBs (e.g. tertiary, trauma, surgical, planned and children's services).

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

5.2.5 The Lothian Hospitals Strategic Plan will be updated at least every three years; the process to update the plan (which will include appropriate consultation) will be led by NHS Lothian.

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

5.3.1 In the short term, the Parties will continue to use the arrangements that have already been put in place to provide professional, technical and administrative support to Community Health Partnerships, social care services and joint working more generally.

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

5.3.3 Key matters that the working party will address are:

- (a) understanding the needs of the Lothian IJBs (in relation to functions delegated to them), as well as the continuing needs of the Parties (for non-delegated functions);
- (b) defining what is meant by "professional, technical or administrative services";

- (c) systems to appoint the Chief Officer and Chief Finance Officer, as well as addressing their requirements for support;
- (d) bringing all these elements together and devising a pragmatic and sustainable solution.

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

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

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

5.4.1 All national and local outcomes, improvement measures and performance targets which are connected exclusively with the functions delegated by the Parties to the IJB under the Scheme will become the responsibility of the IJB to deliver; and the IJB will also be responsible for providing all such information regarding integration functions which is required by either of the Parties to enable each of them to fulfil its obligations regarding reporting arrangements in respect of those functions.

5.4.2 Where particular national or local outcomes, measures or targets (and associated reporting arrangements) relate to services which are associated with both integration functions and functions which are not delegated by a Party to the IJB, the responsibility for the outcomes, measures or targets (and associated reporting arrangements) will be shared between the IJB and the Party or Parties which exercise those functions, and the IJB will be responsible for providing all such information regarding those integration functions as is required by the relevant Party to enable it to fulfil its obligations regarding reporting arrangements.

5.4.3 A set of shared principles will be developed and agreed between the Parties for targets and measurement based on existing best practice.

- 5.4.4 A core group of senior managers and relevant support staff from each Party will develop the performance framework for the IJB, taking account of relevant national guidance. In addition, a collaborative approach will be adopted with wider partners involved in the strategic planning group to develop a holistic approach to performance across the whole system. The framework will be underpinned by the Outcomes and will be developed to drive change and improve effectiveness. The framework will be informed by an assessment of current performance arrangements across the whole system and the development of a set of objectives which the framework will be intended to achieve.
- 5.4.5 The Parties recognise that the performance management framework for the IJB needs to be robust, and should draw from reliable information. In any performance management system there are risks that the information is inaccurate, incomplete, or not prepared on a consistent basis. It is also important to ensure that performance management systems are efficient and sustainable. To address these issues an integration dataset (“**Integration Dataset**”) will be created for the IJB.
- 5.4.6 The Integration Dataset will be a core set of indicators and measures identified by the Parties from publicly accountable and national indicators and targets which relate to services delivered in carrying out the functions of the IJB and will provide information for the performance framework developed through the process described in Section 5.4.4.
- 5.4.7 The Integration Dataset will include information on the data gathering, reporting requirements and accountability for each of the indicators, measures and targets referred to in Section 5.4.6; and including, in relation to each target, the extent to which responsibility is to transfer to the IJB.
- 5.4.8 The performance framework will be based on indicators from the Integration Dataset which are 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 the indicators within the Integration Dataset and will be linked to the Outcomes, to demonstrate progress in delivering the Outcomes.
- 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 Integration Dataset will be developed 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 arrangements in the Edinburgh Area to complement the existing clinical and care governance arrangements.

6.1.2 The Parties have well established governance systems (including committees of NHS Lothian and Committees of CEC, to provide governance oversight in terms of clinical and care governance, as well as assurance for professional accountabilities. Those existing systems will continue following the establishment of the IJB and their scope will be extended so as to support the IJB in fulfilling its clinical and care governance responsibilities.

6.1.3 This section describes the relationship between the Parties' clinical and care governance systems and the IJB. The relationship between these systems and (a) the Strategic Planning Group and (b) the delivery of services within localities, will be via the Chair and Chief Officer of the IJB, and further supported by the non-voting professional members of the IJB. The IJB will be responsible for ensuring that the Strategic Planning Group has sufficient information regarding clinical and care governance to effectively fulfil its remit; and each of the Parties undertakes to provide all such information as the IJB may reasonably require from time to time to support the IJB in discharging that responsibility.

- 6.1.4 Continuous improvement and the quality of service delivery (and its impact on outcomes) will be addressed through the development of the IJB's performance management framework pursuant to Section 5 of the Scheme.
- 6.1.5 The arrangements for local operational oversight by the IJB as Specified in section 5 will also apply to clinical and care governance.
- 6.1.6 Within its existing governance framework, NHS Lothian has:
- (a) a healthcare governance committee, the remit of which is to provide assurance to the Board of NHS Lothian that the quality of all aspects of care in NHS Lothian is person-centred, safe, effective, equitable and maintained to a high standard and to provide assurance to the Board of NHS Lothian that NHS Lothian meets its responsibilities with respect to:-
    - i. NHS Lothian participation standards
    - ii. Volunteers/Carers
    - iii. Information governance
    - iv. Protection of vulnerable people including children, adults, offenders
    - v. Relevant statutory equalities duties;
- and
- (b) a staff governance committee, the remit of which is to support and maintain a culture within NHS Lothian where the delivery of the highest possible standard of staff management is understood to be the responsibility of everyone working within NHS Lothian and is built upon partnership and collaboration. The staff governance committee must ensure that robust arrangements to implement the (NHS Scotland) Staff Governance Standard are in place and monitored.
- 6.1.7 The staff governance committee has the primary role on staff governance matters, but can and does refer matters of relevance to the healthcare governance committee.
- 6.1.8 The healthcare governance committee can request assurance from the staff governance committee on matters of direct relevance to its remit, e.g. quality of recruitment, learning and development, completion of mandatory training.
- 6.1.9 Within CEC, the Chief Social Work Officer has overall responsibility for the professional standards of CEC's social work and social care staff. The workforce is also regulated by the Scottish Social Services Council (SSSC), and all social work professional staff must by law be registered with the SSSC. This registration requirement will, in due

course, extend to all social care staff employed by CEC and the voluntary and independent sectors. Allied health professionals are required to register with their relevant professional body.

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

6.1.11 The Chief Social Work Officer also reports annually to CEC on standards achieved, governance arrangements and volume/quantity of statutory functions discharged. This report must comply with national guidance issued by the Scottish Government. The Chief Social Work officer will provide a copy of this annual report to the IJB.

