

Dated

2018

WIRRAL BOROUGH COUNCIL

and

NHS WIRRAL CLINICAL COMMISSIONING GROUP

**FRAMEWORK PARTNERSHIP AGREEMENT RELATING
TO THE COMMISSIONING OF HEALTH AND SOCIAL
CARE SERVICES**

**Head of Legal Services
Wirral Borough Council
(with acknowledgement to
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THIS AGREEMENT is made on day of

2018

PARTIES

- (1) **WIRRAL BOROUGH COUNCIL** of Wallasey Town Hall, Brighton Street, Seacombe, Wallasey, CH44 8ED (the "**Council**")
- (2) **NHS WIRRAL CLINICAL COMMISSIONING GROUP** of Marriss House, Hamilton Street, Birkenhead, Wirral, CH41 5AL (the "**CCG**")

BACKGROUND

- (A) The Council has responsibility for commissioning and/or providing social care services and public health services on behalf of the population of the borough of Wirral.
- (B) The CCG has the responsibility for commissioning health services pursuant to the 2006 Act in the borough of Wirral.
- (C) The Better Care Fund has been established by the Government to provide funds to local areas to support the integration of health and social care and to seek to achieve the National Conditions and Local Objectives. It is a requirement of the Better Care Fund that the CCG and the Council establish a pooled fund for this purpose. The Partners wish to extend the use of pooled funds to include funding streams from outside of the Better Care Fund.
- (D) Section 75 of the 2006 Act gives powers to local authorities and clinical commissioning groups to establish and maintain pooled funds out of which payment may be made towards expenditure incurred in the exercise of prescribed local authority functions and prescribed NHS functions.
- (E) The purpose of this Agreement is to set out the terms on which the Partners have agreed to collaborate and to establish a framework through which the Partners can secure the future position of health and social care services and public health services through lead or joint commissioning arrangements. It is also the means through which the Partners will pool funds and align budgets as agreed between the Partners.
- (F) The aims and benefits of the Partners in entering in to this Agreement are to:
 - a) improve the quality and efficiency of the Services;
 - b) meet the National Conditions and Local Objectives;
 - c) make more effective use of resources through the establishment and maintenance of a pooled fund for revenue expenditure on the Services;
 - d) support more effective delivery of strategic outcomes through a single planning framework and structure; and
 - e) commission a more sustainable health and care system for the people of Wirral.
- (G) The Partners are entering into this Agreement in exercise of the powers referred to in Section 75 of the 2006 Act and/or Section 13Z(2) and 14Z(3) of the 2006 Act as applicable, to the extent that exercise of these powers is required for this Agreement.

1 DEFINED TERMS AND INTERPRETATION

1.1 In this Agreement, save where the context requires otherwise, the following words, terms and expressions shall have the following meanings:

2000 Act means the Freedom of Information Act 2000.

2004 Regulations means the Environmental Information Regulations 2004.

2006 Act means the National Health Service Act 2006.

Affected Partner means, in the context of Clause 24, the Partner whose obligations under the Agreement have been affected by the occurrence of a Force Majeure Event.

Agreement means this agreement including its Schedules and Appendices.

Annual Report means the annual report produced by the Partners in accordance with Clause 20 (Review).

Approved Expenditure means any expenditure approved by the Partners in writing or as set out in the Scheme Specification in relation to an Individual Scheme above any Contract Price, Permitted Expenditure or agreed Third Party Costs.

Associated Person means in respect of the Council, a person, partnership, limited liability partnership or company (and company shall include a company which is a subsidiary, a holding company or a company that is a subsidiary of the ultimate holding company of that company) in which the Council has a shareholding or other ownership interest; OR any other body that substantially performs any of the functions of the Council that previously had been performed by the Council.

Authorised Officers means an officer of each Partner appointed to be that Partner's representative for the purpose of this Agreement.

BCF Quarterly Report means the quarterly report produced by the Partners and provided to the Health and Wellbeing Board.

BCF 2017 Agreement means the agreement between the Parties in respect of the Better Care Fund for the period commencing 1 April 2017.

Better Care Fund means the Better Care Fund as described in the 2017-2019 Integration and Better Care Fund Policy Framework prepared by the Department of Health and the Department for Communities and Local Government as relevant to the Partners.

Better Care Fund Plan means the plan agreed by the Partners for the relevant Financial Year setting out the Partners plan for the use of the Better Care Fund as attached as Schedule 6.

Better Care Fund Requirements means any and all requirements on the CCG and Council in relation to the Better Care Fund set out in Law and guidance published by the Department of Health.

Better Care Fund Schemes means the schemes referred to in Schedule 1, Part 2, paragraph 5.

Bribery Act means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

Care Act means the Care Act 2014 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

CCG Statutory Duties means the duties of the CCG pursuant to Sections 14P to 14Z2 of the 2006 Act.

Change in Law means the coming into effect or repeal (without re-enactment or consolidation) in England of any Law, or any amendment or variation to any Law, or any judgment of a relevant court of law which changes binding precedent in England after the Commencement Date.

Commencement Date means 00:01 hrs on 1 April 2018.

Confidential Information means information, data and/or material of any nature which any Partner may receive or obtain in connection with the operation of this Agreement and the Services and:

- (a) which comprises Personal Data or Sensitive Personal Data or which relates to any patient or his treatment or medical history;
- (b) the release of which is likely to prejudice the commercial interests of a Partner or the interests of a Service User respectively; or
- (c) which is a trade secret.

Contract Price means any sum payable under a Service Contract as consideration for the provision of goods, equipment or services as required as part of the Services and which, for the avoidance of doubt, does not include any Default Liability.

Data Protection Legislation this includes the GDPR, the Data Protection Act 1998, the Data Protection Act 2018, the LED, the EU General Data Protection Regulations, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

Default Liability means any sum which is agreed or determined by Law or in accordance with the terms of a Service Contract to be payable by any Partner(s) as a consequence of (i) breach by any or all of the Partners of an obligation(s) (in whole or in part) under a Service Contract or (ii) any act or omission of a third party for which any or all of the Partners are, under the terms of the relevant Service Contract, liable to a Provider or (iii) the outcome of judicial review proceedings or (iv) the determination of the Local Government and Social Care Ombudsman.

Financial Contributions means the financial contributions made by each Partner to a Pooled Fund in any Financial Year.

Financial Year means each financial year running from 1 April in any year to 31 March in the following calendar year.

First Pooled Fund has the meaning set out in Clause 7.2.

Force Majeure Event means one or more of the following:

- (a) war, civil war (whether declared or undeclared), riot or armed conflict;
- (b) acts of terrorism;
- (c) acts of God;
- (d) fire or flood;
- (e) industrial action;

- (f) prevention from or hindrance in obtaining raw materials, energy or other supplies;
- (g) any form of contamination or virus outbreak; and
- (h) any other event,

in each case where such event is beyond the reasonable control of the Partner claiming relief.

Functions means the NHS Functions and the Health Related Functions.

GDPR means the General Data Protection Regulation (Regulation (EU) 2016/279).

Health Related Functions means those of the health related functions of the Council, specified in Regulation 6 of the Regulations as relevant to the commissioning of the Services and which may be further described in the relevant Scheme Specification.

Host Partner means for each Pooled Fund the Partner that will host the Pooled Fund and for any Non-Pooled Fund the Partner that will host the Non-Pooled Fund

Health and Wellbeing Board means the Health and Wellbeing Board established by the Council pursuant to Section 194 of the Health and Social Care Act 2012.

Indirect Losses means loss of profits, loss of use, loss of production, increased operating costs, loss of business, loss of business opportunity, loss of reputation or goodwill or any other consequential or indirect loss of any nature, whether arising in tort or on any other basis.

Individual Scheme means one of the schemes which has been agreed by the Partners to be included within this Agreement using the powers under Section 75 as documented in a Scheme Specification.

Integrated Commissioning means arrangements by which both Partners commission Services in relation to an Individual Scheme on behalf of each other in exercise of both the NHS Functions and Health Related Functions through integrated structures.

