

# Governance, Risk and Best Value Committee

10.00am, Tuesday, 19 March 2019

## The Governance Relationship between the Council and the EIJB

Item number	7.10
Executive/routine	
Wards	
Council Commitments	

### 1. Recommendations

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- 1.1 To note the current governance relationship between the Council and the Edinburgh Integration Joint Board and the future initiatives in this area.

#### Judith Proctor

Chief Officer, Edinburgh Health and Social Care Partnership

Contact: Gavin King, Democracy, Governance and Resilience Senior Manager

E-mail: [gavin.king@edinburgh.gov.uk](mailto:gavin.king@edinburgh.gov.uk) | Tel: 0131 529 4239

## The Governance Relationship between the Council and the EIJB

### 2. Executive Summary

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- 2.1 This report outlines the governance relationship between the Edinburgh Integration Joint Board (EIJB), NHS Lothian and the City of Edinburgh Council and the corresponding assurance responsibilities. The budget allocation process from the Council and NHS Lothian for delegated functions is also detailed.

### 3. Background

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- 3.1 In April 2014 the Public Bodies (Joint Working) (Scotland) Act 2014 “the Act” was given royal assent which set out the framework for integrating health and social care.
- 3.2 The legislation underpinning the formal integration of health and social care came about following a wide period of policy development and it is useful, when considering the governance and organisational relationships to also recall the intent and purpose of the policy.
- 3.3 Far more detail is set out in the legislation itself and its associate guidance but, summarised, the integration of health and social care was set out to reshape and rebalance the whole health and care system in Scotland. The vision was that by working together and collectively, NHS and local authority partners would be able to create new and sustainable services which keep people independent and well for as long as possible and services would be delivered at or as close to home as possible and would be sustainable within budget constraints and projected demographic change.
- 3.4 It was recognised that Scotland faces an unprecedented change in its health and care system; budgets are under pressure; the population is ageing, and we are facing a reduction in the working age population which compounds the challenge in workforce supply as never before. Our health and care system must change and must find new ways to meet these challenges. Health and care integration is seen as a key mechanism to address this.

- 3.5 IJBs were set up in order to change the patterns of behaviour, planning and delivery across health and social care and, in large part, to achieve change through a more disruptive approach; deliberately setting strategy, undertaking planning and utilising delegated budgets to direct and commissioning the NHS and Local Authority partner organisations toward delivering more joined up, community-based models and in doing so, utilising resources 'locked' in traditional silos.
- 3.6 Key to delivering these changes is a different approach to working with people, communities, and the professionals within partner organisations. Partners must focus on reducing and reshaping demand, improving people's health, wellbeing, and independence and in supporting professionals and teams to work in a far more joined up and integrated approach than we have ever achieved before. Audit Scotland in its report *Health and Social Care Integration*<sup>i</sup> emphasises the significant shift in the delivery of services required of Integration Authorities toward wellbeing and preventative approaches and shifting care from being hospital based toward community-based services.
- 3.7 The legislation provides 2 main options for how integration should take place – Lead Agency or Body Corporate - NHS Lothian and the City of Edinburgh Council decided to follow the body corporate model for health integration. This created an integration joint board whose membership comprises NHS Non-Executive Directors and elected members of the City of Edinburgh Council. Only one partnership in Scotland has developed under the Lead Agency model – the Highland Council and NHS Highland.
- 3.8 The body corporate model creates the Integration Joint Board as a statutory public body with a range of duties and requirements set out. The legislation also provides for services and functions which *must* be delegated to it, those which *may* be delegated to it and those services and functions which *must not* be delegated.
- 3.9 There are several requirements which had to be in place to allow the Integration Joint Board to be formally constituted, these were the Integration Scheme which sets out the formal delegations of functions and which is the formal partnership agreement for both parties to the EIJB. The IJB also had to prepare a Strategic Plan. This document sets out how the IJB would deliver integrated services and how these would help achieve the Board's vision and deliver improvement against the nine national health and wellbeing outcomes. Finally, the IJB had to produce a public performance report annually by July each year following its first 'live' year.
- 3.10 The IJB's authority arises from it setting strategy and through the issuing of formal directions to its partner organisations - the Council and NHS Lothian on how the delegated functions should be carried out and the funding provided to deliver those functions (appendix one).
- 3.11 The EIJB can only instruct NHS Lothian or the Council to deliver services, but they in turn can use third parties and would set a direction to either of the partners to procure this on their behalf within their own contractual arrangements. An example of this is where the IJB issues directions to put in place contracts with specialist

providers to deliver services to support people with a Mental Health problem in new tenancies.