6.1.12 For the avoidance of doubt, the rationale for using the relevant existing NHS Lothian and CEC committees (and associated arrangements) as a primary source of assurance for the IJB regarding clinical and care governance is that, following the establishment of the IJB, the Parties will have continuing governance responsibilities for both delegated and non-delegated functions and, against that background, the use of existing NHS Lothian and CEC committees avoids unnecessary bureaucracy. The IJB will be engaged through its membership on these committees and its relationship with the chairs of these committees. The IJB will be in a position to holistically consider the information and assurance received from the Parties in exercising its functions. If at any time the IJB is not satisfied with the information or assurance that it receives from the Parties, or with the effectiveness of the Parties' committees, it may address the issues of concern (a) by requesting a Party to take appropriate steps to revise its clinical and care governance systems, or (b) by revising its own clinical and care governance systems.

## **6.2 Professional advice**

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

6.2.1 NHS Lothian's Board has within its executive membership three clinical members (referred to below as "**Executive Clinical Directors**"): a Medical Director, a Nurse Director, and a Director of Public Health. Their roles include responsibility for the professional leadership and governance of the clinical workforce (medical, nursing, allied health professionals, healthcare scientists, psychology, pharmacy), as well as clinical governance within NHS Lothian generally. The creation of the IJB does not

change their roles in respect of professional leadership, and they remain the lead and accountable professionals for their respective professions.

- 6.2.2 CEC has a Chief Social Work Officer who reports to the Chief Executive and councillors. The Chief Social Work Officer monitors service quality and professional standards in social care and social work, for staff employed in both adult and children's services, together with standards in relation to the protection of people at risk. The Chief Social Work Officer role also includes quality assurance of decision-making with regard to adult social care, mental health, criminal justice and children's services, in particular in relation to public protection and the deprivation of liberty.
- 6.2.3 The creation of an IJB does not change the Chief Social Work Officer's role in respect of professional leadership, and he or she will remain the lead and accountable professional for his or her profession.
- 6.2.4 The Chief Social Work Officer must be a non-voting member of the IJB
- 6.2.5 The IJB may elect to appoint one or both of the Medical Director and Nurse Director as additional non-voting members of the IJB.
- 6.2.6 The Integration Joint Boards Order requires NHS Lothian to fill the following non-voting membership positions on the IJB:
- (a) a registered medical practitioner whose name is included in the list of primary medical services performers prepared by the Health Board in accordance with Regulations made under Section 17P of the National Health Service (Scotland) Act 1978;
  - (b) a registered nurse who is employed by the Health Board or by a person or body with which the Health Board has entered into a general medical services contract; and
  - (c) a registered medical practitioner employed by the Health Board and not providing primary medical services.
- 6.2.7 NHS Lothian will consider the advice of the Executive Clinical Directors, and of any other relevant officer it deems fit, before making appointments to fill the membership positions referred to in Section 7.2.6. The appointees will be professionally accountable to the relevant Executive Clinical Director.

- 6.2.8 NHS Lothian will develop a role description for the appointments referred to in Section 7.2.6, to ensure that their role on the IJB with regard to professional leadership and accountability is clearly defined and understood.
- 6.2.9 The three health professional representatives referred to in Section 7.2.6 will each also be:
- (a) a member of an integrated professional group (should it be established), and/or
  - (b) a member of an NHS Lothian Board committee, and/or
  - (c) a member of a consultative committee established by NHS Lothian.
- 6.2.10 If a new 'integrated professional group' is established, then the Chief Social Work Officer must also be a member.
- 6.2.11 The three health professional representatives set out in Section 7.2.6 and the Chief Social Work Officer will be expected by the Parties to play a lead role in:
- (a) communicating and having regard to their duties to NHS Lothian or CEC as the case may be whilst discharging their role as a member of the IJB;
  - (b) communicating and having regard to the interests of the IJB whilst discharging their duties as professionals employed by NHS Lothian or (as the case may be) CEC.
- 6.2.12 The members will be expected to communicate regularly with the Executive Clinical Directors, and CEC's Chief Executive as and when appropriate.
- 6.2.13 The presence of these four members will ensure that the decisions of the IJB are informed by professional advice from within the membership of the IJB.
- 6.2.14 As noted in Section 7.1.10, the Chief Social Work Officer reports annually to CEC on the registration of the workforce and on training, including mandatory training and post-qualifying learning and development.
- 6.2.15 NHS Lothian includes a governance statement in its annual accounts, the content of which is informed by the annual reports of its governance committees (such as healthcare governance and staff governance) and certificates of assurance from its Executive Clinical Directors. The IJB may place reliance on these existing processes,

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

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

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

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

6.2.19 If the issue is not resolved to his/her satisfaction, he/she must inform the Board of NHS Lothian before it takes action to implement the direction, and the following measures will apply:

- (a) the relevant Executive Clinical Director must ensure that appropriate advice is tendered to the Board of NHS Lothian on all matters relating to professional standards;
- (b) the relevant Executive Clinical Director must set out in writing to the Board of NHS Lothian any objections he/she may have on a proposal that may compromise compliance with professional standards;
- (c) the Board of NHS Lothian will inform the IJB that it has received such objections, along with a statement of the views of the Board of NHS Lothian on those objections;
- (d) if the Board of NHS Lothian decides to proceed with a proposal despite those objections, then the relevant Executive Clinical Director must obtain written authority from the Board of NHS Lothian to act on the proposal. The Board of NHS Lothian must inform the Scottish Government Health & Social Care Directorate if a request for such a written authority is made. A copy of that authority must be sent to the appropriate regulatory body, e.g. General Medical Council;

- (e) once the relevant Executive Clinical Director has received that written authority, then he/she must comply with it.

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

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

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

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

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

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

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

- (a) establish a strategic planning group (which will review the draft Strategic Plan). This strategic planning group must include a nominee from each Party in its membership, as well as representation from health professionals and social care professionals. The Parties will make recommendations to the IJB with regard to the representation from health professionals and social care professionals;

- (b) formally consult both Parties on its Strategic Plan, and take into account their views before it finalises the Strategic Plan.

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

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

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

- (a) Area Clinical Forum
- (b) Local consultative committees that have been established under Section 9 of the National Health Service (Scotland) Act 1978.
- (c) Managed Clinical/ Care Networks
- (d) Edinburgh Public Protection Committees (adult and child protection, drug and alcohol, violence against women, offender management etc). The IJB will consult these committees on any plans that may impact on the protection of children or vulnerable adults or people who are assessed as posing a risk
- (e) any integrated professional group which may be established.

