

Policy and Sustainability Committee

10.00am, Tuesday, 9 January 2024

Future Relationship with EIJB – Response to motion

**Executive/routine
Wards**

1. Recommendations

- 1.1 To note the proposed workstreams and that further reports would be brought to Committee and Council depending on the actions required.

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Joint report by the Executive Director of Corporate Services and the Chief Officer:
Edinburgh Integration Joint Board

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Future Relationship with EIJB – Response to motion

2. Executive Summary

- 2.1 This report gives a brief background to the EIJB and its relationship with the Council. It outlines the workstreams proposed to take forward the terms of the motion including indicative deadlines. The improvements to governance will require the Council, NHS Lothian and EIJB to agree to participate and/or review processes, information sharing and scrutiny arrangements.

3. Background

- 3.1 On 2 November 2023, the City Of Edinburgh Council meeting agreed the following motion.
- 3.2 *‘As a result of a prolonged discussion on uses of the Council’s underspend during September and October in committee, during briefings and in elected member meetings the finance spokespeople of all 5 parties represented in this chamber have agreed to bring forward a joint, all-party motion.*
- 3.3 *This concentrates on a recalibration of the relationship between the Council and the IJB, including NHS Lothian. It became apparent during Finance & Resources committee proceedings that we shared common concerns about a lack of clarity and information on the Council share of financial responsibilities within the IJB and what implications this has for the delivery of both social care in the city and for other Council activities. These issues are not new, but this year’s particular budget pressures have highlighted more than ever the need for an exploration of what can be changed going forward.*
- 3.4 *We recognise that changing processes and expectations of our relationship with the IJB will not be achieved by a single officer report but that we are clearly signalling that elected members wish to stay closely involved with this process. We do not wish to face the same situation as we did this year.*
- 3.5 Council:
- 3.5.1 *Welcomes the new Chief Officer of the IJB and looks forward to a positive and productive working relationship, and hopes this all-party motion will be*

seen as a reflection of our desire to recognise the shared aspirations for a functional, effective and sustainable health and social care system for Edinburgh;

3.5.2 Recognises:

- 3.5.2.1 That we jointly have a deep concern about the financial and service delivery situation facing the IJB and that we need to move beyond the short termism which has resulted in us providing all of the Council's unexpected underspend to fill the gap in the IJB's budget.*
- 3.5.2.2 That we do not want the financial situation to develop again where a £14.2m budget gap was brought to us as a CEC responsibility without sufficient clarity on why and how this had occurred.*
- 3.5.2.3 That we have since had more detailed briefings and a greater opportunity to scrutinise the current financial position of the EIJB and gain a better understanding of managerial challenges within the provision of health and social care.*
- 3.5.2.4 That Finance and Resources Committee agreed that Council officers should work with IJB officers to see how budget timings and processes can be brought into closer alignment including ensuring that IJB budgets are available for Councillors to take into consideration when setting CEC budgets, among other measures to improve scrutiny and governance;*
- 3.5.2.5 That decisions made in other areas of the Council can have knock-on impacts on health and social care – both positive and negative – and similarly that decisions taken by the IJB do not sit in isolation, but can impact on other areas of council operations;*
- 3.5.2.6 That there is a need to recalibrate the relationship that the City of Edinburgh Council has with the Edinburgh Joint Integration Board and NHS Lothian.*

3.6 Council therefore requests:

- 3.6.1 That CEC officers closely examine the IJB Scheme of Delegation and all partnership arrangements and produce a report for the January meetings of both Policy & Sustainability Committee and Finance & Resources Committee, highlighting key issues and recommendations on:*
 - 3.6.1.1 How to increase financial transparency for both CEC officer selected members, and the public for the future.*
 - 3.6.1.2 Whether changes are required to the original integration scheme to create better understanding of where all responsibilities lie, why that is so and where the financial responsibility for services lie.*

- 3.6.1.3 *How governance can be structured to benefit all parties and to permit this kind of dialogue. Also, how the Council can make its collective voice heard on IJB matters.*
- 3.6.1.4 *Detailed lists of which services fall under the responsibility of CEC or NHS Lothian and why.*
- 3.6.1.5 *Proposals for more effective reporting into CEC committees (F&R in particular but not exclusively).*
- 3.6.1.6 *How Council can support IJB to develop and implement the medium term financial plan, but also a general shift away from short terms thinking and into a system-analysis model of prevention and investment.*
- 3.6.1.7 *How we can better recognise the positive impacts of Council social care and other expenditure on measures that reduce NHS costs and therefore the contribution to IJB outcomes.*
- 3.6.1.8 *How to develop an effective, ongoing 2 way conversation between Council including elected members and the IJB.*
- 3.6.1.9 *Recommendations on whether, and how, the Scheme of Delegation or other process documents needs to be updated.*
- 3.6.1.10 *That in producing this report there should be full engagement with elected members, IJB, trade unions and with NHS Lothian.*

3.7 *We do not wish to face the same situation again next year as we did this year.”*

4. Main report

- 4.1 In responding to the motion, it is useful to consider the context of why IJBs were established and their budget process. This will also look at the relationship between the three bodies and the Integration Scheme.

