

Governance, Risk and Best Value

10:00am, Tuesday 8 March 2022

Internal Audit Update – Referral from the Edinburgh Integration Joint Board Audit and Assurance Committee

Item number
Executive/routine
Wards
Council Commitments

1. For Decision/Action

- 1.1 The Governance, Risk and Best Value Committee is requested to consider the Internal Audit Update Referral from the Edinburgh Integration Joint Board Audit and Assurance Committee as a number of the open EIJB IA findings relate to operational service delivery for the Health and Social Care Partnership by the Council.

Richard Carr

Interim Executive Director of Corporate Services
Contact: Matthew Brass, Assistant Committee Officer
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Referral Report

Internal Audit Update

2. Terms of Referral

- 2.1 On 18 February 2022, the Edinburgh Integration Joint Board (EIJB) Audit and Assurance Committee considered a report which provided details of the progress of Internal Audit (IA) assurance activity on behalf of the EIJB, performed by the EIJB's partners – The City of Edinburgh Council and NHS Lothian – IA teams.
- 2.2 The EIJB Audit and Assurance Committee agreed:
- 2.2.1 To note progress with delivery of the EIJB 2021/22 IA plan and the outcomes of the Delivery of EIJB Legislative and Regulatory requirements audit;
 - 2.2.2 To note progress with implementation of agreed management actions to support closure of EIJB IA findings raised;
 - 2.2.3 To refer this report to the Council's Governance, Risk and Best Value Committee for their information as a number of the open EIJB IA findings relate to operational service delivery for the Health and Social Care Partnership by the Council.
 - 2.2.4 To agree to include the progress made against historical management actions in the next quarterly update to Committee.

3. Background Reading/ External References

- 3.1 None.

4. Appendices

- 4.1 Appendix 1 – Report by the Chief Internal Auditor

REPORT

Internal Audit Update

EIJB Audit and Assurance Committee

18 February 2022

Executive Summary

1. This report provides details of the progress of Internal Audit (IA) assurance activity on behalf of the Edinburgh Integration Joint Board (EIJB) performed by the EIJB's partners (the City of Edinburgh Council (the Council) and NHS Lothian (NHSL) IA teams).
2. In line with the Committee decision in November 2021, the 2021/22 annual plan has been reduced from four to three audits, to support management focus on ongoing Covid-19 pressures.
3. Delivery of the remainder of the 2021/22 Internal Audit Plan approved by the Committee in June 2021 is progressing, with two of the three audits now completed and the remaining audit underway.
4. No relevant audits have been completed and presented to the Council's Governance, Risk and Best Value Committee or NHS Lothian Audit and Risk Committee during the reporting period.
5. As at 26 January 2022 the EIJB had a total of 16 open Internal Audit findings, supported by 28 associated management actions. Of the 16 open findings, 10 are currently overdue, with 15 of the 28 associated management actions also overdue.

Recommendations

It is recommended that the Audit and Assurance Committee:

1. Notes progress with delivery of the EIJB 2021/22 IA plan and the outcomes of the Delivery of EIJB Legislative and Regulatory requirements audit;
2. Notes progress with implementation of agreed management actions to support closure of EIJB IA findings raised; and
3. Refers this report to the Council's Governance, Risk and Best Value Committee for their information as a number of the open EIJB IA findings relate to operational service delivery for the Health and Social Care Partnership by the Council.

Directions

Direction to City of Edinburgh Council, NHS Lothian or both organisations	No direction required	✓
	Issue a direction to City of Edinburgh Council	
	Issue a direction to NHS Lothian	
	Issue a direction to City of Edinburgh Council and NHS Lothian	

Report Circulation

1. The report was discussed with the EIJB’s Chief Officer and Chief Finance Officer.
2. EIJB Audit and Assurance Committee.

Main Report

EIJB Internal Audit Annual Plan 2021/22

3. The 2021/22 IA annual plan was approved by the Committee in June 2021. The outcomes of the audits included in the plan will support the 2021/22 EIJB IA annual opinion and inform the annual Governance Statement included in the financial statements.
4. In November 2021, the Committee agreed to reduce the 2021/22 EIJB annual plan from four to three audits, to enable governance activity to be refocused due to ongoing pressures. As a result, the audit of ‘Implementation of Recommendations from the Strategic Group for Health and Community Care’ will be considered for inclusion in the 2022/23 IA annual plan.
5. The revised coverage is aligned with the number of audits completed to support the 2020/21 IA annual opinion, and it is IA’s opinion that the three reviews included in the revised plan should provide sufficient assurance on the control frameworks designed to manage the EIJB’s most significant risks.

Progress with delivery of the EIJB Internal Audit Annual Plan 2021/22

6. The outcomes of the Strategic Implications of Covid-19 Lessons Learned audit were reported to the Committee in November 2022. The minor changes to the report requested by the Committee have been addressed and the report has now been finalised.
7. The outcomes of the Delivery of EIJB legislative and statutory requirements audit was ‘some improvement required’ with two medium rated IA findings raised.
8. The audit confirmed that further action is required to maintain and support effective operational use of the EIJB’s schedule of regulations and statutory obligations to confirm ongoing compliance; and that an effective solution is also required to provide the EIJB with appropriate ongoing assurance in relation to Partners’ compliance with applicable legislation and regulations.

9. A copy of the final report is included at Appendix 1.
10. The EIJB Risk Management and Board assurance, rotation and induction arrangements audit has commenced, and is due to complete by 31 March 2022, with outcomes reported to the Committee in April 2022.

City of Edinburgh Council and NHS Lothian completed IA reviews that may be of interest to the Committee

11. No relevant audits have been completed and presented to the Council's Governance, Risk and Best Value Committee or NHS Lothian Audit and Risk Committee during the reporting period.