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

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



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

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

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

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

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

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

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

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

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

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

## **7. Chief Officer**

- 7.1 The Chief Officer will be appointed by the IJB; he/she will be employed by one of the Parties and will be seconded to the IJB.
- 7.2 The Chief Officer will provide a strategic leadership role as principal advisor to and officer of the IJB and will be a member of the senior management teams of both Parties. The Chief Officer will lead the development and delivery of the Strategic Plan for the IJB and will be accountable to the IJB for the content of the directions issued to the Parties by the IJB and for monitoring compliance by the Parties with directions issued by the IJB. The Chief Officer's role in operational delivery will represent an important means by which closer integration of services, in accordance with the integration delivery principles specified in the Act, can be achieved.
- 7.3 The Chief Officer will be jointly managed by both Parties in respect of operational delivery and will report directly to the Chief Executive of NHS Lothian and the Chief Executive of CEC. There will be a joint process for regular performance reviews, support and supervision with both Chief Executives.
- 7.4 Annual objectives for the Chief Officer will be agreed and the process will involve the chairperson of the IJB agreeing objectives with the Chief Officer relevant to his/her role with the IJB as well as the Chief Executives of CEC and NHS Lothian. The Chief Officer's performance against those annual objectives will be monitored through an agreed performance management framework established by the Party which is his/her employer.
- 7.5 If an interim replacement for the Chief Officer of the IJB is required, in accordance with a request from the IJB to that effect (on the grounds that the Chief Officer is absent or otherwise unable to carry out his/her functions), the Chief Executives of CEC and NHS Lothian will initiate a joint selection process, identifying a list of potential replacements; and selection of a suitable candidate will be undertaken against a set of agreed criteria. The interim replacement will be employed by one of the Parties and will be seconded to the IJB on an interim basis.
- 7.6 The Chief Officer will have operational responsibility for all of the functions delegated to the IJB, subject to the following exceptions:

- 7.5.1 services associated with delegated functions which are delivered at the Western General Hospital, the Royal Infirmary of Edinburgh, St John's Hospital and the Royal Edinburgh Hospital will (subject to the directions issued from time to time by the IJB) be operationally managed by NHS Lothian;
  - 7.5.2 each of the specific services associated with functions delegated by NHS Lothian which is proposed to be managed on a pan-Lothian basis as a 'hosted service' will be operationally managed by one of the chief officers of the Lothian IJBs, as proposed by NHS Lothian, in their role as a member of the NHS Lothian senior management team, subject to the directions issued from time to time by the IJB; and
  - 7.5.3 where a physical change to a property is assessed to be required for an adult with social care needs, this will be operationally managed by CEC, subject to the directions issued from time to time by the IJB.
- 7.6 A group consisting of senior managers of NHS Lothian responsible for hospital functions delegated to the IJB and the chief officers of the four Lothian IJBs will be established, to ensure close working arrangements between:
- 7.6.1 chief officers of the four Lothian IJBs, and senior managers of NHS Lothian responsible for hospital services; and
  - 7.6.2 the chief officer of a Lothian IJB responsible for the management of any hosted services on behalf of the other three Lothian IJBs, and the other Lothian IJB chief officers.

## **8. Workforce**

- 8.1 A human resources and organisational development working group established by the Parties has prepared a work plan for integrating the health and social care workforce in Edinburgh. This group includes NHS Lothian partnership representatives and trade union representatives from CEC. The work plan guiding the work of the group includes a number of work streams, two of which focus on the implementation of an integrated senior management model and an organisational development plan respectively.
- 8.2 The organisational development plan, agreed between the Parties, is currently being implemented. This is a comprehensive plan which covers staff communication, staff engagement, staff and team development, leadership development and the training needs for those staff members who will be responsible for managing integrated teams. In particular, it includes procurement of team and leadership development programmes.

- 8.3 A workforce plan will be developed for the IJB to support the implementation of the Strategic Plan. The workforce plan will take into account the workforce supply and demand challenges that will need to be addressed in order to be able to implement the Strategic Plan.
- 8.4 Both the organisational development plan and workforce plan will be finalised following completion of the first Strategic Plan and will be refreshed annually to ensure that they take account of the Strategic Plan and the development needs of staff engaged in the delivery of integrated functions.
- 8.5 The Lothian-wide work plan for 2014 / 2015 guiding the group referred to in Section 8.1 is already agreed by the Parties. It will be reviewed annually.

## **9. Finance**

### **9.1 Financial Governance**

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

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

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

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

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

9.1.6 The Parties will work together in a spirit of openness and transparency, in all matters associated with financial governance.

### ***Financial Governance***

9.1.7 CEC and NHS Lothian agree to the establishment of an IJB Budget (as defined in Section 1 of the Scheme). The Chief Officer will manage the IJB Budget.

9.1.8 The Parties are required to implement the directions of the IJB in carrying out a delegated function in line with the Strategic Plan, provided that the costs incurred by the relevant Party in implementing a direction shall be met in full by the IJB.

9.1.9 The Parties will apply their established systems of financial governance to the payments they receive from the IJB. The NHS Lothian Accountable Officer and the CEC Section 95 Officer have legally defined responsibilities and accountability for the financial governance of their respective bodies.

9.1.10 The Chief Officer in his/her operational role within NHS Lothian and CEC is responsible for the financial management of any Operational Budget, and is accountable for this to the NHS Lothian Chief Executive and CEC Section 95 officer.

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

9.1.12 CEC will host the IJB financial accounts and will be responsible for recording the IJB financial transactions through its existing financial systems, including the ability to establish reserves.

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

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

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

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

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

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

9.2.2 It is expected that the net difference between payments into and out of the IJB may result in a balancing payment between CEC and NHS Lothian for each financial year which reflects the effect of the directions of the IJB. The anticipated amount of the balancing payment will be reviewed throughout each financial year; and depending on the expected amount of the balancing payment for a given financial year, the balancing payment will be made either on a single occasion or on a quarterly basis during a given financial year by agreement between the Parties.

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

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

### ***Hosted Services***

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

9.2.5 In order to identify the core baseline budget for each of the Hosted Services in each local authority area, NHS Lothian will initially determine which of the following

methodologies is the most appropriate in representing the distribution of the delivery of those services in each local authority area and their respective populations at a given point in time:

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

NHS Lothian will follow the same process in relation to each subsequent financial year.

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

### ***Due Diligence***

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

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

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

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

- 9.2.10 The CEC Section 95 officer and the NHS Lothian Director of Finance are responsible for preparing the draft schedules for their respective constituent authorities setting out the initial payment to the IJB. The CEC Section 95 officer and the NHS Lothian Director of Finance will consult with the Chief Officer (designate) and officers of both Parties as part of this process.
- 9.2.11 The CEC Section 95 officer and the NHS Lothian Director of Finance will each prepare a draft schedule outlining the detail and total value of the proposed payment from each Party, and the underlying methodology and assumptions behind that payment. These draft schedules will identify any amounts included in the payments that are subject to separate legislation or subject to restrictions stipulated by third party funders. The draft schedules will also contain the detail and total value of set aside resources for hospital services, made under Section 1(3) (d) of the Act.
- 9.2.12 The CEC Section 95 officer and the NHS Lothian Director of Finance will refer the draft schedules to the Chief Officer (designate) so that he/she has an opportunity to formally consider it. This draft schedule must be agreed by the Director of Finance of NHS Lothian, the CEC Section 95 Officer and the Chief Officer (designate). The CEC Section 95 officer and the NHS Lothian Director of Finance will thereafter present the final draft schedules to CEC and NHS Lothian for approval in line with their respective governance procedures.

