

Title/Subject: Financial Regulations
Meeting: Integration Joint Board
Date: 24 March 2016
Submitted By: Chief Finance Officer
Action: For Decision

1. INTRODUCTION

- 1.1 The purpose of this report is to provide the Integration Joint Board with a set of Financial Regulations for consideration and approval.
- 1.2 The Integration Joint Board is required by the Public Bodies (Joint Working) (Scotland) Act 2014 and the supporting guidance from the Integrated Resourcing Advisory Group (IRAG) to agree a set of financial regulations as part of appropriate governance arrangements.

2. RECOMMENDATIONS

The Integration Joint Board is asked to:

- 2.1 consider whether to establish an Audit Committee;
- 2.2 approve the Financial Regulations attached at Appendix 1
- 2.3 specifically note the responsibilities of the Board, Chief Officer and Chief Finance Officer set out therein; and
- 2.4 agree to the regular review of the financial regulations as the Board develops and task the Chief Finance Officer to undertake such review as and when required and report back to the Board.

3. CONSIDERATIONS

- 3.1 The financial regulations have been developed by a sub-group of the finance workstream and therefore represent professional views from the workstream.
- 3.2 The regulations have been written taking into account national guidance and best practice and the arrangements put in place in other partnerships which are already operational.
- 3.3 The regulations have been drafted on the basis that the Board may wish to establish an Audit Committee. These are attached at Appendix 1. The Board is not required to do so. The IRAG Guidance gives the formation of such a committee as an example of good practice. If the Board favours the establishment of a committee, a further report can be brought back to the next meeting with suggested terms of reference. If the Board does not favour this approach, the Financial Regulations may be approved subject to deletion of the references to the committee.

4. CONCLUSION

Resource Implications

None directly as a result of the financial regulations. A separate paper on the partnership budget will be presented to the Board for approval.

Impact on IJB Outcomes and Priorities

Effective financial regulations will ensure that the Integration Joint Board and its officers discharge their duties effectively thereby assisting in pursuance of its outcomes and priorities.

Legal and Risk Implications

None identified.

Consultation

The following groups and individuals have been consulted on these regulations:

- Finance Workstream
- Integration Programme Board

Equalities Assessment

N/A.

Approved for submission by: Patricia Cassidy, Chief Officer

Author – Ewan Murray, Chief Finance Officer

Date: 10 March 2016

List of Background Papers:

Integrated Resourcing Advisory Group (IRAG) supporting guidance

FALKIRK INTEGRATION JOINT BOARD FINANCIAL REGULATIONS

1. DEFINITIONS AND INTERPRETATION

1.1 **"1973 Act"** means the Local Government (Scotland) Act 1973;

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

"Board" means Integration Joint Board;

"Chief Finance Officer" means the Chief Finance Officer of the Board appointed by the Board in terms of section 95 of the 1973 Act;

"Chief Officer" means the Chief Officer of the Board appointed by the Board in terms of s10 of the Act;

"Council" means Falkirk Council;

"Integrated Budget" means the Integrated Budget of the Board set in accordance with the provisions of the Integration Scheme.

"Integration Joint Board Budget or IJB Budget" means the Integrated Budget as defined above plus the 'Set-Aside' budget per the provisions of the Integration Scheme. This includes Partnership Funding including the Integrated Care Fund, Delayed Discharge Fund, Integration Fund and any other external funding for Health and Social Care..

"Set-Aside Budget" means the sum to be set aside and made available by the NHS Board to the Integration Joint Board in respect of those delegated functions which are carried out in a large hospital.

"Integration Scheme" means the Integration Scheme between the Parties approved by the Scottish Ministers.

"Directions" means the instruction to carry out functions defined in the Act and Integration Scheme.

"Accountable Officer" means the officer personally answerable to the Scottish Parliament in accordance with Section 15 of the Public Finance and Accountability (Scotland) Act 2000. For Health Boards this is the Chief Executive.

"NHS" means Health Board;

"Parties" means the Council and the NHS (and **"Party"** means either of them); and

"Strategic Plan" means the plan which the Board is required to prepare and Implement in relation to the delegated provision of health and social care services to adults in accordance with section 29 of the Act.

1.2 Words in these Financial Regulations that are also used in the Board's other governing documents shall, where possible, have the same meanings as they have in those other governing documents.