Joint (Aligned) Commissioning means a mechanism by which the Partners jointly commission a Service. For the avoidance of doubt, a joint (aligned) commissioning arrangement does not involve the delegation of any functions pursuant to Section 75.

Joint Strategic Commissioning Board or JSCB means the committee of the Council responsible for the review of performance and oversight of this Agreement on behalf of the Council as set out in Schedule 2.

Law means:

- (a) any statute or proclamation or any delegated or subordinate legislation;
- (b) any enforceable community right within the meaning of Section 2(1) European Communities Act 1972;
- (c) any guidance, direction or determination with which the Partner(s) or relevant third party (as applicable) are bound to comply to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Partner(s) or relevant third party (as applicable); and
- (d) any judgment of a relevant court of law which is a binding precedent in England.

Lead Commissioning Arrangements means the arrangements by which one Partner commissions Services in relation to an Individual Scheme on behalf of the other Partner in exercise of both the NHS Functions and the Health Related Functions.

Lead Partner means the Partner responsible for commissioning an Individual Scheme under a Scheme Specification.

LED means the Law Enforcement Directive (Directive (EU) 2016/680).

Local Objectives means objectives set out and formally agreed by the Partners to be incorporated into a single commissioning strategy.

Losses means all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services), proceedings, demands and charges whether arising under statute, contract or at common law but excluding Indirect Losses and "Loss" shall be interpreted accordingly.

Memorandum of Understanding means the memorandum of understanding dated 17 May 2018 between the CCG and the Council in respect of the management of their respective staff working in Wirral Health and Care Commissioning.

Month means a calendar month.

National Conditions mean the national conditions as set out in the National Guidance as amended or replaced from time to time.

National Guidance means any and all guidance in relation to the Better Care Fund as issued from time to time by NHS England, the Department of Communities and Local Government, the Department of Health, the Local Government Association either collectively or separately.

NHS Functions means those of the NHS functions listed in Regulation 5 of the Regulations as are exercisable by the CCG as are relevant to the commissioning of the Services and which may be further described in the relevant Scheme Specification.

Non-Pooled Fund means the budget detailing the financial contributions of the Partners which are not included in a Pooled Fund in respect of a particular Service as set out in the relevant Scheme Specification.

Non-Recurrent Payments means funding provided by a Partner to a Pooled Fund in addition to the Financial Contributions pursuant to arrangements agreed in accordance with Clause 10.3.

Open Book Accounting means the structured management and sharing of transparent, complete, accurate, current and accessible costing information– including data which would traditionally have been kept confidential – so as to facilitate the joint management of the Pooled Fund and facilitate better use of the resources in commissioning services and exercise of NHS Functions and/or Health Related Functions.

Overspend means any expenditure from a Pooled Fund in a Financial Year which exceeds the Financial Contributions for that Financial Year.

Partner means each of the CCG and the Council, and references to "**Partners**" shall be construed accordingly.

Permitted Budget means in relation to a Service where the Council is the Provider, the budget that the Partners have set in relation to the particular Service.

Permitted Expenditure has the meaning given in Clause 7.4.

Personal Data has the same meaning as set out in the Data Protection Legislation.

Pooled Fund means any pooled fund established and maintained by the Partners as a pooled fund in accordance with the Regulations, including the First Pooled Fund.

Pooled Fund Manager means such officer of the Host Partner which includes a Section 113 Officer for the relevant Pooled Fund established under an Individual Scheme as is nominated by the Host Partner from time to time to manage the Pooled Fund in accordance with Clause 8.

Pooled Fund Executive Group means the executive group as described further at Schedule 1 Part 1 paragraph 13.

Provider means a provider of any Services commissioned under the arrangements set out in this Agreement including the Council or the Associated Person where the Council or an Associated Person is a provider of any Services.

Prohibited Act the following constitute Prohibited Acts:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Partners a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or
 - (ii) regard that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
- (c) committing any offence:
 - (i) under the Bribery Act;
 - (ii) under legislation creating offences concerning fraudulent act;
 - (iii) at common law concerning fraudulent acts relating to this Agreement and any other contracts with the Partners; or
- (d) defrauding, attempting to defraud or conspiring to defraud the Partners.

Public Health England means the SOSH trading as Public Health England.

Public Health Schemes means the Schemes set out at paragraph 1 of Part 2 of Schedule 1.

Quarter means each of the following periods in a Financial Year:

1 April to 30 June

1 July to 30 September

1 October to 31 December

1 January to 31 March

and "**Quarterly**" shall be interpreted accordingly.

Quarterly Reports means the reports that the Pooled Fund Manager shall produce and provide to the Joint Strategic Commissioning Board and the CCG Governing Body on a Quarterly basis.

Regulated Activity in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults, as defined in Part 2 of Schedule 4 of the Safeguarding Vulnerable Groups Act 2006.

Regulated Activity Provider as defined in Section 6 of the Safeguarding Vulnerable Groups Act 2006.

Regulations means the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 No 617 (as amended from time to time).

Ring-Fenced Monies means the monies ring-fenced to meet the outcomes of the Public Health Schemes as described further in Schedule 3.

Scheme Specification means a specification setting out the arrangements for an Individual Scheme agreed by the Partners to be commissioned under this Agreement.

Sensitive Personal Data has the same meaning as set out in the Data Protection Legislation.

Services means such health and social care services as agreed from time to time by the Partners as commissioned under the arrangements set out in this Agreement and more specifically defined in each Scheme Specification.

Service Contract means an agreement entered into by one or more of the Partners in exercise of its obligations under this Agreement to secure the provision of the Services in accordance with the relevant Individual Scheme.

Service Users means those individuals for whom the Partners have a responsibility to commission the Services.

SOSH means the Secretary of State for Health and Social Care.

Third Party Costs means all such third party costs (including legal and other professional fees) in respect of each Individual Scheme as a Partner reasonably and properly incurs in the proper performance of its obligations under this Agreement and as agreed by the Joint Strategic Commissioning Board and the CCG Governing Body.

Underspend means any expenditure from the Pooled Fund in a Financial Year which is less than the aggregate value of the Financial Contributions for that Financial Year.

Working Day means 8.00am to 6.00pm on any day except Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday (in England) under the Banking & Financial Dealings Act 1971.

- 1.2 In this Agreement, all references to any statute or statutory provision shall be deemed to include references to any statute or statutory provision which amends, extends, consolidates or replaces the same and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made thereunder and any conditions attaching thereto. Where relevant, references to English statutes and statutory provisions shall be construed as references also to equivalent statutes, statutory provisions and rules of law in other jurisdictions.
- 1.3 Any headings to Clauses, together with the front cover and the index are for convenience only and shall not affect the meaning of this Agreement. Unless the contrary is stated, references to Clauses and Schedules shall mean the clauses and schedules of this Agreement.
- 1.4 Any reference to the Partners shall include their respective statutory successors, employees and agents.
- 1.5 In the event of a conflict, the conditions set out in the Clauses to this Agreement shall take priority over the Schedules.
- 1.6 Where a term of this Agreement provides for a list of items following the word "including" or "includes", then such list is not to be interpreted as being an exhaustive list.

- 1.7 In this Agreement, words importing any particular gender include all other genders, and the term "person" includes any individual, partnership, firm, trust, body corporate, government, governmental body, trust, agency, unincorporated body of persons or association and a reference to a person includes a reference to that person's successors and permitted assigns.
- 1.8 In this Agreement, words importing the singular only shall include the plural and vice versa.
- 1.9 In this Agreement, "staff" and "employees" shall have the same meaning and shall include reference to any full or part time employee or officer, director, manager and agent.
- 1.10 Subject to the contrary being stated expressly or implied from the context in these terms and conditions, all communication between the Partners shall be in writing.
- 1.11 Unless expressly stated otherwise, all monetary amounts are expressed in pounds sterling but in the event that pounds sterling is replaced as legal tender in the United Kingdom by a different currency then all monetary amounts shall be converted into such other currency at the rate prevailing on the date such other currency first became legal tender in the United Kingdom.
- 1.12 All references to the Agreement include (subject to all relevant approvals) a reference to the Agreement as amended, supplemented, substituted, novated or assigned from time to time.