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

- 9.2.13 The calculation of payments in each subsequent financial year will follow the same processes as are described above for the initial payment subject to the following:
- (a) the starting position will be the payments made to the IJB in the previous financial year;
  - (b) the Parties will then review the payments, having due regard to any known factors that could affect core baseline budgets, available funding, their existing commitments, the results of their own financial planning processes, the previous year's budgetary performance for the functions delegated to the IJB, the IJB's performance report for the previous year, and the content of the Strategic Plan;
  - (c) the Parties will also have due regard to the impact of any service re-design activities that have been a direct consequence of IJB directions;



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

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

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

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

NHS Lothian will follow the same process in relation to each subsequent financial year.

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

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

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

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

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

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

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

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

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

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

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

systems, and this will be co-ordinated and consolidated by the Chief Finance Officer to provide reports to the IJB on all the IJB's integration functions.

- 9.3.4 It is expected by the Parties that as a minimum there will be quarterly financial reports to the Chief Officer, quarterly reports to the IJB for section 1(3)(e) purposes, and six-monthly reports to the Chief Officer and the IJB on the set-aside and hosted service budgets; but on the understanding that the IJB may request more frequent reports if the IJB considers that to be appropriate.

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

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

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

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

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

or is not approved by the IJB, the dispute resolution arrangements provided for in the Scheme will apply.

### ***Underspends***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **9.7 Use of Capital Assets**

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

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

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

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

- 9.7.5 The Chief Officer of the IJB will consult with CEC and NHS Lothian to identify the specific need for improvements/changes to assets owned by each which may be required in connection with the carrying out of integration functions. Where a capital investment need is identified, the Chief Officer will present a business case to CEC and NHS Lothian to make best use of existing resources and develop capital programmes. Any business case will set out how the investment will meet the strategic objectives set out in the Strategic Plan and identify the ongoing revenue costs/savings associated with implementation of the proposals.
- 9.7.6 The IJB, CEC and NHS Lothian will work together to ensure that assets required in connection with the carrying out of integration functions are used as effectively as possible and in compliance with the relevant legislation relating to use of public assets.

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

- 9.7.7 The legislation requires that the IJB is subject to the audit and accounts provisions of a body under Section 106 of the Local Government (Scotland) Act 1973 (Section 13). This will require audited annual accounts to be prepared with the reporting requirements specified in the relevant legislation and regulations (Section 12 of the Local Government in Scotland Act 2003 and regulations under section 105 of the Local Government (Scotland) Act 1973). These will be proportionate to the limited number of transactions of the IJB whilst complying with the requirements for transparency and true and fair reporting in the public sector.
- 9.7.8 The reporting requirements for the annual accounts are set out in legislation and regulations and will be prepared following the CIPFA Local Authority Code of Practice.
- 9.7.9 As part of the financial year-end procedures and in order to develop the year-end financial statements, the Chief Financial Officer of the IJB will annually co-ordinate an exercise agreeing the value of balances and transactions with CEC and NHS Lothian finance teams. Each of the Parties will submit to the Chief Financial Officer of the IJB their recorded income, expenditure, receivable and payable balance with the IJB. The Parties' respective finance representatives will then work to resolve any differences arising.
- 9.7.10 The IJB financial statements must be completed to meet the audit and publication timetable specified in the regulations (Regulations under section 105 of the Local Government (Scotland) Act 1973). The Parties will agree a timetable for the preparation

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

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

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

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

## **10. Participation and Engagement**

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

10.1.1 The development of the Scheme has involved consultation with:

- (a) the groups represented on the shadow strategic planning group (the "SPG") established by the Parties as set out in the regulations issued under the Act. (further details of such groups being set out in Annex 3);
- (b) the service user and carer members of the shadow Integration Joint Board established by the Parties, and their wider networks; and
- (c) groups and fora that represent a combination of staff (practitioners and clinicians) service users and service providers (further details of such groups and fora being set out in Annex 4).

10.1.2 A collaborative three stage approach was adopted:

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

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

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

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



relating to delegated functions will, however, be a matter for the IJB. Further details are set out in Annex 5.

10.2.8 The Parties expect that the IJB Participation and Engagement Strategy will be produced before the date when the IJB approves the Strategic Plan. It is anticipated that the members of the IJB will want to be satisfied that the Strategic Plan has had sufficient consultation (and that the Participation and Engagement Strategy has been followed) before the IJB approves the Strategic Plan.

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

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

11.2 The Pan-Lothian and Borders General Information Sharing Protocol update will be agreed by December 2015. The process referred to in Section 11.1 will apply in relation to future reviews of, and amendments to, the Pan-Lothian and Borders General Information Sharing Protocol.

11.3 Procedures for sharing information between the relevant local authority, Health Board, and, where applicable, the relevant integration joint board will be drafted as Information Sharing Agreements and procedure documents. This will be undertaken by a sub group on behalf of the Pan-Lothian Data Sharing Partnership, who will detail the more granular purposes, requirements, procedures and agreements for each of the Lothian IJBs and the functions respectively delegated to them.

11.4 CEC and NHS Lothian will continue to be Data Controller for their respective records (electronic and manual), and will detail arrangements where these are jointly controlled by agreement. The IJB may require to be Data Controller for personal data if it is not held by either CEC or NHS Lothian.

11.5 Procedures will be based on a single point of governance model. This allows data and resources to be shared; with governance standards and their implementation being the separate responsibility of each organisation.

- 11.6 Following consultation, Information Sharing Protocols and procedure documents will be recommended for signature by the Chief Executives of the respective organisations, and by the Chief Officers of the Lothian IJBs (once established).
- 11.7 Once established, Agreements and Procedures will be reviewed bi-annually by the sub group of the Pan-Lothian Data Sharing Partnership, or more frequently if required. This will follow the process described in 11.3 above.
- 11.8 The Information Sharing Agreements and procedures applicable to the IJB will be agreed by December 2015.

## **12. Complaints**

- 12.1 People who use services provided in pursuance of integration functions will continue to make complaints either to CEC or to NHS Lothian. Both organisations have in place well publicised, clearly explained and accessible complaints procedures that allow for timely recourse and signpost independent advocacy services, where relevant.
- 12.2 Complaints about the delivery of an integration function may be made to, and dealt with by, the Party which is required to deliver that function in pursuance of a direction issued by the IJB or (in a case where the direction is issued in respect of a given function to both constituent authorities jointly) to either of those constituent authorities.