Follow-up of open and overdue IA findings

12. Whilst the Partnership is dependent on both the Council and NHS Lothian to support closure of some EIJB IA findings, the Chief Officer owns all EIJB findings, and obtains assurance that the Council is satisfactorily progressing completion of agreed management actions to support closure of IA findings raised for the areas where they provide support to the EIJB.
13. The IA definition of an overdue finding is any finding where all associated agreed management actions have not been evidenced as implemented by management and validated as closed by IA by the date agreed by management and IA and recorded in relevant IA reports.
14. Where management considers that actions are complete and sufficient evidence is available to support IA review and confirm closure, the action is marked as 'implemented' on the IA follow-up system. When IA has reviewed the evidence provided, the management action will either be 'closed' or will remain open and returned to the relevant owner together with details of further evidence required.

Progress with implementation of agreed management actions to support closure of IA findings raised

15. As at 26 January 2022, the EIJB had a total of 16 open IA findings. This includes 2 new findings raised in the EIJB Strategic Covid-19 Lessons Learned audit finalised in November 2021.
16. Of the 16 open findings, 10 are currently overdue and 6 are not yet due. Two findings (one open, and one overdue) were also closed in the last quarter.

The following table demonstrates the movement in open and overdue IA findings during this period:

Analysis of changes between 14/09/21 and 26/01/22					Analysis at 26/01/22	
	Position 14/09/21	Added	Closed	Position 26/01/22	Current	Historic reopened
Open	16	2	2	16	15	1
Overdue	10	1	1	10	9	1

Analysis of Open IA Findings

17. The 16 open IA findings (7 High and 9 Medium) as at 26 January 2022 were raised in the following audits:
- Historic Unimplemented Findings (1) – 1 High
 - Data Integration and Sharing (1) – 1 High
 - Purchasing Budget Management (3) – 3 High
 - Social Care Commissioning (1) – 1 High
 - Strategic Planning (3) – 3 Medium
 - Capital and Workforce Planning (1) – 1 Medium
 - EIJB Integration Scheme (1) – 1 High
 - EIJB Management Information (3) – 3 Medium
 - EIJB Covid-19 Strategic Lessons Learned (2) – 2 Medium

Analysis of Overdue IA Findings

18. One overdue finding (medium) has been closed, and one additional finding (medium) became overdue between 14 September 2021 and 26 January 2022.
19. The 10 overdue findings include the remaining historic high rated finding that had previously been closed but was reopened in June 2018. This finding is recorded as overdue (based on originally agreed implementation dates) as the agreed management actions had not been effectively implemented and sustained, exposing the EIJB to unnecessary risk.
20. The ageing profile of the 10 overdue findings based on originally agreed implementation dates is as follows:
- 1 high rated historic high rated finding is more than five years overdue;
 - 1 high rated finding is more than four years overdue;
 - 3 high rated findings are more than two years overdue;
 - 4 findings (1 high and 3 medium) are between one and two years overdue; and

- 1 finding (medium) is less than 3 months overdue.

Further detail on these findings is included at Appendix 2.

Analysis of Overdue IA Management Actions Associated with Open IA Findings

21. The 16 open EIJB findings (including the 10 overdue findings) are supported by a total of 28 agreed management actions, with 15 of the agreed management actions currently overdue based on their originally agreed implementation dates.
22. Four actions are currently implemented and are being reviewed by IA.
23. Of the 15 overdue management actions 12 (9 High; and 3 Medium) have had their implementation dates revised more than once by management since the inception of the new IA follow up system in July 2018.
24. Of the 12 overdue management actions with dates revised more than once:
 - 2 actions (2 high) have had the date revised more than 5 times;
 - 3 actions (3 high) have had the date revised 4 times;
 - 2 actions (1 high and 1 medium) have had the date revised 3 times; and
 - 5 actions (3 high and 2 medium) have had dates revised twice.

These numbers exclude extensions applied to all open management actions to reflect the impact of Covid-19.

25. Details of the status of the overdue management actions as at 26 January 2022 together with the latest management update are included at Appendix 3.

Implications for Edinburgh Integration Joint Board

Financial

5. There will be a reduction in the cost of IA services provided to the EIJB in 2021/22, if the IA annual plan is reduced from four to three audits.

Legal / risk implications

6. The IA plan and follow-up process are not sufficiently comprehensive to provide the level of assurance that the EIJB requires in all the areas that it needs.

Equality and integrated impact assessment

7. There are no direct equalities and integrated impact assessment impacts as a consequence of this report.

Environment and sustainability impacts

8. There are no direct environment and sustainability impacts associated with this report.

Quality of care

9. There are no direct quality of care impacts associated with this report.

Consultation

10. The IA plan is based on the EIJB's risk register. In preparing the risk register, the EIJB's Risk team consulted widely with senior management from the Integration Joint Board, the Council and NHSL.

11. Reducing the volume of IA activity to support management capacity has been discussed senior management and the EIJB Audit and Assurance Committee Chair.

Report Author

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Chief Internal Auditor

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Background Reports

None

Appendices

- Appendix 1 Internal Audit Report – Delivery of EIJB Legislative and Regulatory requirements
- Appendix 2 Analysis of Overdue EIJB IA Findings as at 26 January 2022
- Appendix 3 Analysis of Overdue EIJB Management Actions as at 26 January 2022



Edinburgh Integration Joint Board

Internal Audit

Delivery of EIJB legislative and regulatory requirements

Final Report

14 February 2022

EIJB2102

**Some
improvement
required**

Whilst some control weaknesses were identified, in the design and/or effectiveness of the control environment and/or governance and risk management frameworks, they provide reasonable assurance that risks are being managed, and the Council's objectives should be achieved.

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This internal audit review is conducted for the Edinburgh Integration Joint Board under the auspices of the 2021/22 internal audit plan approved by the Audit and Assurance Committee in June 2021. The review is designed to help the Edinburgh Integration Joint Board assess and refine its internal control environment. It is not designed or intended to be suitable for any other purpose and should not be relied upon for any other purpose. The City of Edinburgh Council accepts no responsibility for any such reliance and disclaims all liability in relation thereto.