2. SCOPE AND OBSERVANCE

- 2.1 The Board is a legal entity in its own right, created by Parliamentary Order, following Ministerial approval of the Integration Scheme. The Parties adopted a 'body corporate' arrangement- s1(4)(a) of the Act.
- 2.2 The Board is accountable for the stewardship of public funds and is expected to operate under public sector best practice governance arrangements proportionate to its transactions and responsibilities. Stewardship is a function of management and, therefore, a responsibility placed upon the appointed members and officers of the Board. In particular:-
- (1) NHS (Financial Provisions) (Scotland) Regulations 1974 require NHS Directors of Finance to design, implement and supervise systems of financial control and NHS circular 1974 (GEN) 88 requires the Director of Finance to:
 - . approve the financial systems;
 - . approve the duties of officers operating these systems; and
 - . maintain a written description of such approved financial systems including a list of specific duties.
 - (2) Section 95 of the 1973 Act requires that every local authority shall make arrangements for the proper administration of its financial affairs and shall secure that the proper officer of the authority has responsibility for the administration of those affairs.
- 2.3 Members of the Board have a duty to abide by the highest standards of probity in dealing with financial issues. This is achieved by ensuring everybody is clear about the standards to which they are working and the controls in place to ensure these standards are met.
- 2.4 The key controls and control objectives for financial management standards are:-
- (1) the promotion of the highest standards of financial management by the Board;
 - (2) a monitoring system to review compliance with the financial regulations;
 - (3) comparisons of actual and forward projection of financial performance with planned/budgeted performance that are reported to the Board; and
 - (4) the Audit Committee of the Board fulfilling its duties under its Terms of Reference.
- 2.5 In all matters to do with the management and administration of the IJB Budget by the Board and its officers exercising such delegated powers as the Board has agreed in this regard, these Financial Regulations will apply in all circumstances.
- 2.6 Prior to any funding being passed by one of the Parties to the Board as part of the Integrated Budget, the Financial Regulations or Standing Financial Instructions of the relevant Party will apply. Similarly, once funding has been approved from the Integrated Budget by the Board and directed by it to the Council or the NHS for the purposes of service delivery, the Standing Financial Instructions or Financial Regulations of the relevant Party will then apply to the directed sum, which will be utilised in accordance with the priorities determined by the Board in its Strategic Plan.

3. FINANCIAL

MANAGEMENT

Responsibility of Board

- 3.1 The Integration Scheme sets out the detail of the integration arrangements agreed between the Parties in accordance with the Act. In relation to financial management it specifies:-
- (1) the functions which are delegated to the Board by the NHS and the Council.
 - (2) the financial management arrangements including treatment of budget variances;
 - (3) the reporting arrangements between the Board, the NHS and the Council;
 - (4) the method for determining the payment to be made available by the NHS and the Council to the Board; and
 - (5) giving directions to the NHS and the Council that are designed to ensure resources are spent according to the Strategic Plan.
- 3.2 The Board is responsible for the production of the Strategic Plan, setting out the needs, priorities and services for its population over the medium term (3 years), including:-
- (1) the payment from the Council
 - (2) the payment from the NHS to the Board
 - (3) the amount set aside by the NHS for delegated services.

Responsibility of the Chief Officer

- 3.3 The Chief Officer will discharge his/her duties in respect of the delegated functions by:-
- (1) ensuring that the Strategic Plan meets the requirement for economy, efficiency and effectiveness in the use of the Board resources.

Responsibility of the Chief Finance Officer

- 3.4 The Board is required to appoint an officer responsible for its financial administration. This post, known as the Chief Finance Officer, will fulfil a role equivalent of the section 95 officer within the Council.
- 3.5 The Chief Finance Officer will discharge his/her duties in respect of the available resources by:-
- (1) establishing financial governance systems for the proper use of the available resources;
 - (2) ensuring that the Strategic Plan meets the requirement for best value in the use of the Board's resources; and

- (3) ensuring that the directions given by the Chief Officer to the NHS and the Council provide for the resources that are allocated in respect of the directions to be spent according to the Strategic Plan. It is the responsibility of the Chief

Finance Officer to ensure that the provisions of the directions enable the Parties to discharge their responsibilities in this respect

- 3.6 The responsibilities of the NHS's accountable officer, (the NHS's Chief Executive) and the Council's Chief Financial Officer (section 95 officer) are as follows:-

- (1) the NHS's accountable officer and the Council's section 95 officer discharge their responsibility, as it relates to the resources that are delegated to the Board.
- (2) the NHS's Director of Finance and the Chief Financial Officer (section 95 officer) of the Council will provide specific advice and professional support to the Chief Officer to support the production, and when necessary the periodic review of, the Integration Scheme;
- (3) the NHS's Director of Finance and the Chief Financial Officer (section 95 officer) of the Council will provide ongoing support and advice to the Chief Officer in the delivery of operational services within the NHS and the Council.