- 12.3 Complaints can be made to:

The Council by:

Telephone: 0131 553 8395

Email: [socialwork.complaints@edinburgh.gov.uk](mailto:socialwork.complaints@edinburgh.gov.uk)

In writing: by using the freepost slip attached to the Council's Social Work Advice and Complaints Service leaflet available from any social work office OR to Social Work Advice and Complaints, Level 1.7, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG

In person: at any social work office or by visiting Waverley Court at the address above.

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.

In person: by visiting Waverley Gate at the address above

(but on the understanding that the telephone numbers, email addresses, and postal addresses set out above reflect the position as at the Relevant Date; the telephone numbers, email addresses, and postal addresses to be used for making a complaint may be altered from time to time by the Parties).

- 12.4 When responding to complaints about a service which is delivered jointly, officers responsible for complaints handling within CEC and NHS Lothian will discuss the complaint, and identify which elements that are the subject of the complaint will be investigated by each Party, and agree which Party will prepare the written response at the end of the investigation. Failing agreement, the Chief Officer acting reasonably will decide which of the constituent authorities should prepare the written response and this will be signed by the Chief Officer.
- 12.5 Any investigation will be carried out in line with the published complaints procedure of the relevant Party, mindful of any statutory complaints handling arrangements that might apply. It will be the responsibility of the Party preparing the written response to ensure that the complainant is correctly signposted to the options open to him/her to progress his/her complaint if he/she remains dissatisfied.
- 12.6 On completion of the complaints procedure, complaints about specific social work functions may be referred to a Complaints Review Committee (CRC) at the complainant's request and thereafter the Scottish Public Services Ombudsman. At the end of the complaints process, complainants are entitled to take their complaint to the Scottish Public Services Ombudsman. Where appropriate, complainants will also be advised of their right to complain to the Care Inspectorate.
- 12.7 The Chief Officer will have an overview of complaints made about integration services and subsequent responses. Complaints about integration services will be recorded and reported to the Chief Officer on a regular and agreed basis. Regular trend analysis of complaints and complaint outcomes will also be carried out as part of a wider quality assurance framework.
- 12.8 Responsibility for responding to Scottish Public Services Ombudsman complaints enquiries will lie with the Party that dealt with the original complaint.
- 12.9 Where necessary, officers responsible for complaints handling within CEC and NHS Lothian will work together to provide a full response to any Scottish Public Services Ombudsman enquiry that covers both health and social care functions.

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

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

- 13.1 The liability of either or both Parties and/or the IJB in respect of any claim that may be made by a third party in relation to any matter connected with the carrying out of integration functions shall be determined in accordance with principles of common law and/or any applicable legislation.
- 13.2 Where a claim by a third party is received by either of the Parties or the IJB in relation to any matter connected with the carrying out of integration functions (the body receiving such a claim being referred to as the "Claim Recipient"), the Claim Recipient, shall, as soon as reasonably

practicable, notify the other Party and the IJB (or, in the case of a claim received by the IJB, both Parties); and the Parties and the IJB (each being bound to act reasonably in this respect) shall then jointly assess:

13.2.1 which of them could be held to be liable (whether wholly or partly) in relation to the claim were it to be upheld by the court; and

13.2.2 (where two or more of them could potentially be liable) which of them is more likely to carry the primary liability.

13.3 For the avoidance of doubt, in the circumstances referred to in Section 13.2:

13.3.1 the Claim Recipient may acknowledge receipt of the claim, but shall avoid taking any step (without the prior written consent of the other Party and the IJB; or, in the case of a claim received by the IJB, the prior written consent of both Parties) which could prejudice the defence of the claim, pending completion of the assessment referred to in that Section; and

13.3.2 the Claim Recipient shall provide such information available to it as may be required to facilitate any formal intimation or other steps which either Party or the IJB may require to take under the terms of any relevant insurance policy or (as the case may be) the CNORIS scheme.

13.4 Where, on the basis of the assessment carried out in pursuance of Section 13.2, it is considered that only the Claim Recipient could be held to be liable in relation to the claim should it be upheld by the court, the Claim Recipient may conduct the defence of the claim and any associated negotiations as it sees fit, but shall continue to keep the others informed in that regard.

13.5 Where, on the basis of the assessment carried out in pursuance of Section 13.2, it is considered that the other Party and/or the IJB (or, in the case of a claim received by the IJB, both Parties) could be held to be liable in relation to the claim should it be upheld by the court, the Claim Recipient shall, following that assessment:

13.5.1 provide the other body or bodies which (on the basis of that assessment) could be liable in respect of the claim, with all such information in relation to the claim as is available to the Claim Recipient;

13.5.2 allow that other body or bodies (and/or its or their insurers or, as the case may be, the relevant officers acting under the CNORIS scheme) to conduct the defence of the claim and any associated negotiations, subject to that other body or bodies indemnifying the Claim Recipient in relation to any loss or liability (including legal expenses on a solicitor-

client basis, and any award of expenses) which the Claim Recipient might thereby incur;  
and

13.5.3 avoid taking any step which could prejudice the defence of the claim without the prior written consent of that other body or bodies.

13.6 Where, on the basis of the assessment carried out in pursuance of Section 13.2, it is considered that the Claim Recipient could be held to be liable along with another Party and/or the IJB (or, where the Claim Recipient is the IJB, along with either or both Parties) in relation to the relevant claim were it to be upheld by the court:

13.6.1 the Claim Recipient and the other body or bodies (and/or their respective insurers or, as the case may be, the relevant officers acting under the CNORIS scheme) shall conduct the defence of the claim and any associated negotiations; and

13.6.2 the costs of defending the claim (and any associated negotiations) shall be shared between the bodies (including the Claim Recipient) who (on the basis of the assessment carried out in pursuance of Section 13.2) could be held to be liable in respect of the claim, and the indemnity by the other body or bodies referred to in Section 13.5.2 shall be qualified accordingly.

13.7 Where two or more bodies are to conduct the defence of any claim (and any associated negotiations) under Section 13.5.2 or 13.6.1, the body which is considered (on the basis of the assessment carried out in pursuance of Section 13.2) to be more likely to carry the primary liability shall have overall control of the conduct of the defence (and any associated negotiations), subject to liaising closely with the other relevant body or bodies and taking due account of the requirements of its or their insurers (and/or, as the case may be, any requirements associated with the CNORIS scheme).

13.8 If both Parties, or if either or both Parties and the IJB, receive a claim relating to the same matter, the procedures set out in Sections 13.1 to 13.7 shall (subject to Section 13.9) apply, subject to such adjustments (as agreed among the relevant bodies) as may be appropriate to facilitate the efficient handling of the claims.