2 TERM

- 2.1 This Agreement shall come into force on the Commencement Date.
- 2.2 This Agreement shall continue until it is terminated in accordance with Clause 22 or until midnight on 31 March 2021 whichever is earlier.
- 2.3 The duration of the arrangements for each Individual Scheme shall be as set out in the relevant Scheme Specification or if not set out, for the duration of this Agreement unless terminated earlier by the Partners.
- 2.4 This Agreement supersedes the BCF 2017 Agreement without prejudice to the rights and liabilities of the Partners under the BCF 2017 Agreement.

3 GENERAL PRINCIPLES

- 3.1 Nothing in this Agreement shall affect:
- (a) the liabilities of the Partners to each other or to any third parties for the exercise of their respective functions and obligations (including the Functions); or
 - (b) any power or duty to recover charges for the provision of any services (including the Services) in the exercise of any local authority function (including any Health Related Function).
- 3.2 The Partners agree to:
- (a) treat each other with respect and an equality of esteem;
 - (b) be open with information about the performance and financial status of each; and
 - (c) provide early information and notice about relevant problems.
- 3.3 For the avoidance of doubt, the aims and outcomes relating to an Individual Scheme may be set out in the relevant Scheme specification.

4 PARTNERSHIP FLEXIBILITIES

4.1 This Agreement sets out the mechanism through which the Partners will work together to commission services. This may include one or more of the following commissioning mechanisms:

- (a) Lead Commissioning Arrangements;
- (b) Integrated Commissioning;
- (c) Joint (Aligned) Commissioning
- (d) the establishment of one or more Pooled Funds

in relation to Individual Schemes (the "Flexibilities").

4.2 Where there are Lead Commissioning Arrangements and the CCG is Lead Partner the Council delegates to the CCG and the CCG agrees to exercise, on the Council's behalf, the Health Related Functions to the extent necessary for the purpose of performing its obligations under this Agreement in conjunction with the NHS Functions.

4.3 Where there are Lead Commissioning Arrangements and the Council is Lead Partner, the CCG delegates to the Council and the Council agrees to exercise on the CCG's behalf the NHS Functions to the extent necessary for the purpose of performing its obligations under this Agreement in conjunction with the Health Related Functions.

4.4 Where the powers of a Partner to delegate any of its statutory powers or functions are restricted, such limitations will automatically be deemed to apply to the relevant Scheme Specification and the Partners shall agree arrangements designed to achieve the greatest degree of delegation to the other Partner necessary for the purposes of this Agreement which is consistent with the statutory constraints.

4.5 At the Commencement Date the Partners agree that there is one Pooled Fund which comprises the schemes set out in Schedule 1 Part 2.

5 FUNCTIONS

5.1 The purpose of this Agreement is to establish a framework through which the Partners can secure the provision of health and social care services in accordance with the terms of this Agreement.

5.2 This Agreement shall include such Functions as shall be agreed from time to time by the Partners as are necessary to commission the Services in accordance with their obligations under this Agreement.

5.3 The Scheme Specifications for the Individual Schemes included as part of this Agreement at the Commencement Date are set out in Schedule 1 Part 2. Where the Partners add a new Individual Scheme to this Agreement a Scheme Specification for each Individual Scheme shall be completed and approved by each Partner in accordance with the variation procedure set out in Clause 30 (Variations). The Scheme Specifications for the First Pooled Fund is set out in Schedule 1 Part 2. Each new Scheme Specification shall substantially follow this format.

5.4 The Partners shall not enter into a Scheme Specification in respect of an Individual Scheme unless they are satisfied that the Individual Scheme in question will improve health and well-being in accordance with this Agreement.

5.5 The introduction of any Individual Scheme will be subject to business case approval by the Joint Strategic Commissioning Board and the CCG Governing Body in accordance with the variation procedure set out in Clause 32 (Variation).

6 COMMISSIONING ARRANGEMENTS

General

- 6.1 The Partners shall comply with the commissioning arrangements as set out in the relevant Scheme Specification.
- 6.2 The Joint Strategic Commissioning Board and the CCG Governing Body will report back to the Health and Wellbeing Board as required.
- 6.3 The Partners shall comply with all relevant legal duties and guidance of both Partners in relation to the Services being commissioned.
- 6.4 Each Partner shall keep the other Partner regularly informed of the effectiveness of the arrangements including the Better Care Fund and any Overspend or Underspend in a Pooled Fund or Non-Pooled Fund.
- 6.5 Where there are Integrated Commissioning or Lead Commissioning Arrangements in respect of an Individual Scheme then prior to any new Service Contract being entered into the Partners shall agree in writing:
- (a) how the liability under each Service Contract shall be apportioned in the event of termination of the relevant Individual Scheme; and
 - (b) whether the Service Contract should give rights to third parties (and in particular if a Partner is not a party to the Service Contract to that Partner, the Partners shall consider whether or not the Partner that is not to be a party to the Service Contract should be afforded any rights to enforce any terms of the Service Contract under the Contracts (Rights of Third Parties) Act 1999 and if it is agreed that such rights should be afforded the Partner entering the Service Contract shall ensure as far as is reasonably possible that such rights that have been agreed are included in the Service Contract and shall establish how liability under the Service Contract shall be apportioned in the event of termination of the relevant Individual Scheme.)
- 6.6 The Partners shall comply with the arrangements in respect of Joint (Aligned) Commissioning as set out in the relevant Scheme Specification, which shall include where applicable arrangements in respect of the Service Contracts.

Integrated Commissioning

- 6.7 Where there are Integrated Commissioning arrangements in respect of an Individual Scheme:
- (a) the Partners shall work in cooperation and shall endeavour to ensure that Services in fulfilment of the NHS Functions and Health Related Functions are commissioned with all due skill, care and attention; and
 - (b) both Partners shall work in cooperation and endeavour to ensure that the relevant Services as set out in each Scheme Specification are commissioned within each Partner's Financial Contribution in respect of that particular Service in each Financial Year.

Appointment of a Lead Partner

- 6.8 Where there are Lead Commissioning Arrangements in respect of an Individual Scheme the Lead Partner shall:
- (a) exercise the NHS Functions in conjunction with the Health Related Functions as identified in the relevant Scheme Specification;

- (b) endeavour to ensure that the NHS Functions and the Health Related Functions are funded within the parameters of the Financial Contributions of each Partner in relation to each particular Service in each Financial Year.
- (c) commission Services for individuals who meet the eligibility criteria set out in the relevant Scheme Specification;
- (d) contract with Provider(s) for the provision of the Services on terms agreed with the other Partner;
- (e) comply with all relevant legal duties and guidance of both Partners in relation to the Services being commissioned;
- (f) where Services are commissioned using the NHS Standard Form Contract, perform the obligations of the "Commissioner" and "Co-ordinating Commissioner" with all due skill, care and attention and where Services are commissioned using any other form of contract to perform its obligations with all due skill and attention;
- (g) undertake performance management and contract monitoring of all Service Contracts including (without limitation) the use of contract notices where Services fail to deliver contracted requirements;
- (h) make payment of all sums due to a Provider pursuant to the terms of any Service Contract; and
- (i) keep the other Partner regularly informed of the effectiveness of the arrangements including the Better Care Fund and any Overspend or Underspend in a Pooled Fund or Non-Pooled Fund.

7 ESTABLISHMENT OF A POOLED FUND

- 7.1 In exercise of their respective powers under Section 75 of the 2006 Act, the Partners have agreed to establish and maintain such pooled funds for revenue expenditure as agreed by the Partners.
- 7.2 At the Commencement Date there shall be one Pooled Fund (the "First Pooled Fund") into which the following funding streams will be pooled:
 - (a) the Better Care Fund Plan;
 - (b) Complex Care Packages, Children and Young People; and
 - (c) Public Health.
- 7.3 The First Pooled Fund and any subsequent Pooled Fund shall be managed and maintained in accordance with the terms of this Agreement.
- 7.4 Subject to Clause 7.5, it is agreed that the monies held in a Pooled Fund may only be expended on the following
 - (a) the Contract Price;
 - (b) the Permitted Budget;
 - (c) Third Party Costs where these are set out in the relevant Scheme Specification or as otherwise agreed in advance in writing by the Joint Strategic Commissioning Board and the CCG Governing Body; and
 - (d) Approved Expenditure as set out in the relevant Scheme Specification or as otherwise agreed in advance in writing by the Joint Strategic Commissioning Board and the CCG Governing Body, ("Permitted Expenditure").

