

## **West Lothian Integration Joint Board**

Date: 20 October 2015

Agenda Item: **5**

### **CODE OF CONDUCT**

### **REPORT BY DIRECTOR**

#### **A PURPOSE OF REPORT**

To seek approval for the terms of the IJB Code of Conduct and for its submission to the Scottish Ministers for approval.

#### **B RECOMMENDATION**

1. To approve the draft Code of Conduct in Appendix 1 for submission to the Scottish Ministers for approval
2. To agree that members should abide by the terms of the draft Code on an interim basis, pending its approval and formal adoption
3. To note that procedures and forms are being prepared to assist members in completing and maintaining their Register of Interests and complying with the statutory obligations arising from their appointment to the Board
4. To consider a process for the appointment of a Standards Officer for the IJB as required by the Act, to advise members and assist them in complying with the Act and their duties and to be the Board's point of contact for investigations and enforcement

#### **C TERMS OF REPORT**

The Ethical Standards in Public Life etc. (Scotland) Act 2000 imposes obligations on councillors and on members of devolved public bodies in relation to their conduct when acting in their official capacity. The duties are put in place through an obligation to comply with a Code of Conduct. Those same duties will apply to members of the IJB and will apply to both voting and non-voting members.

As a devolved public body, the IJB is required to prepare its own Code of Conduct, based on a Model Code issued by the Scottish Ministers. Certain elements of the model Code are compulsory, but there is room for variation and particular provisions to suit the body concerned. The draft Code then has to be submitted to the Ministers for approval before it is formally adopted and applied to the members of the body concerned.

A draft Code has been developed through the health board and the four councils in the health board area for use by each IJB. The proposed version is on Appendix 1 to the report. It almost entirely follows the draft but has been tidied up in relation to terminology and appearance.

The draft Code will be familiar to the voting members of the Board but not necessarily to non-voting members. Its main features are:-

- A list of key principles which govern all conduct – duty, selflessness, integrity, objectivity, accountability and stewardship, openness, honesty, leadership and respect
- Provision that those principles apply to all conduct when acting as a member of the Board, in dealings with fellow members, employees, stakeholders and the public in general
- Rules about the acceptance of gifts and hospitality
- Confidentiality requirements
- A duty to complete and maintain a Register of Interests, open to the public, recording significant interests in relation to remuneration; related undertakings; contracts; houses, land and buildings; shares and securities; gifts and hospitality; and non-financial interests
- An obligation to declare any interests at meetings of the Board and its committees which the member considers may fall foul of the “objective test” – whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice discussion or decision-making
- A process whereby the rest of the voting members present are to decide if the member declaring an interest should withdraw or may remain (this is based on the current provisions in statutory regulations which are to be amended at some unknown future date to return the decision about withdrawal to the declaring member as his or her personal responsibility)
- Guidance on lobbying

- The Code makes it explicit that Board members do not require to declare at meetings their membership of or employment by the council or the health board as a matter of routine, unless there are particular circumstances which go beyond the simple fact of that membership or employment. This matches the position for Board members when they attend internal health board or council meetings – dispensations have been granted by the Standards Commission to avoid that happening as a matter of routine

Complaints can be made to the Commissioner for Ethical Standards who investigates and determines if there has been a breach and so whether a reference to the Standards Commission for Scotland is necessary. The Commission may then hold a hearing, and can apply sanctions including censure, suspension and disqualification.

Upon appointment, Board members will be provided with a form to complete to populate their Register for the first time. Regular reminders will be issued to ensure members keep their register up to date, but member have personal responsibility to declare any changes or additions as they occur. The Register will be published and made available to the public through the internet and on request.

The agenda for every Board and committee meeting will include “Declarations of Interest” as a standing item, and even where no declarations are made the minute will record that. Both are intended to assist members in keeping the Code of Conduct in the forefront of their minds and to demonstrate to the public awareness of and compliance with the Code.

Initial advice will be made available to members as they are appointed, both in relation to populating their Registers and compliance at meetings. *Ad hoc* advice will be available on request to members in relation to the Register, and declarations and withdrawal from meetings.

The Act requires that the Board appoints a Standards Officer and the Board should consider an appropriate process to secure that appointment.

Compliance with the Code is a matter that will be significant to the corporate governance of the Board and may be subject to audit when arrangements are made for the provision of an internal audit service and an Audit & Governance Committee.

There will be a lapse of time between the Board’s agreement to the terms of the draft Code and its approval and formal adoption. It is therefore proposed that members should agree to observe and abide by the draft Code as if it were already approved and adopted.

## **D CONSULTATION**

NHS Lothian Leadership Group

## **E REFERENCES/BACKGROUND**

Ethical Standards in Public Life etc. (Scotland) Act 2000

Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003

Model Code of Conduct - <http://www.gov.scot/Resource/0044/00442087.pdf>

Guidance on the Model Code Of Conduct for Members of Devolved Public Bodies - [http://www.standardscommissionscotland.org.uk/webfm\\_send/392](http://www.standardscommissionscotland.org.uk/webfm_send/392)

West Lothian Council Register of Members' Interests - <http://coins.westlothian.gov.uk/coins/allMembers.asp?sort=0>

Lothian Health Board Members' Register of Interests - [http://www.nhsllothian.scot.nhs.uk/YourRights/FOI/Documents/Lothian\\_NHS\\_Register\\_interests.pdf](http://www.nhsllothian.scot.nhs.uk/YourRights/FOI/Documents/Lothian_NHS_Register_interests.pdf)

## **F APPENDICES**

Draft Code of Conduct

## **G SUMMARY OF IMPLICATIONS**

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|---|---|
| <b>Equality/Health</b>                        | The report has been assessed as having little or no relevance with regard to equality or the Public Sector Equality Duty. As a result, an equality impact assessment has not been conducted |
| <b>National Health and Wellbeing Outcomes</b> | Not directly relevant   |
| <b>Strategic Plan Outcomes</b>                | Not directly relevant   |
| <b>Single Outcome Agreement</b>               | Not directly relevant   |
| <b>Impact on other Lothian IJBs</b>           | None  |
| <b>Resource/finance</b>                       | No implications   |
| <b>Policy/Legal</b>                           | Compliance with legislation and statutory guidance listed in Part E   |
| <b>Risk</b>                                   | Adoption of a Code of Conduct and procedures to ensure compliance will reduce the risk of improper conduct or unlawful decision-making  |

## **H CONTACT**

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