13.9 If both Parties, or if either or both Parties and the IJB, are parties to the same court proceedings arising out of a claim, each of them (and/or its or their insurers or, as the case may be, the relevant officers acting under the CNORIS scheme) may conduct its own defence of the claim against it (and any associated negotiations) in such manner as it may see fit and at its own expense; and the liability of each body in respect of the claim shall be as determined by the court (or, if the claim is settled outwith the court proceedings) as agreed by each body in the context of the negotiations regarding settlement of the claim.

- 13.10 If a claim by a third party in relation to any matter connected with the carrying out of integration functions relates to services delivered in an area served by a Neighbouring IJB, or relates to services delivered within the Edinburgh Area under arrangements involving a Neighbouring IJB, each of the Parties, and the IJB, will liaise with each other and with the Neighbouring IJB in order to reach agreement as to how the claim is to be handled; the IJB and Neighbouring IJBs shall jointly develop and agree a protocol for the handling of claims of that nature.
- 13.11 The Parties and the IJB shall use all reasonable endeavours to operate the procedures set out in Sections 13.1 to 13.10 as rapidly as possible, and in a manner which complies with the requirements from time to time of relevant insurers and/or (as applicable) the CNORIS scheme; each of them undertakes to the others:
- 13.11.1 to provide all such information and render all such co-operation as may be reasonably required from time to time in connection with any such claim; and
- 13.11.2 if and to the extent that any matter which cannot be agreed between them requires to be dealt with under the dispute resolution procedure set out in Section 16, to operate the dispute resolution procedure as rapidly as possible so as to minimise any prejudice to (a) the efficient defence of the claim and/or (b) the ability of any body to access the benefit of any insurance policy or (as the case may be) the CNORIS scheme.
- 13.12 Where payment is made by either Party or by the IJB in settlement of a claim by a third party in relation to any matter connected with the carrying out of integration functions, the body which made payment (if that body is not wholly liable, on the basis of principles of common law and/or any applicable legislation, in respect of the matter which gave rise to the claim) shall be entitled to be indemnified by the other Party and/or the IJB (or, in a case where payment was made by the IJB, by either or both Parties) to the extent of its or their liability (as determined in accordance with principles of common law and/or any applicable legislation) in respect of the matter which gave rise to the claim; but due account shall be taken of any prejudice to the indemnifying body or bodies (including its/their ability to access the benefit of any insurance policy or, as the case may be, the CNORIS scheme) arising from any failure to comply with the other provisions of this Section 13.
- 13.13 For the avoidance of doubt, the principles set out in Section 13.12 shall also apply in respect of the expenses of defending any claim by a third party in relation to any matter connected with the carrying out of integration functions, and in respect of any award of expenses in connection with any such claim.
- 13.14 The arrangements set out in this Section 13 shall be subject to periodic review and adjustment, in order to reflect the requirements from time to time of insurers and the CNORIS scheme and

to ensure efficiency in the handling of claims; any revised arrangements shall be recorded in a written agreement entered into by the Parties and the IJB.

## **14. Risk Management**

14.1 A shared risk management strategy (which will include risk monitoring and a reporting process) for the Parties and the IJB will be established in the first year of the IJB. In developing this shared risk management strategy, the Parties and the IJB will work together to review the shared risk management arrangements currently in operation. This in turn will provide a list of risks to be reported on. The Parties will provide to the IJB sufficient support to enable it to fully discharge its duties in relation to risk management. This will be determined through the process described in section 5.3.

### **14.2 IJB**

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

14.2.2 The risk management strategy developed by the IJB is expected to include:-

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



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

### **14.3 NHS Lothian and CEC**

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

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

## **15. Dispute Resolution**

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

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

15.3 Where the matter remains unresolved within 21 days of service of the Dispute Notice, the Parties shall inform the chairperson of the IJB and may proceed to mediation with a view to resolving the issue. Any mediator will be external to the Parties and will be identified and appointed with the agreement of the Chair of NHS Lothian and the Leader of CEC and failing agreement within 21 days shall be nominated by the Centre for Effective Dispute Resolution (CEDR) on the request of either Party.

15.4 The mediation will start not later than 21 days after the date of appointment of the mediator.

- 15.5 The Parties agree that the cost of the mediator will be met equally by NHS Lothian and CEC. The timeframe to resolve the issue will be agreed prior to the start of the mediation process by the Chair of NHS Lothian and the Leader of CEC and notified to the chairperson of the IJB.
- 15.6 The chairperson of the IJB will inform Scottish Ministers in writing of the Dispute and agreed timeframe to conclude the mediation process.
- 15.7 Where following mediation the issue remains unresolved, the chairperson of the IJB shall notify Scottish Ministers in writing. Scottish Ministers may then advise the Parties how to proceed.
- 15.8 The Parties shall cooperate with each other to mitigate any adverse effect on service delivery pending resolution of the Dispute.
- 15.9 Nothing in this Scheme shall prevent either of the Parties from seeking any legal remedy or from commencing or continuing court proceedings in relation to the Dispute.

## Annex 1

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

Set out below is the list of functions that are to be delegated by NHS Lothian to the IJB, 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 38 <sup>(3)</sup> (care of mothers and young children) to the extent falling outwith the relevant services specified in Part 1B of Annex 1; section 38A <sup>(4)</sup> (breastfeeding) to the extent falling outwith the relevant services specified in Part 1B of Annex 1;

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

(2) 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.

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

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

section 39<sup>(5)</sup> (medical and dental inspection, supervision and treatment of pupils and young persons) to the extent falling outwith the relevant services specified in Part 1B of Annex 1;

section 48 (provision of residential and practice accommodation);

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

section 57 (accommodation and services for private patients);

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

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

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

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

section 79 (purchase of land and moveable property);

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

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

---

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

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

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

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

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

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

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

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

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

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

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

and

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

and functions conferred by—

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

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;

---

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

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

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

The National Health Service (General Dental Services) (Scotland) Regulations 2010/205; and  
The National Health Service (Free Prescription and Charges for Drugs and Appliances) (Scotland) Regulations 2011/55<sup>(15)</sup>.

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

Section 7

(Persons discharged from hospital)

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

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

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

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

Except functions conferred by—  
section 22 (Approved medical practitioners);  
section 34 (Inquiries under section 33: co-operation)<sup>(16)</sup>;  
section 38 (Duties on hospital managers: examination notification etc.)<sup>(17)</sup>;  
section 46 (Hospital managers' duties: notification)<sup>(18)</sup>;  
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);

---

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

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

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

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

section 260 (Provision of information to patients);

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

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

section 281<sup>(19)</sup> (Correspondence of certain persons detained in hospital);

and functions conferred by—

The Mental Health (Safety and Security) (Scotland) Regulations 2005<sup>(20)</sup>;

The Mental Health (Cross Border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2005<sup>(21)</sup>;

The Mental Health (Use of Telephones) (Scotland) Regulations 2005<sup>(22)</sup>; and

The Mental Health (England and Wales Cross border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2008<sup>(23)</sup>.