4. FINANCIAL

PLANNING Strategic

Plan

- 4.1 The Board is responsible for the production of the Strategic Plan -setting out the needs, priorities and services for its population over the medium term (3 years). This should include a medium term financial plan for the resources within the scope of the Strategic Plan, incorporating:-
 - (1) the Integrated Budget- aggregate of payments to the Board; and
 - (2) the Set-aside Budget- the amount set aside by the NHS for delegated services.
- 4.2 While the NHS and the Council should provide indicative three year rolling funding allocations to the Board to support the Strategic Plan and the medium term financial planning process such indicative allocations would remain subject to annual approval by all Parties.
- 4.3 It is the responsibility of the Chief Officer and the Chief Finance Officer to develop a draft IJB budget based on the Strategic Plan and to present this to the Parties for consideration and agreement within each Party's budget setting process. The draft budget should take account of such factors as:-
 - (1) **Activity Changes:** the impact on resources in respect of increased demand (e.g. demographic pressures and increased prevalence of long term conditions) and for other planned activity changes;
 - (2) **Cost inflation:** pay and supplies cost increases;

- (3) **Efficiencies:** all savings (including increased income opportunities and service rationalisations/cessations) should be agreed between the Board and the Council / NHS as part of the annual rolling financial planning process to ensure transparency;
- (4) **Performance on outcomes:** the potential impact of efficiencies on agreed outcomes must be clearly stated and open to discussion and consideration by the Council and the NHS;
- (5) **Legal requirements:** legislation may entail expenditure commitments that should be taken into account in adjusting the amounts to be paid, or set aside, to the Board by the Parties;
- (6) **Transfers to/from the set aside budget for hospital services:** as set out in the Strategic Plan;
- (7) **Adjustments to address equity:** the Council and the NHS may choose to adjust contributions to smooth the variation in weighted capita resource allocations across partnerships; information to support this will be provided by the Information Services Division and the Analytical Services Division.

Limits on Expenditure

- 4.4 No expenditure shall be incurred by the Board unless it has been included within the approved IJB Budget and Strategic Plan, except:-
- (1) where additional funding has been approved by the NHS and/or the Council and the IJB Budget/Strategic Plan updated appropriately;
 - (2) where additional funding has been allocated by the Scottish Government following approval of the IJB budget;
 - (3) in emergency situations in terms of any scheme of delegation; and
 - (4) as provided for in paragraph 4.6 below (Virement).

Virement

- 4.5 Virement is defined by CIPFA as "the transfer of an under spend on one budget head to finance additional spending on another budget head, in accordance with an Authority's Financial Regulations". In effect virement is the transfer of budget from one main budget heading (employee costs, supplies and services etc), to another, or a transfer of budget from one service or department to another. This would also include transfers between the two arms of the budget.
- 4.6 Virement rules are set out in sections 8.8.1, 8.8.2 and 8.8.3 of the IJB Integration Scheme.
- (1) The Chief Officer is permitted to transfer resources between the arms of the Integrated Budget which fall within the scope of the Strategic Plan subject to there being no overall increase in net budget, no forward impact on future years and does not breach authorisation levels to be determined in accordance with the Scheme of Delegation.

Scheme of Delegation

- 4.7 A scheme of delegation will be developed once the initial strategic plan is agreed to allow the Chief Officer and Chief Finance Officer the appropriate level of authority to discharge their responsibilities.

Budgetary Control

- 4.8 It is the responsibility of the Board Chief Finance Officer, in consultation with the Director of Finance of the NHS and the Chief Financial Officer (section 95 officer) of Council, to agree a consistent basis and timetable for the preparation and reporting of management accounting information. In line with section 8.10.2 of the Integration Scheme this will include quarterly financial reports to the Integration Joint Board.
- 4.9 The Board Chief Finance Officer along with the Director of Finance of the NHS and the Chief Financial Officer (section 95 officer) of the Council shall, put in place a system of budgetary control which will provide the Chief Officer with management accounting information for both arms of the integrated budget and for the IJB budget in aggregate.