- 3.12 The EIJB does not employ any staff or own any assets. Staff that work within the IJB's services remain employed by the NHS or Council and subject to those organisations' terms and conditions. The IJB does however formally appoint a chief officer and a chief financial officer who both have accountabilities to the IJB and are statutory officers. They are effectively seconded to the IJB from either Council or NHS Lothian. The Chief Officer also undertakes a dual role as a Corporate Director within both the NHS and Council Executive Management Structure and is accountable to both Chief Executives.

## 4. Main report

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### Membership of EIJB

- 4.1 The Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014 sets out the membership of IJBs. Boards comprise both voting and non-voting members with the voting membership being equal numbers of NHS non-Executive Directors and Elected Members of the Local Authority. Non-voting members represent staff, professionals working within health and social care, 3<sup>rd</sup> sector representation and people with lived experience of care and those who have experience of being a carer.
- 4.2 Guidance on membership sets out how the appointments of the chair and vice-chairperson should be carried out. The Integration Scheme then details how these matters will be carried out for the EIJB within the context of this Order.
- 4.3 The Integration Scheme sets out that when members of the EIJB from the Council or NHS Lothian are carrying out their duties as EIJB members then they should have due regard to their interests of NHS Lothian and the Council but that their **primary** duties and responsibilities are to the EIJB. They do not 'represent' the Council or the NHS on the IJB. This is reversed when discharging their role as a councillor or NHS board member i.e. they do not represent the IJB while in their role as a councillor or NHS board member.

### Respective responsibilities

- 4.4 The Integration Scheme also sets out how the Council and NHS Lothian will be assured in relation to the delivery of health and social care services in Edinburgh. When determining the respective assurance responsibilities for the delegated functions, due regard was given to ensuring that there was an efficient governance structure that avoided duplication and that put the EIJB as primarily responsible for delivering capacity and performance management. This was to reflect that the EIJB is the only forum where these matters are governed by members of both NHS Lothian and the Council.

- 4.5 The Integration Scheme explains that the relevant committees of NHS Lothian and the Council will continue to scrutinise matters such as internal control, quality and professional standards and compliance with the law. Within the Council, the Corporate Policy and Strategy Committee has been set the relevant remit.
- 4.6 The Integration Scheme sets out that the NHS and Council will continue to provide governance oversight in terms of clinical and core governance as well as assurance for professional accountabilities.
- 4.7 The Council and NHS Lothian retain responsibility for duties under relevant legislation (e.g. Social Work (Scotland) Act 1968). The Council retains responsibility for its workforce and the actions they carry out in delivering the functions. The delegation of powers to the EIJB does not affect these duties.
- 4.8 Under the legislation the Integration Scheme must be reviewed within the first 3 years of the IJB's operation and the review of the Edinburgh Scheme is currently being scoped.

### **Budget**

- 4.9 The Public Bodies (Joint Working) (Scotland) Act 2014 states that the health board and local authority should make payments to the IJB in the manner laid out in the Integration Scheme (Appendix 3).
- 4.10 The Integration Scheme outlines that CEC and NHS Lothian should review the value of the payments with reference to a range of factors and that they must engage with the IJB, its Chief Officer and Chief Financial Officer. Moreover, the Chief Officer and the Chief Financial Officer should be involved in any financial planning.
- 4.11 Scottish Government financial guidance describes the process as a negotiated process based on priority and need and that the Chief Officer and Chief Financial Officer should build a case for an integrated budget based on the strategic plan and present to the local authority and health board for consideration and agreement.
- 4.12 The funding provided by the health board and local authority then loses its identity and the IJB determines how that money should be allocated in delivering the delegated functions. This may mean that funding is not spent in direct proportion to what is provided.
- 4.13 Any consideration of the payments provided by the Council and NHS Lothian by the EIJB must take into consideration if they are sufficient to deliver the integrated services within the context of the Strategic Plan. If the EIJB does not believe the funds are sufficient then discussions should take place with NHS Lothian and the Council on possible solutions which could range from amending the Strategic Plan to further funds being provided.

### **Contracts**

- 4.14 In regard to contracts, the EIJB determines what, where and how much money should be spent on procuring good or services. It can then direct the Council or

NHS Lothian to enter into a procurement process. If it is the Council procuring the service or goods then due to it being the Council entering into the contract with the third party, the process will follow Contract Standing Orders and will either be agreed under delegated authority or by the Finance and Resources Committee. The Council must ensure it is content with the contract process but it is not able to take a decision on the requirement for the service or goods.