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

##### Section 23

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

#### **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).

---

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

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

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

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

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

### **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>(25)</sup> .
--	---

### **Carers (Scotland) Act 2016<sup>(24)</sup>**

Section 31

(duty to prepare local carer strategy)

---

But in each case, subject to the restrictions set out in paragraph (a) of article 3(3) of the Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014, and only so far as (i) they are exercisable in relation to care or treatment provided by health professionals for the purpose of the health care services listed in paragraphs (a) to (f) of Part 2 of this Annex 1 or (ii) they are exercisable in relation to the health care services listed in paragraphs (g) to (v) of Part 2 of this Annex 1.

---

<sup>(24)</sup> Entry inserted by Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Amendment Regulations 2017/381 (Scottish SI) reg.2 (December 18,2017)

<sup>(25)</sup> S.S.I. 2012/36. Section 5(2) of the Patient Rights (Scotland) Act 2011 (asp 5) provides a definition of “relevant NHS body” relevant to the exercise of a Health Board’s functions.



## **Annex 1**

### **Part 1B**

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

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

- (A) The functions listed in Part 1A of this Annex 1 insofar as they relate to the services listed below in relation to persons under the age of 18:
  - (a) Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
  - (b) General Dental Services, Public Dental Services and the services provided by the Edinburgh Dental Institute
  - (c) General Ophthalmic Services
  - (d) General Pharmaceutical Services
  - (e) Out of Hours Primary Medical Services
  - (f) Services for people with Learning Disabilities.
  
- (B) The functions listed in Part 1A of this Annex 1 insofar as they relate to the prison health care service provided within HMP Edinburgh and HMP Addiewell.

## Annex 1

### Part 2

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

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

In this Part 2—

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

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

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

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

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

“out of hours period” has the same meaning as in regulation 2 of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004<sup>(26)</sup>; and

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

- a) Accident and Emergency services provided in a hospital.
- b) Inpatient hospital services relating to the following branches of medicine—
  - (a) general medicine;
  - (b) geriatric medicine;
  - (c) rehabilitation medicine;
  - (d) respiratory medicine; and
  - (e) psychiatry of learning disability.
- c) Palliative care services provided in a hospital.
- d) Inpatient hospital services provided by General Medical Practitioners.
- e) Services provided in a hospital in relation to an addiction or dependence on any substance.

---

<sup>(26)</sup> S.S.I. 2004/115.

- f) Mental health services provided in a hospital, except secure forensic mental health services.
- g) District nursing services.
- h) Services provided outwith a hospital in relation to an addiction or dependence on any substance.
- i) Services provided by allied health professionals in an outpatient department, clinic, or outwith a hospital.
- j) The public dental service.
- k) Primary medical services provided under a general medical services contract, and arrangements for the provision of services made under section 17C of the National Health Service (Scotland) Act 1978, or an arrangement made in pursuance of section 2C(2) of the National Health Service (Scotland) Act 1978<sup>(27)</sup>.
- l) General dental services provided under arrangements made in pursuance of section 25 of the National Health (Scotland) Act 1978<sup>(28)</sup>.
- m) Ophthalmic services provided under arrangements made in pursuance of section 17AA or section 26 of the National Health Service (Scotland) Act 1978<sup>(29)</sup>.
- n) Pharmaceutical services\* and additional pharmaceutical services provided under arrangements made in pursuance of sections 27 and 27A of the National Health Service (Scotland) Act 1978<sup>(30)</sup>.
- o) Services providing primary medical services to patients during the out-of-hours period.
- p) Services provided outwith a hospital in relation to geriatric medicine.
- q) Palliative care services provided outwith a hospital.
- r) Community learning disability services.
- s) Mental health services provided outwith a hospital.
- t) Continence services provided outwith a hospital.

---

<sup>(27)</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>(28)</sup> Section 25 was relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 15.

<sup>(29)</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>(30)</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.

- u) Kidney dialysis services provided outwith a hospital.
- v) Services provided by health professionals that aim to promote public health.

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

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

- (A) Provision for people under the age of 18 of:
  - i) Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
  - ii) General Dental Services, Public Dental Services and the Edinburgh Dental Institute
  - iii) General Ophthalmic Services
  - iv) General Pharmaceutical Services
  - v) Out of Hours Primary Medical Services
  - vi) Learning Disabilities
  
- (B) The functions exercisable in relation to the prison health care service provided within HMP Edinburgh and HMP Addiewell.

## Annex 2

### Part 1

#### Functions delegated by CEC to the IJB

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

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
<b>National Assistance Act 1948<sup>(31)</sup></b>	
Section 48 (Duty of councils to provide temporary protection for property of persons admitted to hospitals etc.)	
<b>The Disabled Persons (Employment) Act 1958<sup>(32)</sup></b>	
Section 3 (Provision of sheltered employment by local authorities)	
<b>The Social Work (Scotland) Act 1968<sup>(33)</sup></b>	

<sup>(31)</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>(32)</sup> 1958 c.33; section 3 was amended by the Local Government Act 1972 (c.70), section 195(6); the Local Government (Scotland) Act 1973 (c.65), Schedule 27; the National Health Service (Scotland) Act 1978 (c.70), schedule 23; the Local Government Act 1985 (c.51), Schedule 17; the Local Government (Wales) Act 1994 (c.19), Schedules 10 and 18; the Local Government etc. (Scotland) Act 1994 (c.49), Schedule 13; and the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1.

<sup>(33)</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

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

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

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 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>(34)</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>(35)</sup></b>	
Section 2 (Rights of authorised representatives of disabled persons.)	
Section 3 (Assessment by local authorities of needs of disabled persons.)	
Section 7 (Persons discharged from hospital.)	In respect of the assessment of need for any services provided under functions contained in welfare enactments within the meaning of section 16 and which have been delegated.

<sup>(34)</sup> 1982 c.43; section 24(1) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), schedule 13.

<sup>(35)</sup> 1986 c.33. There are amendments to sections 2 and 7 which are not relevant to the exercise of a local authority's functions under those sections.

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 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>(36)</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

<sup>(36)</sup> 2000 asp 4; section 12 was amended by the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), schedule 5(1). Section 37 was amended by S.S.I. 2005/465. Section 39 was amended by the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1 and by S.S.I. 2013/137. Section 41 was amended by S.S.I. 2005/465; the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1 and S.S.I. 2013/137. Section 45 was amended by the Regulation of Care (Scotland) Act 2001 (asp 8), Schedule 3.