- 7.5 The Partners may only depart from the definition of Permitted Expenditure to include or exclude other revenue expenditure with the express written agreement of each Partner.
- 7.6 For the avoidance of doubt, monies held in a Pooled Fund may not be expended on Default Liabilities unless this is agreed by all Partners in accordance with Clause 7.5.
- 7.7 Pursuant to this Agreement, the Partners agree to appoint a Host Partner for each Pooled Fund. The Host Partner for the First Pooled Fund is the Council. The Host Partner shall be the Partner responsible for:
- (a) holding all monies contributed to the Pooled Fund on behalf of itself and the other Partners;
 - (b) providing the financial administrative systems for the Pooled Fund;
 - (c) appointing the Pooled Fund Manager; and
 - (d) ensuring that the Pooled Fund Manager complies with its obligations under this Agreement.

8 POOLED FUND MANAGEMENT

- 8.1 When introducing a Pooled Fund, the Partners shall agree:
- (a) which of the Partners shall act as Host Partner for the purposes of Regulations 7(4) and 7(5) and shall provide the financial administrative systems for the Pooled Fund;
 - (b) which officer of the Host Partner shall act as the Pooled Fund Manager for the purposes of Regulation 7(4) of the Regulations.
- 8.2 The Pooled Fund Manager for each Pooled Fund shall have the following duties and responsibilities:
- (a) the day to day operation and management of the Pooled Fund;
 - (b) ensuring that all expenditure from the Pooled Fund is in accordance with the provisions of this Agreement and the relevant Scheme Specification;
 - (c) maintaining an overview of all joint financial issues affecting the Partners in relation to the Services and the Pooled Fund;
 - (d) ensuring that full and proper records for accounting purposes are kept in respect of the Pooled Fund;
 - (e) reporting to the Joint Strategic Commissioning Board and the CCG Governing Body as required by this Agreement;
 - (f) ensuring action is taken to manage any projected under or overspends relating to the Pooled Fund in accordance with this Agreement;
 - (g) preparing and submitting Quarterly Reports (or more frequent reports if required by the Joint Strategic Commissioning Board and/or and the CCG Governing Body) and an annual return about the income and expenditure from the Pooled Fund together with such other information as may be required by the Partners and the Joint Strategic Commissioning Board and/or and the CCG Governing Body to monitor the effectiveness of the Pooled Fund and to enable the Partners to complete their own financial accounts and returns. The Partners agree to provide all necessary information to the Pooled Fund Manager in time for the reporting requirements to be met including (without limitation) comply with any reporting requirements as may be required by relevant National Guidance; and
 - (h) preparing and submitting reports to the Joint Strategic Commissioning Board, the CCG Governing Body and the Health and Wellbeing Board as may be required and any relevant

National Guidance including (without limitation) supplying Quarterly Reports referred to in Clause 8.2(g) above to the Health and Wellbeing Board.

- 8.3 In carrying out their responsibilities as provided under Clause 8.2, the Pooled Fund Manager shall:
- (a) have regard to National Guidance and the recommendations of the Joint Strategic Commissioning Board and the CCG Governing Body; and
 - (b) be accountable to the Partners for delivery of those responsibilities.
- 8.4 The Joint Strategic Commissioning Board and the CCG Governing Body may agree to the viring of funds between Pooled Funds or amending the allocation of a Pooled Fund between Individual Schemes, subject to the restrictions set out in Schedule 3 in respect of the Ring-Fenced Monies.

9 NON-POOLED FUNDS

- 9.1 Any Financial Contributions agreed to be held within a Non-Pooled Fund will be notionally held in a fund established solely for the purposes agreed by the Partners. For the avoidance of doubt, a Non-Pooled Fund does not constitute a pooled fund for the purposes of Regulation 7 of the Partnership Regulations.
- 9.2 When introducing a Non-Pooled Fund in respect of an Individual Scheme, the Partners shall agree:
- (a) which Partner if any shall host the Non-Pooled Fund; and
 - (b) how and when Financial Contributions shall be made to the Non-Pooled Fund.
- 9.3 The Host Partner of the relevant Non-Pooled Fund will be responsible for establishing the financial and administrative support necessary to enable the effective and efficient management of the Non-Pooled Fund, meeting all required accounting and auditing obligations.
- 9.4 Both Partners shall ensure that any Services commissioned using a Non-Pooled Fund are commissioned solely in accordance with the relevant Scheme Specification.
- 9.5 Where there are Joint (Aligned) Commissioning arrangements, both Partners shall work in cooperation and shall endeavour to ensure that:
- (a) the NHS Functions funded from a Non-Pooled Fund are carried out within the CCG Financial Contribution to the Non-Pooled Fund for the relevant Service in each Financial Year; and
 - (b) the Health Related Functions funded from a Non-Pooled Fund are carried out within the Council's Financial Contribution to the Non-Pooled Fund for the relevant Service in each Financial Year.

10 FINANCIAL CONTRIBUTIONS

- 10.1 The Financial Contribution of the CCG and the Council to any Pooled Fund or Non-Pooled Fund for the first Financial Year of operation shall be as set out in Schedule 3.
- 10.2 The Financial Contribution of the CCG and the Council to any Pooled Fund or Non-Pooled Fund for each subsequent Financial Year of operation shall be subject to review by the Partners which shall each determine their position as required by their constitutional and regulatory framework. The Partners shall meet to discuss and agree their respective contributions no later than 31 January prior to the start of the relevant Financial Year. The Partners shall cooperate in good faith to agree their respective contributions and any dispute in respect of this shall be referred to the Partners' respective chief executives who shall meet in good faith as soon as possible for the purpose of resolving the dispute. If the Partners' respective chief executives cannot resolve the dispute by 31 May in the relevant Financial Year then either Partner may terminate this Agreement by serving 30 days' notice on the other Partner. Clause 23 shall not apply in relation to a dispute arising under this Clause 10.2.

- 10.3 With the exception of Clause 13, no provision of this Agreement shall preclude the Partners from making additional contributions of Non-Recurrent Payments to a Pooled Fund from time to time by mutual agreement. Any such additional contributions of Non-Recurrent Payments shall be explicitly recorded in Joint Strategic Commissioning Board and CCG Governing Body minutes and recorded in the budget statement as a separate item.

11 NON FINANCIAL CONTRIBUTIONS

Unless set out in a Scheme Specification or otherwise agreed by the Partners, each Partner shall provide the non-financial contributions for any Service that they are Lead Partner or as required in order to comply with its obligations under this Agreement in respect of the commissioning of a particular Service. These contributions shall be provided at no charge to the other Partners or to the Pooled Fund.

12 RISK SHARE ARRANGEMENTS, OVERSPENDS AND UNDERSPENDS

Risk share arrangements

- 12.1 The Partners have agreed risk share arrangements as set out in Schedule 3, which provide for risk share arrangements arising within the commissioning of services from the Pooled Funds as set out in National Guidance.

Overspends in Pooled Fund

- 12.2 Subject to Clause 12.3, the Host Partner for the relevant Pooled Fund shall manage expenditure from a Pooled Fund within the Financial Contributions and shall use reasonable endeavours to ensure that the expenditure is limited to Permitted Expenditure.
- 12.3 The Host Partner shall not be in breach of its obligations under this Agreement if an Overspend occurs PROVIDED THAT it has used reasonable endeavours to ensure that the only expenditure from a Pooled Fund has been in accordance with Permitted Expenditure and it has informed the Joint Strategic Commissioning Board and the CCG Governing Body in accordance with Clause 12.4.
- 12.4 In the event that the Pooled Fund Manager identifies an actual or projected Overspend the Pooled Fund Manager must ensure that the Joint Strategic Commissioning Board and the CCG Governing Body are informed as soon as reasonably possible and the provisions of the relevant Scheme Specification and Schedule 3 shall apply.