## 5. Next Steps

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- 5.1 There are a number of initiatives that are being undertaken which will change the way integration is taken forward and this will include a consideration of how assurance and scrutiny is carried out.
- 5.2 The Integration Scheme is the document which lays out how the Council, NHS Lothian and the EIJB divide up governance responsibilities. The Integration Scheme requires to be updated because of the introduction of the Carers' Act but there is also a legislative requirement to review the Scheme in its entirety. NHS Lothian and the Council intend to establish a short-life working group to review the Scheme and this will also consider how assurance is taken forward across the three parties. The Scheme would need to be approved by both the Council and NHS Lothian.
- 5.3 Until the Scheme is reviewed and consideration is given to how scrutiny and assurance is taken forward, it is proposed that a regular report is submitted to Corporate Policy and Strategy Committee on matters within the Council's responsibilities under the Scheme and matters of interest in relation to the EIJB.
- 5.4 The EIJB commissioned an independent review of its governance arrangements and considered the findings and recommendations of that review in December 2018. This concluded that the EIJB needs to take action to strengthen its governance. It set out 18 recommendations to strengthen the EIJB's arrangements and establish a framework to deliver strong governance and assurance for partners, strategic direction and oversight of its change and transformation programme. The new arrangements have not yet been finalised and this is expected to be considered in early 2019.
- 5.5 The EIJB has agreed a change programme which will support delivery of its strategic ambitions and Strategic Plan.
- 5.6 The Chief Officer is due to report further on the actions being taken across all organisations to meet the recommendations of the Audit Scotland report on integration.
- 5.7 The Ministerial Strategic Group for Health and Community Care published a report in February 2019 on their review into progress with the integration of health and social care. This review proposes a series of recommendations with associated timescales. Work is taking place on how these recommendations can be taken forward in Edinburgh.

## **6. Financial impact**

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- 6.1 There are no financial implications as a result of this report.

## **7. Stakeholder/Community Impact**

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- 7.1 There is a number of primary and secondary legislation that relates to the integration of health and social care services. In this context the two main pieces of legislation are the Public Bodies (Joint Working) (Scotland) Act 2014 and the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Act 2014.

## **8. Background reading/external references**

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- 8.1 Edinburgh Integration Joint Board – [Integration Scheme](#)
- 8.2 Edinburgh Integration Joint Board 14 December 2018 – [Governance Review](#)
- 8.3 [The Public Bodies \(Joint Working\) \(Scotland\) Act 2014](#)
- 8.4 [The Public Bodies \(Joint Working\) \(integration Joint Boards\) \(Scotland\) Order 2014](#)
- 8.5 [Audit Scotland – Health and Social Care Integration – December 2015](#)
- 8.6 [Audit Scotland – Health and Social Care Integration – November 2018](#)
- 8.7 [Ministerial Strategic Group for Health and Community Care – Review of Progress with Integration of Health and Social Care](#)