<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
<b>The Housing (Scotland) Act 2001<sup>(37)</sup></b>	
Section 92 (Assistance to a registered for housing purposes.)	Only in so far as it relates to an aid or adaptation.
<b>The Community Care and Health (Scotland) Act 2002<sup>(38)</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>(39)</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.)	

<sup>(37)</sup> 2001 asp 10; section 92 was amended by the Housing (Scotland) Act 2006 (asp 1), schedule 7.

<sup>(38)</sup> 2002 asp 5.

<sup>(39)</sup> 2003 asp 13; section 17 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), section 111(4), and schedules 14 and 17, and by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7. Section 25 was amended by S.S.I. 2011/211. Section 34 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedules 14 and 17.

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 259 (Advocacy.)	
<b>The Housing (Scotland) Act 2006<sup>(40)</sup></b>	
Section 71(1)(b) (Assistance for housing purposes.)	Only in so far as it relates to an aid or adaptation.
<b>The Adult Support and Protection (Scotland) Act 2007<sup>(41)</sup></b>	
Section 4 (Council's duty to make inquiries.)	
Section 5 (Co-operation.)	
Section 6 (Duty to consider importance of providing advocacy and other.)	
Section 11 (Assessment Orders.)	
Section 14 (Removal orders.)	
Section 18 (Protection of moved persons property.)	
Section 22 (Right to apply for a banning order.)	
Section 40 (Urgent cases.)	
Section 42 (Adult Protection Committees.)	
Section 43 (Membership.)	

<sup>(40)</sup> 2006 asp 1; section 71 was amended by the Housing (Scotland) Act 2010 (asp 17) section 151.

<sup>(41)</sup> 2007 asp 10; section 5 and section 42 were amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedules 14 and 17 and by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7. Section 43 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 14.

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
<b>Social Care (Self-directed Support) (Scotland) Act 2013<sup>(42)</sup></b>	
Section 5 (Choice of options: adults.)	
Section 6 (Choice of options under section 5: assistances.)	
Section 7 (Choice of options: adult carers.)	
Section 9 (Provision of information about self-directed support.)	
Section 11 (Local authority functions.)	
Section 12 (Eligibility for direct payment: review.)	
Section 13 (Further choice of options on material change of circumstances.)	Only in relation to a choice under section 5 or 7 of the Social Care (Self-directed Support) (Scotland) Act 2013.
Section 16 (Misuse of direct payment: recovery.)	
Section 19 (Promotion of options for self-directed support.)	
<b>Carers (Scotland) Act 2016<sup>(43)</sup></b>	
Section 6 <sup>(44)</sup> (duty to prepare adult carer support plan)	
Section 21 <sup>(45)</sup> (duty to set local eligibility criteria)	

<sup>(42)</sup> 2013 asp 1.

<sup>(43)</sup> Section 21 was inserted into the schedule of the Public Bodies (Joint Working) (Scotland) Act 2014 by paragraph 6 of the schedule of the Carers (Scotland) Act 2016 (asp 9).

<sup>(44)</sup> Section 6 was inserted by Public Bodies (Joint Working) (Prescribed Local Authority Functions etc.) (Scotland) Amendment (No. 2) Regulations 2017/449 (Scottish SI) reg.3(2)(c) (December 13, 2017)

<sup>(45)</sup> Entry inserted by Public Bodies (Joint Working) (Prescribed Local Authority Functions etc.) (Scotland) Amendment Regulations 2017/190 (Scottish SI) reg.2(2) (June 16, 2017)

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 24 <sup>(46)</sup> (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 statement)	

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

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
<b>The Community Care and Health (Scotland) Act 2002</b>	
Section 4 <sup>(47)</sup> The functions conferred by Regulation 2 of the Community Care (Additional Payments) (Scotland) Regulations 2002 <sup>(48)</sup>	

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

<sup>46</sup> Sections 24, 25, 31, 34 and 35 inserted by Public Bodies (Joint Working) (Prescribed Local Authority Functions etc.) (Scotland) Amendment (No. 2) Regulations 2017/449 (Scottish SI) reg.3(2)(c) (December 13, 2017)

<sup>(47)</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>(48)</sup> S.S.I. 2002/265, as amended by S.S.I. 2005/445.

## **Annex 2**

### **Annex 2 Part 2**

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

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

Social work services for adults and older people

Services and support for adults with physical disabilities and learning disabilities

Mental health services

Drug and alcohol services

Adult protection and domestic abuse

Carers support services

Community care assessment teams

Support services

Care home services

Adult placement services

Health improvement services

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

Day services

Local area co-ordination

Respite provision

Occupational therapy services

Re-ablement services, equipment and telecare.

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

### Annex 3

#### Shadow Strategic Planning Group Consultees

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

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

## **Annex 4 List of Consultees**

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

All Council members

All Health Board members

Edinburgh Partnership Board

Shadow Health and Social Care Partnership

Edinburgh Alcohol and Drugs Partnership

Reducing Re-offending Partnership

#### **Providers:**

Mental Health and Substance Misuse services providers

Disability services providers

Care at Home providers

Care home providers

Care at Home Providers

Scottish Care

Coalition Care Providers

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

Joint Mental Health planning forum \*

Dementia Delivery Group

Older People's Management Group \*

Carer Support Hospital Discharge Steering Group

Carers strategic planning group \*

Planning and Commissioning Officers

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

\*These groups also have service user representatives

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

Autism Champions

Young Carers Action Group

VolunteerNet

Edinburgh Carers Reference Group

Carers Network

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

**Staff and Management Groups:**

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

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

**Health Board and Council Governance:**

Acute Hospitals Committee  
General Practitioners Sub Committee  
Lothian Medical Committee  
CHP committees (e.g. Primary Care)  
NHS Lothian Finance and Resources Committee  
NHS Lothian Staff Governance Committee  
NHS Lothian Healthcare Governance Committee  
NHS Lothian Strategic Planning Committee  
Council Finance and Resources Committee  
Council Health, Social Care and Housing Committee  
Council Education, Children and Families Committee



Council Administration and Opposition

Governance Review and Best Value Committee (Audit)

Internal Audit of Council and NHS Lothian

Corporate Programme Office of Council – and relevant programmes e.g. BOLD

**Other External Audiences:**

Other Local Authorities in Lothian

Criminal Justice Authority Board

MSPs and MPs

Community Planning Partnerships

Scottish Government Health Department

Third Sector via TSIs – EVOC, Compact

External Audit of NHS Lothian and Council

SSSC

Care Commission

Relevant professional clinical and care bodies

## Annex 5 Consultation framework – ‘Consulting Edinburgh’

### Main features of ‘Consulting Edinburgh’

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

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

There is other guidance for:

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