Overspends in Non-Pooled Funds

- 12.5 Where in Joint (Aligned) Commissioning Arrangements either Partner forecasts an Overspend in relation to a Partners Financial Contribution to a Non-Pooled Fund that Partner shall as soon as reasonably practicable inform the other Partner, the Joint Strategic Commissioning Board and the CCG Governing Body.
- 12.6 Where there is a Lead Commissioning Arrangement the Lead Partner is responsible for the management of the Non-Pooled Fund. The Lead Partner shall as soon as reasonably practicable inform the other Partner.

Underspend

- 12.7 In the event that expenditure from any Pooled Fund or Non-Pooled Fund in any Financial Year is less than the aggregate value of the Financial Contributions made for that Financial Year or where the expenditure in relation to an Individual Scheme is less than the agreed allocation to that particular Individual Scheme the Partners shall agree how the monies shall be spent, carried forward and/or returned to the Partners and the provisions of Schedule 3 shall apply. Such arrangements shall be subject to the Law and the Standing Orders and Standing Financial Instructions (or equivalent) of the Partners.

13 CAPITAL EXPENDITURE

13.1 Except as provided in Clause 13.2, neither Pooled Funds nor Non-Pooled Funds shall normally be applied towards any one-off expenditure on goods and/or services, which will provide continuing benefit and would historically have been funded from the capital budgets of one of the Partners. If a need for capital expenditure is identified this must be agreed by the Partners.

13.2 The Partners agree that capital expenditure may be made from Pooled Funds where this is in accordance with National Guidance.

14 VAT

The Partners shall agree the treatment of each Pooled Fund for VAT purposes in accordance with any relevant guidance from HM Customs and Excise.

15 AUDIT AND RIGHT OF ACCESS

15.1 All Partners shall promote a culture of probity and sound financial discipline and control. The Host Partner shall arrange for the audit of the accounts of the relevant Pooled Fund in accordance with the Local Audit and Accountability Act 2014.

15.2 All internal and external auditors and all other persons authorised by the Partners will be given the right of access by them to any document, information or explanation they require from any employee, member of the relevant Partner in order to carry out their duties. This right is not limited to financial information or accounting records and applies equally to premises or equipment used in connection with this Agreement. Access may be at any time without notice, provided there is good cause for access without notice.

15.3 The Partners shall comply with relevant NHS finance and accounting obligations as required by relevant Law and/or National Guidance.

16 LIABILITIES AND INSURANCE AND INDEMNITY

16.1 Subject to Clause 16.2, and 16.3, if a Partner ("First Partner") incurs a Loss arising out of or in connection with this Agreement (including a Loss arising under an Individual Scheme) as a consequence of any act or omission of another Partner ("Other Partner") which constitutes negligence, fraud or a breach of contract in relation to this Agreement or any Service Contract then the Other Partner shall be liable to the First Partner for that Loss and shall indemnify the First Partner accordingly.

16.2 Clause 16.1 shall only apply to the extent that the acts or omissions of the Other Partner contributed to the relevant Loss. Furthermore, it shall not apply if such act or omission occurred as a consequence of the Other Partner acting in accordance with the instructions or requests of the First Partner.

16.3 If any third party makes a claim or intimates an intention to make a claim against either Partner, which may reasonably be considered as likely to give rise to liability under this Clause 16. the Partner that may claim against the other indemnifying Partner will:

- (a) as soon as reasonably practicable give written notice of that matter to the Other Partner specifying in reasonable detail the nature of the relevant claim;
- (b) not make any admission of liability, agreement or compromise in relation to the relevant claim without the prior written consent of the Other Partner (such consent not to be granted subject to unreasonable conditions, unreasonably withheld or unreasonably delayed); and
- (c) give the Other Partner and its professional advisers reasonable access to its premises and personnel and to any relevant assets, accounts, documents and records within its power or control so as to enable the Indemnifying Partner and its professional advisers to examine such premises, assets, accounts, documents and records and to take copies at their own expense for the purpose of assessing the merits of, and if necessary defending, the relevant claim.

- 16.4 Each Partner shall ensure that they maintain policies of insurance (or equivalent arrangements through schemes operated by the National Health Service Litigation Authority) in respect of all potential liabilities arising from this Agreement and in the event of Losses shall seek to recover such Loss through the relevant policy of insurance (or equivalent arrangement).
- 16.5 Each Partner shall at all times take all reasonable steps to minimise and mitigate any loss for which one party is entitled to bring a claim against the other pursuant to this Agreement.

Conduct of Claims

- 16.6 In respect of the indemnities given in this Clause 16:
- (a) the indemnified Partner shall give written notice to the indemnifying Partner as soon as is practicable of the details of any claim or proceedings brought or threatened against it in respect of which a claim will or may be made under the relevant indemnity;
 - (b) the indemnifying Partner shall at its own expense have the exclusive right to defend conduct and/or settle all claims and proceedings to the extent that such claims or proceedings may be covered by the relevant indemnity provided that where there is an impact upon the indemnified Partner, the indemnifying Partner shall consult with the indemnified Partner about the conduct and/or settlement of such claims and proceedings and shall at all times keep the indemnified Partner informed of all material matters; and
 - (c) the indemnifying and indemnified Partners shall each give to the other all such cooperation as may reasonably be required in connection with any threatened or actual claim or proceedings which are or may be covered by a relevant indemnity.

17 STANDARDS OF CONDUCT AND SERVICE

- 17.1 The Partners will at all times comply with Law and ensure good corporate governance in respect of each Partner (including the Partners respective standing orders and standing financial instructions).
- 17.2 The Council is subject to the duty of Best Value under the Local Government Act 1999. This Agreement and the operation of each Pooled Fund is therefore subject to the Council's obligations for Best Value and the other Partners will co-operate with all reasonable requests from the Council which the Council considers necessary in order to fulfil its Best Value obligations.
- 17.3 The CCG is subject to the CCG Statutory Duties and these incorporate a duty of clinical governance, which is a framework through which they are accountable for continuously improving the quality of its services and safeguarding high standards of care by creating an environment in which excellence in clinical care will flourish. This Agreement and the operation of the Pooled Funds are therefore subject to ensuring compliance with the CCG Statutory Duties and clinical governance obligations.
- 17.4 The Partners are committed to an approach to equality and equal opportunities as represented in their respective policies. The Partners will maintain and develop these policies as applied to service provision, with the aim of developing a joint strategy for all elements of the service.

18 CONFLICTS OF INTEREST

The Partners shall comply with the agreed policy for identifying and managing conflicts of interest as set out in Schedule 7.

19 GOVERNANCE

- 19.1 Overall strategic oversight of partnership working between the Partners is vested in the Health and Wellbeing Board, which for these purposes shall make recommendations to the Partners as to any action it considers necessary.

- 19.2 The Partners have determined arrangements by which they shall meet at the same time and in the same location, in order to govern and facilitate the integration of the commissioning functions of both the Council and the CCG with the objective of delivering a more efficient and effective commissioning of health and social care services. How those arrangements are co-ordinated and chaired is set out in Schedule 2 along with the terms of reference for the JSCB.
- 19.3 Each Partner has secured internal reporting arrangements to ensure the standards of accountability and probity required by each Partner's own statutory duties and organisation are complied with.
- 19.4 The Joint Strategic Commissioning Board (for the Council) and the CCG Governing Body (for the CCG) shall be responsible for the overall approval of the Individual Schemes on behalf of the relevant Partner and the financial management set out in Clause 12 and Schedule 3.
- 19.5 The Health and Wellbeing Board shall be responsible for ensuring compliance with the Better Care Fund Plan and the strategic direction of the Better Care Fund.
- 19.6 Each Scheme Specification shall confirm the governance arrangements in respect of the Individual Scheme and how that Individual Scheme is reported to the Joint Strategic Commissioning Board (for the Council) and the CCG Governing Body (for the CCG) and Health and Wellbeing Board.