The internal audit work and reporting has been performed in line with the requirements of the Public Sector Internal Audit Standards (PSIAS) and as a result is not designed or intended to comply with any other auditing standards.

Although there are a number of specific recommendations included in this report to strengthen internal control, it is management's responsibility to design, implement and maintain an effective control framework, and for the prevention and detection of irregularities and fraud. This is an essential part of the efficient management of the Edinburgh Integrated Joint Board of the issues and weaknesses arising from this audit does not absolve management of this responsibility. High and Critical risk findings will be raised with senior management and committee members as appropriate.

1. Background and Scope

Background

The Edinburgh Integration Joint Board (EIJB), established in April 2016 under the Public Bodies (Joint Working) (Scotland) Act 2014 (the Act), is responsible for commissioning the services delegated to it by NHS Lothian (NHSL) and the City of Edinburgh Council (the Council), who make up the Edinburgh Health and Social Care Partnership (the Partnership). The Partnership works to deliver a range of health and social care services across the City.

The Act and its supporting regulations and orders place a number of duties on the EIJB including (but not limited to): development of a strategic plan for integrated services and budgets; preparation of an annual performance report in line with requirements; issuing binding directions in respect of the delivery of services to the Council and NHSL; and publication of an annual financial statement.

In addition, IJBs are public bodies and as such are subject to compliance with a range of other legislative and regulatory requirements including (but not limited to): complaints and records management; data protection; equality; diversity and climate change duties; and being a category 1 responder in the event of an emergency.

The EIJB must ensure that appropriate arrangements are established to comply with all duties as set out in legislation, and it is also required to adhere to the content of any future regulations or guidance issued by Scottish Ministers.

Oversight of EIJB legislative and regulatory requirements

The EIJB should be assured that the Partnership delivers services in accordance with applicable legislation and regulations. This is achieved by placing reliance on both the Council and NHSL's established controls to ensure that their policies and procedures are aligned with relevant legislation and regulations and are consistently applied.

Section 5.1.5 of the EIJB Integration Scheme (version 2 September 2019) states:

'The relevant committees of NHSL and the Council will continue to discharge their existing remits for assurance and scrutiny of the carrying out of functions, regarding matters such as internal control, quality and professional standards, and compliance with the law. The IJB will not duplicate the role carried out by those committees other than in exceptional circumstances where direct engagement by the IJB is appropriate in order to secure the proper discharge by the IJB of its statutory responsibilities'.

Recognising the importance of ensuring ongoing Partner compliance with applicable legislative and regulatory requirements, the EIJB approved a direction in October 2019 (EIJB-22/10/20190-1) that all delegated services not covered a specific direction will be provided 'within current budgets, and in accordance with statutory and regulatory obligations, policies, and procedures, endeavouring to meet national and local targets and the strategic objectives laid out in the Strategic Plan.' This direction remained in place following the [outcomes of the review of current directions](#) (refer item 8.1) presented to the Board in June 2021, and will be reviewed again in April 2022.

Additionally, compliance with both Partner's internal control environments is reported in the annual assurance statements prepared to support their financial statements, and conclusions on their effectiveness is included in their annual Internal Audit opinions. The annual assurance statements and audit opinions are reviewed and scrutinised by the Council's Governance, Risk, and Best Value Committee, and the NHSL Audit and Assurance Committee, but are not provided to the EIJB.

Management has circulated guidance which outlines expectations for report authors to adhere to when presenting reports to the EIJB and its Committees. This includes guidance on recommendations, and how to present financial, legal/risk, equality, and environment/sustainability implications for the EIJB associated with the report and any decisions to be taken. In addition, the Clinical and Care Governance Committee has also circulated separate guidance outlining specific expectations for report authors.

Recent internal audit reviews

The review of EIJB Governance Structures completed in May 2019 highlighted that a schedule of regulations; statutory obligations; and relevant guidance applicable to the EIJB had not been developed. It was recommended that a schedule should be prepared together with details of the assurance processes to be applied to confirm ongoing compliance, and this was prepared by management in June 2021.

The EIJB Integration Scheme internal audit review, completed in August 2019, also included a recommendation that responsibilities for compliance with statutory obligations and legislative requirements should be documented in written engagement protocols between the EIJB, the Council and NHSL. Management expects to complete this action in collaboration with its partners by 31 March 2022.

A further internal audit of EIJB management information completed in July 2021 recommended that the log of statutory obligations be presented to all EIJB committees, to enable each committee to establish those relevant to their specific remits. This will be done as part of the review of the annual cycle of business for each committee in 2022.

Scope

The objective of this review was to assess the adequacy of design and operating effectiveness of the key controls established to ensure that the EIJB identifies and complies with relevant legislative and regulatory requirements; and receives appropriate assurance on ongoing legislative and regulatory compliance from both Partner organisations.

The review also provides assurance in relation to the following risk recorded in the EIJB risk register (as at June 2021):

- Non-compliance with applicable legislative and regulatory requirements leading to legal breaches, fines and/or prosecution (Low rating).

Limitations of Scope

Whilst this review considered the ongoing assurance the EIJB receives from Partners in relation to ongoing legislative and regulatory compliance, the design and operating effectiveness of the Partnership's processes and procedures for identifying and complying with relevant requirements were specifically excluded from scope.

Reporting Date

Our audit work concluded on 11 February 2022, and our findings and opinion are based on the conclusion of our work as at that date.

2. Executive summary

Total number of findings: 2

Summary of findings raised	
Medium	1. Compliance monitoring
Medium	2. Compliance assurance framework
Low	3. Current EIJB Legislative and Regulatory Compliance Risk Assessment

Opinion

Some improvement required

Our review confirmed that whilst some moderate control weaknesses were identified in the design and operating effectiveness of the key controls established to ensure that the EIJB identifies and complies with relevant legislative and regulatory requirements; and receives appropriate assurance on ongoing compliance from Partner organisations, they provide reasonable assurance that risks are being managed, and the EIJB's compliance and Partnership oversight objectives should be achieved.