Variances

- 4.10 The Integration Scheme specifies how in year over/under spends will be treated. Where it appears that any heading of income or expenditure may vary significantly from that appearing in the Strategic Plan, it shall be the duty of the Chief Officer and the Chief Finance Officer, in conjunction with the NHS's Director of Finance and the Chief Financial Officer (section 95 officer) of the Council, to report in accordance with the appropriate method established for the purpose by the Board, the NHS and the Council, the details of the variance and any remedial action required.

Reports to the Board

- 4.11 All reports to the Board and any committees thereof must specifically identify the extent of any financial implications. These must have been discussed and agreed with the Chief Finance Officer prior to lodging of reports.

Legality of Expenditure

- 4.12 It shall be the duty of the Chief Officer to ensure that no expenditure is incurred, or included within the Strategic Plan, unless it is within the legal powers of the Board. In cases of doubt the Chief Officer should consult the respective legal advisors of the NHS and the Council before incurring expenditure. Expenditure on new service developments, initial contributions to other organisations and responses to new emergency situations which require expenditure, must be clarified as to legality prior to being incurred.

Management of Reserves

- 4.13 Legislation empowers the Board to hold reserves, which should be accounted for in the financial accounts and records of the Board.
- 4.14 As any underspend will be held by the Party holding the respective budget and only adjusted through subsequent allocations from the Board no interest will be credited to the Board for balances held and these will be accounted for within the financial records of the Council.

VAT

- 4.15 HM Revenues and Customs have confirmed that there is no requirement for a separate VAT registration for the Board as it will not be delivering any services within the scope of VAT. This position will require to be kept under review by the Chief Finance Officer should the operational activities of the Board change and a need to register be established.

Procurement/Commissioning of Services

- 4.16 The Public Bodies (Joint Working) (Proceedings, Membership and General Power of Integration Boards) (Scotland) Order 2014 provides that the Board may enter into a contract with any person in relation to the provision to the Board of goods and services for the purpose of carrying out the functions conferred on it by the Act.
- 4.17 As a result of specific VAT and accounting issues associated with the Board contracting directly for the provision of goods and services, the Chief Officer is required to consult with the NHS's Director of Finance and the Chief Financial Officer (section 95 officer) of the Council, and the Chief Finance Officer prior to any direct procurement exercise being undertaken.

Accounting Procedures and Records

- 4.18 All accounting procedures and records of the Board shall be determined by the Chief Finance Officer. These will also be subject to discussion and agreement with the Director of Finance / Chief Financial Officer of the NHS / Council as appropriate.
- 4.19 Legislation provides that the Board is subject to the audit and accounts provision of a body under section 106 of the 1973 Act. This requires audited annual accounts to be prepared with the reporting requirements specified in the relevant legislation and regulations - section 12 of the Local Government in Scotland Act 2003 and regulations under section 105 of the 1973 Act. These will be proportionate to the limited number of transactions of the Board whilst complying with the requirement for transparency and true and fair reporting in the public sector.

Financial Statements of the Board

- 4.20 The reporting requirements for the Board will be as specified in applicable legislation and regulations. Financial statements will be prepared following the Code of Practice on Local Authority Accounting in the UK. Statements will be signed as specified in regulations made under section 105 of the 1973 Act.
- 4.21 The financial statements including the Annual Accounts and associated reporting requirements must be completed to meet the audit and publication timetable specified in regulations. It is the primary responsibility of the Chief Finance Officer to meet these targets and of the Chief Officer to provide any relevant information to ensure that the NHS and the Council meet their respective statutory and publication requirements for the single entity and group accounts.

- 4.22 The Chief Finance Officer shall agree the financial statements production timetable with the external auditors of the Board, the NHS and the Council.