20 REVIEW

- 20.1 The Partners shall produce a BCF Quarterly Report which shall be provided to the Health and Wellbeing Board in such form and setting out such information as required by National Guidance and any additional information required by the Health and Wellbeing Board or National Commissioning Board. The Partners shall also produce a quarterly report for each other Pooled Fund (other than the Better Care Fund Plan Pooled Fund) which shall be provided to the Joint Strategic Commissioning Board and the CCG Governing Body in such form as they may require.
- 20.2 Save where the Joint Strategic Commissioning Board and the CCG Governing Body agree alternative arrangements (including alternative frequencies) the Partners shall undertake an annual review ("**Annual Review**") of the operation of this Agreement, any Pooled Fund and Non-Pooled Fund and the provision of the Services within 3 Months of the end of each Financial Year.
- 20.3 Subject to any variations to this process required by the Joint Strategic Commissioning Board and the CCG Governing Body, Annual Reviews shall be conducted in good faith.
- 20.4 The Partners shall within 20 Working Days of the annual review prepare an Annual Report including the information as required by National Guidance and any other information required by the Health and Wellbeing Board. A copy of this report shall be provided to the Health and Wellbeing Board, Joint Strategic Commissioning Board and the CCG Governing Body. The report will include a review of Individual Schemes against finance, impact, performance and quality.
- 20.5 In the event that the Partners fail to meet the requirements of the Better Care Fund Plan and NHS England the Partners shall provide full co-operation with NHS England to agree a recovery plan.

21 COMPLAINTS

The Partners' own complaints procedures shall apply to this Agreement. The Partners agree to assist one another in the management of complaints arising from this Agreement or the provision of the Services.

22 TERMINATION & DEFAULT

- 22.1 This Agreement may be terminated by any Partner giving not less than 3 Months' notice in writing to terminate this Agreement provided that such termination shall not take effect prior to the termination or expiry of all Individual Schemes.
- 22.2 Each Individual Scheme may be terminated in accordance with the terms set out in the relevant Scheme Specification provided that the Partners ensure that the Better Care Fund Requirements continue to be met.
- 22.3 If any Partner ("Relevant Partner") fails to meet any of its obligations under this Agreement, the other Partners (acting jointly) may by notice require the Relevant Partner to take such reasonable action within a reasonable timescale as the other Partners may specify to rectify such failure. Should the Relevant Partner fail to rectify such failure within such reasonable timescale, the matter shall be referred for resolution in accordance with Clause 23.
- 22.4 Either Partner may terminate this Agreement in accordance with Clause 10.2.
- 22.5 Termination of this Agreement (whether by effluxion of time or otherwise) shall be without prejudice to the Partners' rights in respect of any antecedent breach and the provisions of Clause 16.
- 22.6 In the event of termination of this Agreement, the Partners agree to cooperate to ensure an orderly wind down of their joint activities and to use all reasonable endeavours to minimise disruption to the health and social care which is provided to the Service Users.
- 22.7 Upon termination of this Agreement for any reason whatsoever the following shall apply:
- (a) the Partners agree that they will work together and co-operate to ensure that the winding down and disaggregation of the integrated and joint activities to the separate responsibilities of the Partners is carried out smoothly and with as little disruption as possible to service users, employees, the Partners and third parties, so as to minimise the costs and liabilities of each Partner in doing so;
 - (b) where either Partner has entered into a Service Contract which continues after the termination of this Agreement, both Partners shall continue to contribute to the Contract Price in accordance with the agreed contribution for that Service prior to termination and will enter into all appropriate legal documentation required in respect of this;
 - (c) the Lead Partner shall make reasonable endeavours to amend or terminate a Service Contract (which shall for the avoidance of doubt not include any act or omission that would place the Lead Partner in breach of the Service Contract) where the other Partner requests the same in writing Provided that the Lead Partner shall not be required to make any payments to the Provider for such amendment or termination unless the Partners shall have agreed in advance who shall be responsible for any such payment.
 - (d) where a Service Contract held by a Lead Partner relates all or partially to services which relate to the other Partner's Functions then provided that the Service Contract allows the other Partner may request that the Lead Partner assigns the Service Contract in whole or part upon the same terms mutatis mutandis as the original contract.
 - (e) the Joint Strategic Commissioning Board shall continue to operate for the purposes of functions associated with this Agreement for the remainder of any contracts and commitments relating to this Agreement; and

- (f) termination of this Agreement shall have no effect on the liability of any rights or remedies of either Partner already accrued, prior to the date upon which such termination takes effect.

22.8 In the event of termination in relation to an Individual Scheme the provisions of Clause 22.7 shall apply mutatis mutandis in relation to the Individual Scheme (as though references as to this Agreement were to that Individual Scheme).

23 DISPUTE RESOLUTION

23.1 In the event of a dispute between the Partners arising out of this Agreement, either Partner may serve written notice of the dispute on the other Partner, setting out full details of the dispute.

23.2 The Authorised Officer shall meet in good faith as soon as possible and in any event within seven (7) days of notice of the dispute being served pursuant to Clause 23.1, at a meeting convened for the purpose of resolving the dispute.

23.3 If the dispute remains after the meeting detailed in Clause 23.2 has taken place, the Partners' respective chief executives or nominees shall meet in good faith as soon as possible after the relevant meeting and in any event with fourteen (14) days of the date of the meeting, for the purpose of resolving the dispute.

23.4 If the dispute remains after the meeting detailed in Clause 23.3 has taken place, then the Partners will attempt to settle such dispute by mediation in accordance with the CEDR Model Mediation Procedure or any other model mediation procedure as agreed by the Partners. To initiate a mediation, either Partner may give notice in writing (a "**Mediation Notice**") to the other requesting mediation of the dispute and shall send a copy thereof to CEDR or an equivalent mediation organisation as agreed by the Partners asking them to nominate a mediator. The mediation shall commence within twenty (20) Working Days of the Mediation Notice being served. Neither Partner will terminate such mediation until each of them has made its opening presentation and the mediator has met each of them separately for at least one (1) hour. Thereafter, paragraph 14 of the Model Mediation Procedure will apply (or the equivalent paragraph of any other model mediation procedure agreed by the Partners). The Partners will co-operate with any person appointed as mediator, providing him with such information and other assistance as he shall require and will pay his costs as he shall determine or in the absence of such determination such costs will be shared equally.

23.5 Nothing in the procedure set out in this Clause 23 shall in any way affect either Partner's right to terminate this Agreement in accordance with any of its terms or take immediate legal action.

24 FORCE MAJEURE

24.1 Neither Partner shall be entitled to bring a claim for a breach of obligations under this Agreement by the other Partner or incur any liability to the other Partner for any losses or damages incurred by that Partner to the extent that a Force Majeure Event occurs and it is prevented from carrying out its obligations by that Force Majeure Event.

24.2 On the occurrence of a Force Majeure Event, the Affected Partner shall notify the other Partner as soon as practicable. Such notification shall include details of the Force Majeure Event, including evidence of its effect on the obligations of the Affected Partner and any action proposed to mitigate its effect.

24.3 As soon as practicable, following notification as detailed in Clause 24.2, the Partners shall consult with each other in good faith and use reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and, subject to Clause 24.4, facilitate the continued performance of the Agreement.

24.4 If the Force Majeure Event continues for a period of more than sixty (60) days, either Partner shall have the right to terminate the Agreement by giving fourteen (14) days written notice of termination to the other Partner. For the avoidance of doubt, no compensation shall be payable by either Partner as a direct consequence of this Agreement being terminated in accordance with this Clause.

25 CONFIDENTIALITY

25.1 In respect of any Confidential Information a Partner receives from another Partner (the "**Discloser**") and subject always to the remainder of this Clause 25, each Partner (the "**Recipient**") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party, without the Discloser's prior written consent provided that:

- (a) the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the Commencement Date; and
- (b) the provisions of this Clause 25 shall not apply to any Confidential Information which:
 - (i) is in or enters the public domain other than by breach of the Agreement or other act or omission of the Recipient; or
 - (ii) is obtained by a third party who is lawfully authorised to disclose such information.

25.2 Nothing in this Clause 25 shall prevent the Recipient from disclosing Confidential Information where it is required to do so in fulfilment of statutory obligations or by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable Law.