Consequently, 2 Medium and 1 Low rated findings have been raised.

The first medium rated finding highlights areas where strengthened reporting controls would support more effective oversight of EIJB compliance with relevant legislation and regulation.

These include establishing a process to support ongoing operational use of the statutory obligation schedule; refreshing existing guidance for report authors that aligns the potential impacts of non-compliance with the risks recorded in the EIJB risk register; and developing a process to ensure any breaches or potential breaches are identified, recorded, and reported to relevant EIJB Committees.

The second medium rated finding and highlights the need for an effective solution that provides the EIJB with ongoing assurance that the Partnership remains compliant with applicable legislative and regulatory requirements (for example Health and Safety legislation), and continues to achieve direction EIJB-22/10/2019 -1 which also reinforces the need for ongoing Partner compliance to support effective service delivery.

It is recognised that the introduction of the National Care Service is likely to bring changes to how integrated services are delivered. However, given the uncertain timeframes for delivery of these changes, it is recommended that relevant partner compliance with legislation and regulations is monitored to ensure that the EIJB's statutory obligations and strategic objectives are met.

Management has accepted the risks associated with the second finding, recognising that both the NHSL and the Council already have established and sophisticated mechanisms for internal compliance; assurance; and external scrutiny, and the level of officer capacity that would be required to implement the recommendations.

The third low rated finding notes that the EIJB risk relating to non-compliance with applicable legislative and regulatory requirements leading to legal breaches, fines, and/or prosecution is currently assessed as low. Given the findings detailed in this report, it is recommended that the assessment of this risk is reviewed immediately, together with the assessment of the effectiveness of established controls, and subsequently reassessed following implementation of the agreed management actions associated with the findings raised.

Details of each finding are included at Section 3.

3. Detailed findings

1. Compliance monitoring

Medium

1. Statutory obligation list

Although a schedule of the EIJB's statutory obligations has been prepared, it is not yet supported by a documented and agreed process for its review; approval; or circulation to relevant EIJB Committee's or the Board.

As a result, it cannot be confirmed whether the schedule is complete and adequately supported with details of supporting controls and reporting lines to monitor compliance.

Our review of completeness and accuracy of the statutory obligation list (as at June 2021) noted that the following relevant pieces of legislation were not fully represented on the list, including:

- the Civil Contingencies Act 2004 and the Civil Contingencies Act 2004 (Contingency Planning) (Scotland) Regulations 2005, which were amended from 17 March 2021 to include Integration Joint Boards as Category 1 responders in the event of an emergency; and
- the Data Protection Act 2018 which the EIJB must comply with as a public authority.

The terms of reference for the Audit and Assurance Committee (A&A Committee) and Clinical and Care Governance Committee (C&CG Committee) refer to their respective purpose and functions as 'to provide assurance to the Integration Joint Board that it is fulfilling all its statutory requirements' and 'to gain assurance, on behalf of the Integration Joint Board on the systems for delivery of safe, effective, person-centred care in line with the Integration Joint Boards statutory duty for the quality of health and care services'.

As the statutory obligations list has not yet been presented to each Committee for review, it cannot be confirmed that their existing terms of reference and work programmes fully reflect requirements to ensure compliance with statutory obligations.

It was also noted that Committee terms of reference which are scheduled to be reviewed annually, have not been reviewed since July 2020. These are expected to be reviewed by the EIJB in April 2022.

2. Guidance for report authors

Report authors are required to read and comply with established EIJB reporting guidance. Our review identified two separate guidance documents, one issued to report authors by the EIJB and a separate document issued by the C&CG Committee. The guidance requires authors to report EIJB risks and implications within reports.

Review of a sample of reports presented to the A&A Committee, C&CG Committee, and the EIJB between January 2021 and October 2021 highlighted that reports on specific legislative requirements (for example records management) did not consistently set out the potential implications (for example fines; sanctions; and reputational impacts) of non-compliance with relevant legislation.

3. Aligning implications with the EIJB risk register

Sample testing highlighted that risks presented in A&A Committee, C&CG Committee, and EIJB reports were not always aligned with the strategic risks set out in the EIJB risk register, with operational Partnership risks often disclosed. Discussions with report authors highlighted that while there is an awareness of the EIJB's risk management process, the procedure for escalating existing and emerging risks to senior management was not always considered when raising risks in reports.

Management advised that this is mitigated by ensuring that all reports presented to the EIJB and its Committees are presented on behalf of a member of the Executive Management Team (EMT) and therefore new and emerging risks (as well as changes to the profile of existing risks) are captured through EMT review. Our review of a sample of five reports, noted EMT authors on four reports and one instance a of non-EMT author, and found that operational Partnership risks were recorded in four reports.

4. Reporting compliance

There is currently no established EIJB breach recording and reporting process to ensure that all breaches are identified; escalated; and reported. and provide assurance to relevant committees that no breaches have been identified.

Management has advised that there have been no instances of non-compliance with any relevant legislation and regulations identified to date.

An updated Model Complaints Handling Procedure was published by the Scottish Public Services Ombudsman on 31 January 2020, which required public sector organisations to implement a new Complaints Handling Procedure by 1 April 2021. The EIJB did not approve the new procedure until its meeting on 27 April 2021, however, it is noted that the Chair had approved the procedure under Urgent Decisions powers per the EIJB standing orders. Management has advised that this is because they were made aware of the requirement at a late date and exercised the urgent decision powers to ensure it was approved in time.

Review of the EIJB's Annual Governance Statement (AGS) and supporting working papers identified that the EIJB currently reports that it is fully compliant with Scottish, UK and EU legislation and regulations. However, in the absence of an established compliance framework which compliments both the governance and risk management structures within the EIJB, this cannot be confirmed. Management has advised that in the first instance, the AGS is drafted by the Council's Head of Democracy, Governance and Resilience who would be aware of regulatory or legislative issues.