5 INTERNAL AUDIT

Responsibility for Internal

Audit

- 5.1 The Board shall establish adequate and proportionate internal audit arrangements for review of the adequacy of the arrangements for risk management, governance and control of the allocated resources, but not the amount or sufficiency of the allocated resources. This will include determining who will provide the internal audit service for the Board and nominating a Chief Internal Auditor.
- 5.2 The operational delivery of internal audit services within the NHS and the Council will be contained within their respective and established arrangements.
- 5.3 The Internal Audit Service will undertake its work in compliance with the Public Sector Internal Audit Standards.
- 5.4 On or before the start of each financial year, the Board's Chief Internal Auditor will prepare and submit a strategic risk based audit plan to the Audit Committee for approval. It is recommended this is shared for information with the relevant committee of the NHS and the Council.
- 5.5 The Board's Chief Internal Auditor will submit an annual audit report of the Internal Audit function to the Chief Officer and the Audit Committee indicating the extent of audit cover achieved and providing a summary of audit activity during the year. As a minimum the annual audit report and Chief Internal Auditor's opinion will also be reported to the audit committees of the NHS Board and the Council.

Authority of Audit

- 5.6 The Board's Chief Internal Auditor or their authorised representatives shall have authority, on production of identification, to:-
- (1) obtain entry at all reasonable times to any premises or land used or operated by the Board;
 - (2) have access to all systems, records, documents and correspondence relating to any financial and other transactions of the Board; and
 - (3) require and receive such explanations as are necessary concerning any matter under examination.

6. RISK MANAGEMENT AND INSURANCE Responsibility for

Insurance and Risk

- 6.1 The Board shall make appropriate insurance arrangements for all activities of the Board in accordance with the risk management strategy.
- 6.2 The Chief Officer shall arrange, taking such specialist advice as may be necessary, that adequate insurance cover is obtained for all normal insurable risks arising from the activities of the Board and for which it is the general custom to ensure. This will include the provision of appropriate insurance in respect of members of the Board acting in a decision making capacity.
- 6.3 The Board has become a member of the Scottish Government Clinical Negligence and Other Risks Scheme (CNORIS)- a risk transfer and financing scheme. The Chief Officer and the Chief Finance Officer will review the requirement for membership of CNORIS on an annual basis.
- 6.4 The NHS's Director of Finance and the Chief Financial Officer (section 95 officer) of the Council will ensure that the Chief Officer has access to professional support and advice in respect of risk management.

7. ECONOMY, EFFICIENCY AND EFFECTIVENESS (BEST VALUE)

- 7.1 The Chief Officer will ensure that arrangements are in place to maintain control and clear public accountability over the public funds delegated to the Board. This will apply in respect of:
 - (1) the resources delegated to the Board by the Council and the NHS; and
 - (2) the resources paid to the Council and the NHS by the Board for use as directed and set out in the Strategic Plan.
- 7.2 Best practice principles as set out in the Code of Guidance on Funding External Bodies and Following the Public Pound should be incorporated into the Strategic Plan and the directions made by the Board to allow the Chief Finance Officer, the NHS's accountable officer and the Council's section 95 officer to discharge this duty.
- 7.3 The Board has a duty to put in place proper arrangements for securing Best Value in the use of resources and delivery of services. There shall be a process of strategic planning which shall have full Board member involvement, in order to establish the systematic identification of priorities and realisation of Best Value in the delivery of services. It shall be the responsibility of the Chief Officer to deliver the arrangements put in place to secure Best Value and to co-ordinate policy in regard to ensuring that the Board provides Best Value.
- 7.4 The Chief Officer shall be responsible for ensuring implementation of the strategic planning process. Best Value should cover the areas of human resource and physical resource management, commissioning of services, financial management and policy, performance and service delivery process reviews.

8. OBSERVANCE OF FINANCIAL REGULATIONS

Responsibility of Chief Officer and The Chief Finance

Officer

- 8.1 It shall be the duty of the Chief Officer, assisted by the Chief Finance Officer, to ensure that these Financial Regulations are made known to the appropriate persons within the Board and the Partnership and to ensure that they are adhered to.

Breach of Regulations

- 8.2 A breach of these Financial Regulations must be reported immediately to the Chief Officer, who may then discuss the matter with the NHS's Chief Executive, the Council's Chief Executive or another nominated or authorised person as appropriate to decide what action to take.

Review of Financial Regulations

- 8.3 These Financial Regulations shall be the subject of regular review by the Chief Finance Officer in consultation with the NHS's Director of Finance and the Council's section 95 officer, and where necessary, subsequent adjustments will be submitted to the Board for approval