25.3 Each Partner:

- (a) may only disclose Confidential Information to its employees and professional advisors to the extent strictly necessary for such employees to carry out their duties under the Agreement;
- (b) will ensure that, where Confidential Information is disclosed in accordance with Clause 25.3.1, the recipient(s) of that information is made subject to a duty of confidentiality equivalent to that contained in this Clause 25; and
- (c) shall not use Confidential Information other than strictly for the performance of its obligations under this Agreement.

26 FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION REGULATIONS

26.1 The Partners agree that they will each cooperate with each other to enable any Partner receiving a request for information under the 2000 Act or the 2004 Regulations to respond to a request promptly and within the statutory timescales. This cooperation shall include but not be limited to finding, retrieving and supplying information held, directing requests to other Partners as appropriate and responding to any requests by the Partner receiving a request for comments or other assistance.

26.2 Any and all agreements between the Partners as to confidentiality shall be subject to their duties under the 2000 Act and 2004 Regulations. No Partner shall be in breach of Clause 25 if it makes disclosures of information in accordance with the 2000 Act and/or 2004 Regulations.

27 OMBUDSMEN

The Partners will co-operate with any investigation undertaken by the Health Service Commissioner for England or the Local Government Commissioner for England (or both of them) in connection with this Agreement.

28 INFORMATION SHARING

The Partners will work together to document and agree an information governance protocol in respect of the arrangements under this Agreement, and in so doing will ensure that the operation this Agreement complies with Law, in particular the Data Protection Legislation.

29 NOTICES

29.1 Any notice to be given under this Agreement shall either be delivered personally or sent by first class post. The address for service of each Partner shall be as set out in Clause 29.3 or such other address as each Partner may previously have notified to the other Partner in writing. A notice shall be deemed to have been served if:

- (a) personally delivered, at the time of delivery;
- (b) posted, at the expiration of forty eight (48) hours after the envelope containing the same was delivered into the custody of the postal authorities.

29.2 In proving such service, it shall be sufficient to prove that personal delivery was made, or that the envelope containing such notice was properly addressed and delivered into the custody of the postal authority as prepaid first class or airmail letter (as appropriate).

29.3 The address for service of notices as referred to in Clause 29.1 shall be as follows unless otherwise notified to the other Partner in writing:

- (a) if to the Council, addressed to the:

Chief Executive
Wirral Borough Council
Town Hall
Brighton Street
Wallasey
Wirral, CH44 8ED

and

- (b) if to the CCG, addressed to:

Chief Officer
Marriss House
Hamilton Street
Birkenhead
Wirral
CH41 5AL

30 PROHIBITED ACTS

30.1 Neither Partner shall commit a Prohibited Act

30.2 If either of the Partners commits any Prohibited Act or commits any offence under the Bribery Act with or without the knowledge of the other Partner in relation to this Agreement, the non-defaulting Partner shall be entitled:

- (a) to exercise its right to terminate this agreement and to recover from the defaulting Partner the amount of any loss resulting from the termination; and
- (b) to recover from the defaulting party any loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence.

30.3 Each Partner must provide the other Partner upon written request with all reasonable assistance to enable that Partner to perform any activity required for the purposes of complying with the Bribery Act. Should either Partner request such assistance the Partner requesting assistance must pay the reasonable expenses of the other Partner arising as a result of such request.

30.4 The Partners must have in place an anti-bribery policy for the purposes of preventing any of its employees, agents, servants, consultants or contractors from committing a prohibited act under the Bribery Act and must be enforced where applicable.

30.5 Should either Partner become aware of or suspect any breach of this clause, it will notify the other Partner immediately. Following such notification, the defaulting Partner should respond promptly and fully to any enquiries of the other Partner, co-operate with any investigation undertaken by the non-defaulting Partner and allow the non-defaulting Partner to audit any books, records and other relevant documentation.

31 SAFEGUARDING

The Partners shall ensure that all Providers have appropriate Safeguarding policies in place and shall require such policies to be implemented where applicable. Where the services or activities being undertaken with respect to any Individual Scheme are Regulated Activities the Partners shall require Providers to comply with all relevant requirements of the Disclosure and Barring Service.

32 VARIATION

32.1 No variations to this Agreement will be valid unless they are recorded in writing and signed for and on behalf of each of the Partners as set out in this Clause.

32.2 Where the Partners agree that there will be:

- (a) a new Pooled Fund;
- (b) a new Individual Scheme; or
- (c) an amendment to a current Individual Scheme,

the Joint Strategic Commissioning Board and the CCG Governing Body shall agree the new or amended Individual Scheme and this must be signed by the Partners. A request to vary an Individual Scheme, which may include (without limitation) a change in the level of Financial Contributions or other matters set out in the relevant Scheme Specification may be made by any Partner but will require agreement from all of the Partners in accordance with the process set out in Clause 32.3. The notice period for any variation unless otherwise agreed by the Partners shall be 3 Months or in line with the notice period for variations within the associated Service Contract(s), whichever is the shortest.

32.3 The following approach shall, unless otherwise agreed, be followed by the Joint Strategic Commissioning Board and the CCG Governing Body:

- (a) on receipt of a request from one Partner to vary the Agreement including (without limitation) the introduction of a new Individual Scheme or amendments to an existing Individual Scheme, the Joint Strategic Commissioning Board and the CCG Governing Body will first undertake an impact assessment and identify those Service Contracts likely to be affected;
- (b) the Joint Strategic Commissioning Board and the CCG Governing Body will agree whether those Service Contracts affected by the proposed variation should continue, be varied or terminated, taking note of the Service Contract terms and conditions and ensuring that the Partner(s) holding the Service Contract/s is not put in breach of contract; its statutory obligations or financially disadvantaged;
- (c) wherever possible agreement will be reached to reduce the level of funding in the Service Contract(s) in line with any reduction in budget; and
- (d) should this not be possible and one Partner is left financially disadvantaged as a result of holding a Service Contract for which the budget has been reduced, then the financial risk will, unless otherwise agreed, be shared as set out in Schedule 3.

33 CHANGE IN LAW

- 33.1 The Partners shall ascertain, observe, perform and comply with all relevant Laws, and shall do and execute or cause to be done and executed all acts required to be done under or by virtue of any Laws.
- 33.2 On the occurrence of any Change in Law, the Partners shall agree in good faith any amendment required to this Agreement as a result of the Change in Law subject to the Partners using all reasonable endeavours to mitigate the adverse effects of such Change in Law and taking all reasonable steps to minimise any increase in costs arising from such Change in Law.
- 33.3 In the event of failure by the Partners to agree the relevant amendments to the Agreement (as appropriate), Clause 23 (Dispute Resolution) shall apply.

34 WAIVER

No failure or delay by any Partner to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same or of some other right to remedy.

35 SEVERANCE

If any provision of this Agreement, not being of a fundamental nature, shall be held to be illegal or unenforceable, the enforceability of the remainder of this Agreement shall not thereby be affected.

36 ASSIGNMENT AND SUB CONTRACTING

The Partners shall not sub contract, assign or transfer the whole or any part of this Agreement, without the prior written consent of the other Partners, which shall not be unreasonably withheld or delayed. This shall not apply to any assignment to a statutory successor of all or part of a Partner's statutory functions nor to an assignment by the Council or transfer of any of its rights or obligations by novation to an Associated Person (to the extent that such an assignment would be consistent with the Council's statutory powers and functions).

37 EXCLUSION OF PARTNERSHIP AND AGENCY

- 37.1 Nothing in this Agreement shall create or be deemed to create a partnership under the Partnership Act 1890 or the Limited Partnership Act 1907, a joint venture or the relationship of employer and employee between the Partners or render either Partner directly liable to any third party for the debts, liabilities or obligations of the other.
- 37.2 Except as expressly provided otherwise in this Agreement or where the context or any statutory provision otherwise necessarily requires, neither Partner will have authority to, or hold itself out as having authority to:
- (a) act as an agent of the other;
 - (b) make any representations or give any warranties to third parties on behalf of or in respect of the other; or
 - (c) bind the other in any way.

38 THIRD PARTY RIGHTS

Unless the right of enforcement is expressly provided, no third party shall have the right to pursue any right under this Contract pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.