## **9. Appendices**

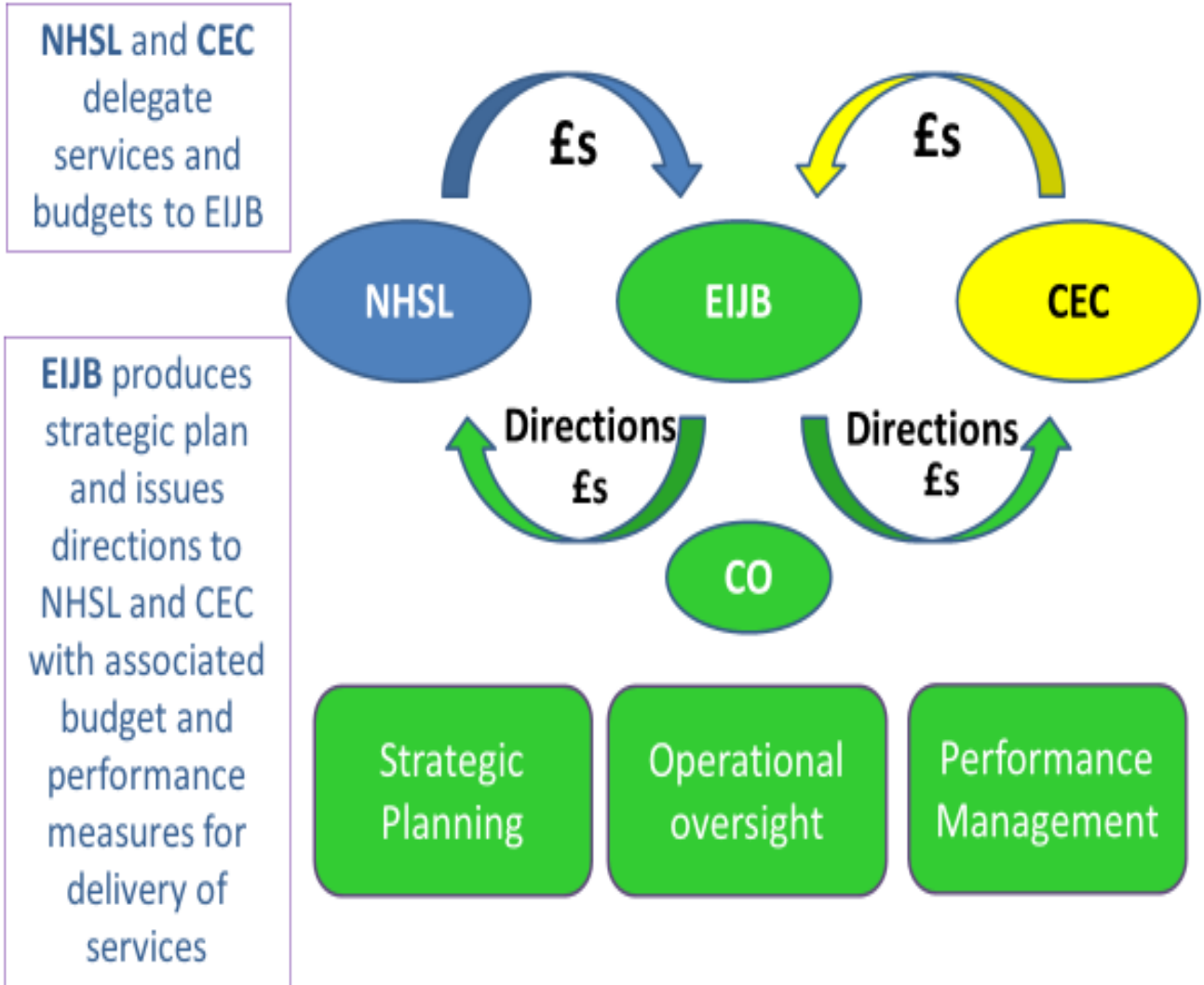
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**Appendix 1 – Diagram**

**Appendix 2 - Membership**

**Appendix 3 – Integration Scheme – Payments to the IJB**

# Role of the IJB





## **Appendix Two**

### **IJB membership**

#### Voting Members

NHS Lothian – 5 (Carolyn Hirst, Mike Ash, Martin Hill, Angus McCann, Richard Williams)

City of Edinburgh Council – 5 (Councillor Ricky Henderson, Councillor Robert Aldridge, Councillor George Gordon, Councillor Melanie Main and Councillor Susan Webber)

#### Non-Voting Members

- IJB Chief Officer (Judith Proctor)
- IJB Chief Finance Officer (Maira Pringle)
- Chief Social Work Officer for the City of Edinburgh Council (Jackie Irvine)
- Registered medical practitioner (GP) (Dr Ian McKay, Medical Director)
- Registered medical practitioner (non-GP) (Andrew Coull, Clinical Director)
- Registered nurse (Pat Wynne, Chief Nurse)
- 2 service user representatives (Carole Macartney and Alison Robertson)
- 2 carer representatives (Christine Farquhar and vacancy)
- Third Sector Interface (Ella Simpson)
- 2 Staff Representatives (Helen FitzGerald, NHS, and Kirsten Hey, CEC)

Additional members (non-voting) appointed by the Board:

- Co-Chairs of the Professional Advisory Group (Carl Bickler and Colin Beck)
- Allied Health Professional representative (Lynne Douglas)

## Appendix Three

The Scheme sets out how we should come to the budget as follows.

- *the starting position will be the payments made to the IJB in the previous financial year;*
- *the Parties will then review the payments, having due regard to any known factors that could affect core baseline budgets, available funding, their existing commitments, the results of their own financial planning processes, the previous year's budgetary performance for the functions delegated to the IJB, the IJB's performance report for the previous year, and the content of the Strategic Plan;*
- *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;*
- *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:*
- *both Parties will provide indicative three-year allocations to the IJB, subject to annual approval through their respective budget setting processes;*
- *(the Parties will ensure 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.*

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<sup>i</sup> *Health and Social Care Integration, Audit Scotland, December 2015*