Establishment and Vision for IJBs

- 4.2 The Public Bodies (Joint Working) (Scotland) Act 2014 set out the framework for integrating health and social care and creating Integration Joint Boards (IJB). 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.
- 4.3 IJBs were set up to change the patterns of behaviour, planning and delivery across health and social care and, in large part, to achieve change through a more integrated approach; deliberately setting strategy, undertaking planning and utilising

delegated budgets to direct and commission the NHS and Local Authority partner organisations toward delivering more joined up, community-based models.

- 4.4 Key to delivering these changes was 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 had been achieved before.

Integration Scheme

- 4.5 The Integration Scheme is a legally binding document between the Council and NHS Lothian which established the EIJB and sets out the powers delegated to the EIJB and the governance and financial rules which the parties should adhere to.

Decision Making

- 4.6 The Public Bodies (Joint Working) (Scotland) Act 2014 set out the functions that must be delegated to IJB's from local authorities and NHS Boards and those that can be delegated. The powers delegated to the Edinburgh Integration Joint Board are outlined in appendix one. The IJB does not carry out those functions but sets a strategy and instructs the Council and the NHS to carry out those services. This is done through directions which should also include the budget allocated to the provision of service.

Budget process

- 4.7 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.
- 4.8 The Integration Scheme outlines that payments should be made to the EIJB with a starting position of the previous financial year. This will then be reviewed, having due regard to factors affecting the budget, previous performance and the content of the Strategic Plan.
- 4.9 The Council and NHS Lothian then engage the IJB's Chief Officer and Chief Financial Officer. 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. It notes that efficiencies should be agreed between the IJB, local authority and health board.
- 4.10 The EIJB should plan within the overall delegated resource and should through the strategic planning process decide what capacity is required from the Local Authority and Health Board in order to deliver the agreed performance on outcomes.
- 4.11 The Local Authority and the Health Board then evaluate the case against their other priorities and are expected to negotiate their respective contributions. The allocations should be based on priority and need and not historic allocations. In

addition, the Scottish Government can direct the Council and NHS Lothian to pass through funding approved within the Scottish budget to the EIJB for example in support of national priorities such as the Real Living Wage.

- 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. The relative proportion of partners' contributions to the EIJB should not influence the proportion of services that are directed by the IJB through the Strategic Plan.
- 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 to deliver the Strategic Plan 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.
- 4.14 The EIJB has established a budget working group in December 2020 which considers the financial plan and settlements from the Council and the NHS and seeks to inform Board Members of the budget challenges and decisions.
- 4.15 The financial position for both the Council and NHS Lothian is challenging and this has been the case since the inception of the EIJB. The EIJB Chief Finance Officer has worked closely with partners to bring the EIJB budget into balance by the end of each financial year. This approach has been successful however the EIJB financial position became more challenging in 2023/24 as a result of a number of factors including:
 - 4.15.1 material funding shortfalls in the Local Government Finance Settlement for demographic pressures
 - 4.15.2 material funding shortfalls in the distribution of Scottish Government funding for living wage uplifts
 - 4.15.3 significant additional costs arising from performance related increases in community capacity.
- 4.16 As outlined in paragraph 4.15, the budgetary process for the EIJB is complex and further work is necessary to provide greater alignment with the budget processes of the Council and NHS Lothian. This further work will commence in December 2023 to inform the 2024/25 budget and will include additional measures to increase transparency of the EIJB budget development process.

Over and Under Spends

- 4.17 The Integration Scheme also sets out how forecast overspends and under spends are to be treated. Where there is a financial overspend then the Chief Officer of the EIJB must take immediate and appropriate action to prevent the overspend. If this remedial action is insufficient then the EIJB Chief Financial Officer should develop a proposed recovery plan to the EIJB for approval. If this recovery plan is unsuccessful

and insufficient to address the forecast then the Council and NHS Lothian should consider making additional payments. The basis of these payments are to be agreed by the parties with repayment in future years on the basis of the revised recovery plan. If the recovery plan is not agreed by NHS Lothian or the Council or not approved by the EIJB then dispute resolution arrangements within the Integration Scheme should be applied.