Risks

The potential risks associated with our findings are:

- Non-compliance with applicable legislative and regulatory requirements leading to legal breaches, fines and/or prosecution;
- EIJB and Committee Work Programmes may not currently capture all legislative and regulatory obligations;
- Inconsistent reporting of implications of non-compliance, resulting in decisions taken not being proportionate with the impacts;
- New and emerging risks, as well as changes to current risk profiles reported to the EIJB or its Committee's may not be captured by the risk management process; and
- Potential or actual breaches may not be identified or recorded.

1.1 Recommendation: Framework to support operation of the Statutory obligation schedule

1. The EIJB should review the current statutory obligation schedule to ensure it includes all relevant requirements, including the updates to legislation identified above and any new/revised requirements since it was initial developed in June 2021. The list should then be approved by a senior officer and circulated to the EIJB and committees.
2. The EIJB should design and implement a framework to support effective operational use and review of the statutory obligations schedule. This should include:
 - a process to review the schedule for completeness and accuracy at a regular frequency to

identify any changes to and/or emerging legislation and regulations, with any implications for the EIJB captured (at least annually).

- review and approval of the schedule by a senior officer.
- circulation and review of the schedule by the EIJB/Committees in line with the annual review of terms of reference and annual cycles of business.
- a process for identifying, recording and reporting potential and actual breaches or instances of EIJB non-compliance with relevant statutory obligations, supported by a register which is reviewed and reported to an appropriate governance forum at least annually (even where a nil return is recorded).

1.1 Agreed Management Action: Framework to support operation of the Statutory obligation schedule

A review process will be developed to ensure that the regulations and legislations schedule is reviewed at regular intervals and embedded as part of the annual review of committee terms of reference and referenced within the committee assurance schedules going forward.

Owner: Judith Proctor, Chief Officer

Contributors: Moira Pringle, Chief Finance Officer; Angela Ritchie, Operations Manager

Implementation Date:
31 December 2022

1.2 Recommendation: Report guidance

Current versions of report author guidance should be reviewed and consolidated to provide clear and consistent expectations for EIJB report writing. Once approved, the revised guidance should be communicated to all report authors with instruction to use for all reports submitted. The guidance should also set out the expectations for:

- Identifying and reporting possible penalties or sanctions where appropriate; and
- The process for escalating emerging risks arising from the report through the EIJB's risk management framework.

Senior officers should review reports submitted to ensure guidance is followed and any issues are rectified prior to issuing to the EIJB/committees. Where required, training should be provided to support authors understanding and ensure consistency and compliance.

1.2 Agreed Management Action: Report guidance

The report writing guidance will be reviewed in line with the recommendations.

Owner: Judith Proctor, Chief Officer

Contributors: Moira Pringle, Chief Finance Officer; Angela Ritchie, Operations Manager

Implementation Date:
31 December 2022

2. Compliance Assurance Framework

Medium

EIJB Responsibilities for Ongoing Partner Legislative and Regulatory Compliance

Whilst the EIJB has issued a direction (EIJB-22/10/2019-1) in relation to ongoing Partnership statutory and regulatory compliance for all services not covered by a specific direction, there is currently no established framework that provides the EIJB with assurance in relation to individual Partners' ongoing compliance.

Recent Example of Partner Compliance Challenges

An NHS Health and Safety report presented to the Clinical and Care Governance Committee (responsible for reporting to the Board on patient safety: clinical effectiveness; and patient experience) for noting on 16 March 2021 presented details of serious and long-standing operational fire safety regulatory breaches that could potentially impact patient safety.

As responsibility for operational health and safety rests with relevant Partners, the purpose of presenting this information to the C&CG, and the EIJB's authority to request implementation of actions to rectify patient safety concerns was unclear in the absence of an established compliance assurance framework.

Risks

The potential risks associated with our findings are:

- The EIJB has only limited awareness and oversight of Partner compliance with applicable legislative and regulatory requirements, and details of any breaches, fines and/or prosecution applied, with associated reputational consequences for the EIJB.
- The EIJB is unable to confirm whether direction EIJB-22/10/2019-1 is being consistently applied

2.1 Recommendation: EIJB Compliance Assurance Framework

The EIJB should design and implement a proportionate compliance assurance framework that provides ongoing assurance to the EIJB that Partners remain compliant with applicable legislation; regulations; and statutory requirements, as well as taking appropriate action to address any instances of potential non-compliance and breaches.

This should include (but should not be limited to):

1. Initial confirmation from Partners to relevant EIJB committees that they have identified all relevant legislation; regulations; and statutory requirements that apply to the services they deliver.
2. Details of established Partner compliance monitoring and breach reporting processes provided to each committee.
3. Provision of regular reporting from Partners to the relevant EIJB committee that confirms their current compliance status together with details of actions taken by Partners to address any instances of non-compliance and breaches identified.
4. An escalation process to ensure that the Board is made aware of any significant breaches that could result in significant fines or prosecution together with actions being implemented by Partners.
5. Referral of any internal audit or other assurance provider (for example the Care Inspectorate) reports that highlight any significant instances of non-compliance to an appropriate EIJB committee.
6. Review of annual partner assurance statements by the internal audit opinions by the EIJB Audit and Assurance Committee to confirm that these are aligned with the ongoing compliance assurance provided to the EIJB throughout the year.

2.1 Agreed Management Action: Compliance Assurance Framework

Risk accepted

Undertaking this level of assurance across partner functions would be disproportionate and would require significant resource to define, understand and assess the compliance of two very large and complex public bodies that also have a significant mechanism in place for internal compliance, assurance and external scrutiny. Therefore because of the strategic role of the EIJB, the risk will be accepted.

2.2 Recommendation: EIJB Direction Setting

1. The EIJB should ensure that all future directions issued in relation to operational service delivery include a specific requirement to ensure effective ongoing compliance with applicable legislation and regulations.

2.2 Agreed Management Action: Compliance Assurance Framework

Agreed. A statement about delivering services in accordance with relevant statutory and regulatory obligations will be included, where relevant, in all new directions going forward and added to existing directions (where required) as part of the next scheduled annual review process.

Owner: Judith Proctor, Chief Officer

Contributors: Moira Pringle, Chief Finance Officer; Angela Ritchie, Operations Manager

Implementation Date:
31 December 2022

3. Current EIJB Legislative and Regulatory Compliance Risk Assessment

Low

The EIJB risk register includes a risk relating to non-compliance with applicable legislative and regulatory requirements leading to legal breaches, fines, and/or prosecution that is currently assessed as low.

3.1 Recommendation: Current EIJB Legislative and Regulatory Compliance Risk Assessment

Given the findings detailed in this report, it is recommended that the assessment of this risk is reviewed immediately, together with the assessment of the effectiveness of established controls, and subsequently reassessed following implementation of the agreed management actions associated with the findings raised.

3.1 Agreed Management Action: Compliance Assurance Framework

Agreed – the current EIJB legislative and regulatory requirements risk and effectiveness of the associated controls will be reviewed and reassessed taking into account the findings and recommendations included in this report, and reviewed again following implementation of agreed management actions.

This exercise will be completed as part of the established ongoing review of the EIJB risk register.

Owner: Judith Proctor, Chief Officer

Contributors: Moira Pringle, Chief Finance Officer; Angela Ritchie, Operations Manager

Implementation Date:
31 March 2023

Appendix 1: Basis of our classifications

Finding rating	Assessment rationale
Critical	<p>A finding that could have a:</p> <ul style="list-style-type: none"> • Critical impact on the operational performance; or • Critical monetary or financial statement impact; or • Critical breach in laws and regulations that could result in material fines or consequences; or • Critical impact on the reputation of the EIJB which could threaten its future viability.
High	<p>A finding that could have a:</p> <ul style="list-style-type: none"> • Significant impact on operational performance; or • Significant monetary or financial statement impact; or • Significant breach in laws and regulations resulting in significant fines and consequences; or • Significant impact on the reputation of the EIJB.
Medium	<p>A finding that could have a:</p> <ul style="list-style-type: none"> • Moderate impact on operational performance; or • Moderate monetary or financial statement impact; or • Moderate breach in laws and regulations resulting in fines and consequences; or • Moderate impact on the reputation of the EIJB.
Low	<p>A finding that could have a:</p> <ul style="list-style-type: none"> • Minor impact on operational performance; or • Minor monetary or financial statement impact; or • Minor breach in laws and regulations with limited consequences; or • Minor impact on the reputation of the EIJB.
Advisory	<p>A finding that does not have a risk impact but has been raised to highlight areas of inefficiencies or good practice.</p>

Appendix 2: Areas of audit focus

The areas of audit focus and related control objectives included in the review are:

Audit Area	Control Objectives
Oversight of EIJB legislative and regulatory requirements	<ul style="list-style-type: none"> • A complete and accurate schedule of all legislative and regulatory requirements applicable to the EIJB is in place supported by a process of ongoing review to ensure any new/changing requirements are captured. • Roles and responsibilities for the EIJB, its committees and partner organisations in meeting relevant legislative and regulatory requirements are clearly defined and documented. • Ongoing EIJB compliance is regularly monitored and reported to relevant EIJB committees. • Information reported to the EIJB clearly sets out relevant regulatory or legislative implications including penalties or consequences for non-compliance/breaches. • Breaches and instances of non-compliance are recorded and reported to relevant EIJB governance forums and, where applicable to external bodies. • The EIJB's annual governance statement accurately confirms compliance with legislative and statutory requirements with clear actions to address any non-compliance or breaches identified. • Directions are issued by the EIJB to both or either partners where either recurring or material breaches are evident that could impact either delegated functions or EIJB strategic objectives.
Oversight of Partnership legislative and regulatory requirements	<p>The EIJB obtains appropriate assurance on ongoing Partnership compliance with applicable legislative and regulatory compliance. It is expected that this would include the following, or other similar arrangements:</p> <ul style="list-style-type: none"> • review of Council and NHSL annual assurance statements; • details of any significant and / or recurring breaches and details of actions implemented to ensure that root causes are addressed; • confirmation that any directions issued in relation to legislative and regulatory compliance have been implemented and consistently applied; and • confirmation that other suppliers or partners who deliver services on behalf of the Council or NHSL have had no significant and / or recurring breaches.

Appendix 2: EIJB Internal Audit Overdue Management Actions as at 26 January 2022

Glossary of terms

- Project – This is the name of the audit report.
- Issue – This is the name of the finding.
- Issue Type – This is the priority of the audit finding, categorised as Critical, High, Medium, and Low.
- Rec - This is the title of the internal audit recommendation.
- Status – This is the current status of the management action. These are categorised as
 - Pending (the action is open and there has been no progress towards implementation),
 - Started (the action is open and work is ongoing to implement the management action),
 - Implemented (the service area believes the action has been implemented and this is with Internal Audit for validation).
- Agreed Management action – This is the action agreed between Internal Audit and Management to address the finding.
- Estimated date – the original agreed implementation date.
- Revised date – the current revised date. **Red** formatting in the dates field indicates the last revised date is overdue.
- Number of revisions – the number of times the date has been revised post implementation of TeamCentral. **Amber** formatting in the dates field indicates the date has been revised more than once.