- 4.18 As noted at paragraph 4.15 the EIJB budget for 2023/24 was particularly challenging as a result of underlying factors including funding shortfalls and additional expenditure relating to performance improvement. The process laid out within the Integration Scheme did not provide an effective mechanism to deal with the structural nature of the projected overspend in the EIJB 2023/24 budget. The process laid out in the Scheme requires to be reviewed and this will be considered alongside development of the EIJB 2024/25 budget

Governance and Scrutiny

- 4.19 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.
- 4.20 The Council and NHS Lothian retain responsibility for duties under relevant legislation including its workforce and the actions they carry out in delivering the functions. The delegation of powers to the EIJB does not affect these duties.
- 4.21 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. 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.
- 4.22 The EIJB has a series of committees that scrutinise performance and delivery within the health and social care partnership. These include the Strategic Planning Group, the Clinical and Care Governance Committee, the Performance and Delivery Committee and the Audit and Assurance Committee. In the Integration Scheme it was agreed that the EIJB would be 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.
- 4.23 As a result, the Council abolished its Health, Social Care and Housing Committee in 2017 and the Policy and Sustainability Committee now acts as an additional scrutiny committee of Council health and social care matters. There are still statutory reports which also comes before Council committees such as the Chief Social Work Officer's Annual Report.
- 4.24 The Council can not scrutinise the work of the EIJB, it does not have the remit or the power to do so. The Council does though carry out the delivery of the directions set out by the EIJB and retains the duties under legislation and NHS Lothian is in a similar position. It is imperative then that all three bodies have sufficient assurance

that the work carried out is being carried out in line with the direction, the strategic plan and in compliance with legislation. There should be scrutiny across all health and social care services and clarity on which body is scrutinising which service.

- 4.25 It is proposed that a review is carried out of how scrutiny of health and social care partnership services are carried out across the three bodies. This should then influence any changes required in the Integration Scheme. However, it is recommended that the EIJB and NHS Lothian are asked if it would take part in a review of governance so to ensure that duplication is avoided and that there are no gaps in scrutiny or lack of understanding over where scrutiny lies.
- 4.26 There is no scheme of delegation for the EIJB as services are carried out by Council and NHS officers under their own Scheme of Delegation. The review of governance would though have to take into account whether changes were required to any existing governance documentation.

National Care Service

- 4.27 All of this work must be done in the context of the potential creation of the National Care Service and what impacts that may have on the Council and the EIJB. The National Care Service (Scotland) Bill has been published and discussions are taking place on the future of social care in Scotland. As yet there is no clear direction on whether this will involve the transferring of powers and duties from local authorities or a system such as with IJBs where power is delegated to a care board, but duties are retained by the local authority. However, it is likely that there will be a significant impact which will affect the budget, the delivery of that budget and the governance arrangements surrounding it. The workstreams proposed in this report and any recommendations to committee or the EIJB will take into consideration the proposals for the National Care Service as they develop.

5. Next Steps

- 5.1 The following workstream are proposed to address the terms of the motion. Each workstream will contain multiple actions and work to be undertaken and a broad outline only is detailed below.

Workstream	Reporting bodies	Completion date
Review and re-alignment of budget processes and how information is shared between partners	Finance and Resources Committee and EIJB	December 2023
Review of Council governance associated with	Policy and Sustainability	April 2024

health and social care services	Committee and Council	
Review of EIJB governance (to be agreed by the EIJB)	EIJB Board	April 2024
Review and adoption of revised Integration Scheme	Council and NHS Board	December 2024

6. Financial impact

- 6.1 The cost of the workstreams will be contained within existing departmental budgets.

7. Equality and Poverty Impact

- 7.1 The impact on equality and poverty will have to be undertaken as essential elements of the workstreams.

8. Climate and Nature Emergency Implications

- 8.1 There are no climate and nature emergency implications as a result of this report.

9. Risk, policy, compliance, governance and community impact

- 9.1 There will be full engagement with elected members, the EIJB, trade unions and with NHS Lothian in taking forward the workstreams.

10. Background reading/external references

- 10.1 [The City of Edinburgh Council 2 November 2023](#)

11. Appendices

Appendix One – List of services delegated to the EIJB

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Adult social care services	Community health services	Hospital based services
<ul style="list-style-type: none"> • Assessment and care management – including occupational therapy services • Residential care • Extra care housing and sheltered housing (housing support provided) • Intermediate care • Supported housing – learning disability • Rehabilitation – mental health • Day services • Local area coordination • Care at home services • Reablement • Rapid response • Telecare • Respite services • Quality assurance and contracts • Sensory impairment services • Drugs and alcohol services 	<ul style="list-style-type: none"> • District nursing • Services relating to an addiction or dependence on any substance • Services provided by allied health professionals (AHPs) • Community dental services • Primary medical services (GP)* • General dental services* • Ophthalmic services* • Pharmaceutical services* • Out-of-hours primary medical services • Community geriatric medicine • Palliative care • Mental health services • Continence services • Kidney dialysis • Prison health care service • Services to promote public health <p>* includes responsibility for those aged under 18</p>	<ul style="list-style-type: none"> • A&E • General medicine • Geriatric medicine • Rehabilitation medicine • Respiratory medicine • Psychiatry of learning disability • Palliative care • Hospital services provided by GPs • Mental health services provided in a hospital with exception of forensic mental health services • Services relating to an addiction or dependence on any substance