Ref	Project/Issue	Issue Type	Rec/Status	Agreed Management Action	Dates/ Revisions	Management update
1	CW1801 Historic Unimplemented Findings HSC1503 - Issue 3 Quality Assurance	High	3a) Quality Assurance review of Personal Support Plans Started	We can demonstrate that we are working to develop improvements in the recording and quality of assessments and reviews through discussion about cases through the locality good practice forum, however, recognise that needs to be formalised and aligned to the roll out of the three conversations model. Therefore, this action will be extended to align with the rollout of the 3C model and to allow time to embed.	Estimated 31/12/2016 Revised 31/12/2022 Revisions 5	The Three Conversations Model continues to be rolled out across localities, however rolling out a programme of this size and complexity has been slower than anticipated and has been impacted by staff dealing with COVID19 and systems pressures. Therefore, a revised implementation has been agreed to the end of the year, to support full rollout.
2	EIJB1701 Purchasing Budget Management Issue 2 Financial Controls	High	2.1 Implementing funding allocation model Started	A Project team has been established to develop a plan to re-introduce a resource allocation system linked to Swift. Work on the technical solution is underway along with detailed engagement and implementation plans.	Estimated: 31/12/2019 Revised: 31/03/2023 Revisions 3	Work has started to develop a new resource allocation model and are testing the three conversations resource allocation model; however, the date has been revised to allow for full roll out / implementation if the testing of the model is successful.
3	EIJB1701 Purchasing Budget Management Issue 2 Financial Controls	High	2.3c Operational plan for charging for services Started	Once the strategy is agreed, an operational plan will be developed to detail how the strategy will be implemented.	Estimated: 31/10/2019 Revised: 01/05/2021 Revisions 2	The service is liaising with the transactions team who operationalise the charging policy on our behalf. A revised implementation date will be provided once timescales advised by the transactions team that sit within Corporate Services.
4	EIJB1701 Purchasing Budget Management Issue 3 Operational Structure Processes	High	3.1a Review of holistic social care processes - alignment to Three Conversations Started	Screening and allocation processes, assessment and resource allocation and review processes are being redesigned through the roll out of Three Conversations approach across all services.	Estimated: 31/12/2019 Revised: 31/12/2022 Revisions 6	The Three Conversations Model continues to be rolled out across localities, however rolling out a programme of this size and complexity has been slower than anticipated and has been impacted by staff dealing with COVID19 and systems pressures. Therefore, a revised

Ref	Project/Issue	Issue Type	Rec/Status	Agreed Management Action	Dates/ Revisions	Management update
						implementation has been agreed to the end of the year, to support full rollout.
5	EIJ1701 Purchasing Budget Management Issue 3 Operational Structure Processes	High	3.2 Recording client reviews in Swift Started	Assessment and review processes (including recording via Swift) will be redesigned following roll-out of the Three Conversations approach across all services.	Estimated: 30/09/2019 Revised: 31/12/2022 Revisions 4	The Three Conversations Model continues to be rolled out across localities, however rolling out a programme of this size and complexity has been slower than anticipated and has been impacted by staff dealing with COVID19 and systems pressures. Therefore, a revised implementation has been agreed to the end of the year, to support full rollout.
6	EIJ1701 Purchasing Budget Management Issue 4 Supplier & Contract Management	High	4.8 Review of quarterly provider ISF returns Started	A plan will be implemented to define, document and implement a new procedure for the management and governance of ISF contracts. Existing processes and procedures will be evaluated and joined up into a single piece of guidance detailing when spot contracts will be used and will be communicated to managers with responsibility for contract management.	Estimated: 31/12/2019 Revised: 31/03/2022 Revisions 5	Whilst work has started on this it has been delayed due to pressures experienced by the service, particularly in the winter months. Care at Home is facing particular issues in the recruitment and retention of staff over this period. We therefore ask for the implementation date on this action to be revised to 31/3/22.
7	EIJ1701 Purchasing Budget Management Issue 4 Supplier & Contract Management	High	4.9 Process for delaying ISF payments Started	This is linked to 4.8. Review of quarterly provider ISF returns. A plan will be implemented to define, document and implement a new procedure for the management and governance of ISF contracts. Existing processes and procedures will be evaluated and joined up into a single piece of guidance detailing when spot contracts will be used and will be communicated to managers with responsibility for contract management.	Estimated: 31/12/2019 Revised: 31/03/2022 Revisions 5	As per 4.8

Ref	Project/Issue	Issue Type	Rec/Status	Agreed Management Action	Dates/ Revisions	Management update
8	EIJ1702 Social Care Commissioning Issue 1 Maturity of social care commissioning	High	1.1 - Review of the social care commissioning model Started	<p>The social care commissioning model will be reviewed and where required processes implemented to ensure coverage for all social care services provided by the Partnership.</p> <p>The process will set out responsibility for oversight for each component including upward reporting to relevant governance forums and Committees/Boards. The process will also consider the most recently available population projections (and other relevant factors) to forecast future demand for services.</p>	<p>Estimated: 30/04/2020</p> <p>Revised: 30/04/2023</p> <p>Revisions 3</p>	Date revised to bring into line with the expected conclusion of the next Strategic Planning Cycle.
9	EIJ1702 Social Care Commissioning Issue 1 Maturity of social care commissioning	High	1.2 - Review of management information to support commissioning Started	Work is progressing to develop an integrated performance framework for the IJB, to capture the scope of current reporting, agree on the future management information framework and engage operational staff in the workstream. Management Information will then be developed to best meet our operational delivery.	<p>Estimated: 31/01/2020</p> <p>Revised: 30/09/2022</p> <p>Revisions 3</p>	Work is progressing to develop a performance framework that supports our commissioning intentions; however, it is early in development with roll out expected September 2022.
10	EIJ1804 Strategic Planning Issue 1 Strategic Planning Framework	Medium	1.1 - Strategic Planning Framework Started	A significant amount of work has been carried out to develop the revised strategic plan, however management recognise the current strategic planning process could be improved and have committed to reviewing this. It is intended that the strategic plan will be reviewed on an annual basis, therefore an analysis of detailed requirements as set out in Scottish Government guidance and the key tasks required will be completed, and a documented framework aligned to points set out in this recommendation will be developed.	<p>Estimated: 30/04/2020</p> <p>Revised: 28/02/2022</p> <p>Revisions 4</p>	On track from implementation by the end of February 2022.

Ref	Project/Issue	Issue Type	Rec/Status	Agreed Management Action	Dates/ Revisions	Management update
11	EIJB1804 Strategic Planning Issue 2 Market Facilitation Plan	Medium	2.1 - Market Facilitation Plan Started	The 2019-22 Strategic Plan sets out the initial intention for developing our approach to market facilitation. This will be developed further to align with the commissioning review work already underway. A Market Facilitation Plan which sets out medium term commissioning intentions will be developed and reviewed in line with the strategic planning and commissioning cycle.	Estimated: 30/04/2020 Revised: 31/03/2023 Revisions 3	Development of a Market Facilitation Plan is in progress. Date revised to bring it into line with the expected conclusion of the next Strategic Planning Cycle.
12	EIJB1804 Strategic Planning Issue 3 Plan delivery	Medium	3.1 – Plan delivery – performance monitoring framework Started	In the performance management section of the strategic plan it states the Edinburgh Health and Social Care Partnership intend to review performance measurement and to develop an additional, more focussed performance framework, designed around the strategic plan and its outputs. This will also be scrutinised by the Performance and Delivery Sub Committee and the EIJB.	Estimated: 30/04/2020 Revised: 30/09/2022 Revisions 4	Work is progressing to develop a Performance Framework; however, it is early in development and will not be fully rolled out until March 2022. Revised date recommended to September 2022 to allow rollout and evidence the new approach.
13	EIJB2001 Capital and Workforce Planning Issue 1 - Capital and Workforce Planning Frameworks	Medium	EIJB2001 Recommendation 1.1: Capital Planning Framework Started	We acknowledge and agree with the internal audit recommendation to develop a framework to support ongoing capital planning, and delivery of the EIJB capital asset strategy. Work to progress the detailed points set out in the recommendation will be included in the framework and will be delivered by the Future Focussed Infrastructure workstream in Phase 2 of the EIJB Transformation Programme.	Estimated: 31/12/2021 Revised: 30/04/2023 Revisions 1	Date revised to bring it into line with the expected conclusion of the next Strategic Planning Cycle.

Ref	Project/Issue	Issue Type	Rec/Status	Agreed Management Action	Dates/ Revisions	Management update
14	EIJB2001 Capital and Workforce Planning Issue 1 - Capital and Workforce Planning Frameworks	Medium	1.2 Workforce Planning Framework Started	We acknowledge and agree with the internal audit recommendation. A workforce strategy is being developed by the Programme Board for workstream 4 (Cross Cutting Enablers) of the Transformation Programme.	Estimated: 31/12/2021 Revised: 30/04/2022 Revisions 1	The workforce planning timetable has been delayed due to Covid-19 and the related work pressures. Implementation date revised to accommodate this and allow sufficient time for the development of the framework. The workforce strategy was agreed at the EIJB on Tuesday 08 February.
15	HSC1604: IJB Data Integration & Sharing Prioritisation process	High	1.2 User access framework assurance Started	Rebased action 29 July 2021. The Partnership will implement a user access framework for those systems which are managed by the Partnership. As part of the implementation of the framework, we will develop an assurance process to ensure that the user access framework is being implemented consistently. This will check that user accounts are being removed when staff leave the organisation, that users have the appropriate access rights and that access rights are being considered as part of any change in role.	Estimated: 30/09/2017 Revised: 31/03/2022 Revisions 7	The User Framework is in the final stages of development and will be implemented by the 31.03.22.

Appendix 3: Analysis of Overdue EIJB IA Findings as at 26 January 2022

Ref	Audit	Actions to be implemented	Rating	Original Date	Age
1.	CW1801 - Historic unimplemented findings – Issue 14	Implementation of a quality assurance framework across localities for personal support plans.	High	31/12/2016	>5 years
2.	HSC1604 - Data Integration and Sharing – Issue 1	Rebased July 2021 - Implementation of user access framework for systems managed by the Partnership with appropriate assurance process to ensure framework is applied consistently.	High	31/10/2017	>4 years
3.	EIJB1701 - Purchasing Budget Management – Issue 2	Financial Controls – 2 management actions are outstanding that relate to implementation of a funding allocation model and developing an operational plan for charging for services.	High	31/12/19	>2 years
4.	EIJB1701 - Purchasing Budget Management – Issue 3	Operational structure processes - screening and allocation processes, assessment and resource allocation and review processes will be redesigned through the roll out of the Three Conversations approach across all services.	High	31/12/19	>2 years
		Assessment and review processes (including recording via Swift) will be redesigned following roll-out of the Three Conversations approach across all services.			

Ref	Audit	Actions to be implemented	Rating	Original Date	Age
5.	EIJB1701 - Purchasing Budget Management – Issue 4	Supplier and Contract Management – a total of 2 management actions are outstanding, these include review of quarterly provider ISF returns and process for delaying ISF payments.	High	31/12/2019	>2 years
6.	EIJB1702 - Social Care Commissioning - Issue 1	Two actions are outstanding in relation to the design of a new social care commissioning model covering all social care services provided by the Partnership. This should include implementing a model covers all social care services provided by the Partnership and a review of management information to support commissioning	High	30/04/20	1-2 years
7.	EIJB1804 - Strategic Planning – Issue 1	Development of a strategic planning framework aligned to legislative requirements and Scottish Government guidance.	Medium	30/04/20	1-2 years
8.	EIJB1804 - Strategic Planning – Issue 2	Development of a market facilitation plan aligned to the revised social care commissioning model.	Medium	30/04/20	1-2 years
9.	EIJB1804 - Strategic Planning – Issue 3	Content of revised performance framework and inclusion of revised performance framework within strategic planning framework.	Medium	30/04/20	1-2 years
10.	EIJB2001 Capital and Workforce Planning – Issue 1	Two actions are outstanding in relation to development of an EIJB capital asset strategy and a workforce strategy.	Medium	31/12/21	1-3 mths