39 ENTIRE AGREEMENT

- 39.1 The terms herein contained together with the contents of the Schedules constitute the complete agreement between the Partners with respect to the subject matter hereof and supersede all previous communications representations understandings and agreement and any representation promise or condition not incorporated herein shall not be binding on any Partner.
- 39.2 No agreement or understanding varying or extending or pursuant to any of the terms or provisions hereof shall be binding upon any Partner unless in writing and signed by a duly authorised officer or representative of the parties.

40 COUNTERPARTS

This Agreement may be executed in one or more counterparts. Any single counterpart or a set of counterparts executed, in either case, by all Partners shall constitute a full original of this Agreement for all purposes.

41 GOVERNING LAW AND JURISDICTION

- 41.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.
- 41.2 Subject to Clause 23 (Dispute Resolution), the Partners irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to hear and settle any action, suit, proceedings, dispute or claim, which may arise out of, or in connection with, this Agreement, its subject matter or formation (including non-contractual disputes or claims).

IN WITNESS WHEREOF this Agreement has been executed by the Partners on the date of this Agreement

THE COMMON SEAL of)

WIRRAL BOROUGH COUNCIL)

was hereunto affixed in the presence of:)

an authorised signatory:

Signed for on behalf of **NHS WIRRAL**
CLINICAL COMMISSIONING GROUP

Authorised Signatory

SCHEDULE 1 – SCHEME SPECIFICATION

Part 1 – Template Services Schedule

1 OVERVIEW OF SERVICE

- 1.1 The First Pooled Fund will be made up of a number of funding streams to create a single commissioning First Pooled Fund to the value of £131.1M as set out in the table below. The detail of the specific composition of the First Pooled Fund in relation to currently commissioned schemes and budget lines is given in Schedule 2.

	CCG contribution	Council contribution
BCF Schemes	£25,851,747	£27,886,387
Non-BCF Schemes	£22,000,000	£55,400,000
Total	£47,851,747	£83,286,387

- 1.2 The Host Partner for the Pooled Fund is the Council and the Pooled Fund Manager, being an officer of the Host Partner is Director of Care and Health, Deputy Chief Officer.

2 AIMS AND OUTCOMES

- 2.1 NHS Wirral CCG and the commissioning departments of Adult Social Care, and Public Health of Wirral Council are coming together from April 2018 to form a single commissioning function, Wirral Health and Care Commissioning (“WHaCC”). WHaCC will jointly commission all age health, care and public health services for the Wirral population. This will enable a single cohesive commissioning function to lead the creation of a sustainable model for Health and Care in Wirral.
- 2.2 WHaCC will be responsible for setting the commissioning agenda and will lead the development of a Place Based Care System (PBCS) in Wirral. The focus will be on people and place, not on organisations. The transformation of service delivery is expected to reduce need for high cost acute care and improve health and wellbeing, reducing the need for long term care. The aim is to improve the outcomes for the people of Wirral and also to deliver sustainable services, both clinically and financially. Placed based care is being developed in response to the challenges the Wirral health and care system faces of constrained funding, increasing demand, fragmentation of services and the need to deliver better health, better care and better value for the people of Wirral.
- 2.3 The ambition of providing services at the most appropriate local ‘place’ level has led to development of the ‘51-9-4-1 model’ based on supporting health and delivering care at the most appropriate level. The intention is for services and pathways of care to be delivered through the 51 (as at January 2018) General Practices, nine neighbourhoods, four localities and one district. Development of the nine neighbourhoods is a priority for 2018/19 as this will be the cornerstone of place based care. Neighbourhood teams, with representatives from a variety of health and care disciplines and organisations, will be led by a GP, and will focus on the implementation of care to meet the needs of people within the neighbourhood.
- 2.4 Pooled funds as identified will enable single commissioning plans to be developed and implemented. The make-up of the Pooled Fund in 2018 will specifically facilitate the further development of BCF schemes and will enable more effective commissioning of services for people with complex needs and learning disabilities.

3 THE ARRANGEMENTS

- 3.1 The scheme enables the development of a single fully integrated commissioning function (WHaCC). This is a single operating model with a single management and staffing structure to facilitate working

as a single body. The Memorandum of Understanding sets out the terms upon which the Partners intend their respective employees who work in WHaCC to be managed and how the Partners intend to co-operate in relation to the management of their respective employees in order to achieve the objectives of WHaCC.

4 FUNCTIONS

- 4.1 All health and care related commissioning functions of the CCG and the Council will be undertaken through WHaCC, however the Pooled Fund arrangements have been developed in order to create a stepped change model before full integration of all budgets. This approach has developed further from the original BCF to include finances for care packages and public health services. This is intended to help mitigate risk through pooling those funds most appropriate to the delivery of single integrated commissioning plans.

5 SERVICES

- 5.1 The First Pooled Fund is made up of a number of elements based on current budget lines and spending requirements:

- (a) BCF schemes as set out in Schedule 6 (Better Care Fund Plan). These services are available to the population of Wirral and are intended to assist in reducing pressure on the Hospital through improved access to therapies, early discharge and admission prevention services;
- (b) Adult Social care funding for community care packages to include those support packages for people with learning disabilities and mental health problems. The Pooled Fund also includes customer and client receipts as well as other income from jointly funded packages of support as set out in Schedule 2;
- (c) CCG Adult fully funded care, personal health budgets, funded nursing care, client group specific care (Learning Disability and Mental Health) joint funded care and continuing care for children as set out in Schedule 2;
- (d) Public Health Commissioned services as set out in Schedule 2; and
- (e) Children and Young People care packages as set out in Schedule 2.

6 COMMISSIONING, CONTRACTING, ACCESS

Commissioning Arrangements

- 6.1 A single commissioning strategy will set out key priorities and a single commissioning business plan under the auspices of Healthy Wirral will be delivered through WHaCC.

Contracting Arrangements

- 6.2 A single contracting team will deliver the contractual requirements of WHaCC. The Lead Partner for each contract within a Scheme is set out in the table in Schedule 6 (Better Care Fund Plan).

7 FINANCIAL CONTRIBUTIONS

- 7.1 The Financial Contributions of the Partners in the first Financial Year are set out in the spreadsheet in Appendix 1 to this Schedule 1.

8 FINANCIAL GOVERNANCE ARRANGEMENTS

Management of the Pooled Fund

- 8.1 Financial and performance monitoring is firstly the responsibility of officers of each organisation working together but ultimately is the responsibility of the Joint Strategic Commissioning Board and the CCG Governing Body
- 8.2 A Pooled Fund Executive Group is in place made up of Directors from the CCG and the Council and is responsible for monitoring and reviewing financial performance of all budgets related to WHaCC and reporting to the Joint Strategic Commissioning Board and the CCG Governing Body.
- 8.3 The appointed Pooled Fund Manager will report on a regular basis to the Pooled Fund Executive Group on matters regarding performance and sufficient detail regarding the implementation of commissioned services
- 8.4 Each Partner will also secure internal reporting arrangements as necessary to ensure the standards of accountability and probity required by each Partner's own statutory duties and organisation are complied with.

Audit arrangements

- 8.5 The audit arrangements for commissioned services will be determined by the organisation accountable for each service. The costs of undertaking audit are Permitted Expenditure for the purposes of the relevant Pooled Fund.

9 VAT

- 9.1 The Council is the Host Partner for the First Pooled Fund established at inception of this Agreement and will be the Lead Partner in respect of delivering certain activities under the pooled budget arrangement. For other activities the CCG will be the Lead Partner.
- 9.2 The VAT regime of the Lead Partner will determine the VAT recovery for the partnership.
- 9.3 Where the CCG is the Lead Partner any VAT incurred in the delivery of the programme can only be recovered to the extent that it relates to services mentioned in the contracting out directions, which are published by the Treasury under Section 41(3) Value Added Tax Act 1994, currently December 2002. This of course only applies to that body's non-business activities.
- 9.4 Where the Council is the Lead Partner, any VAT incurred in the purchase of goods and services required to deliver the programme can be recovered under Section 33 of the Value Added Tax Act 1994, where the supply has incurred tax and relates to its non-business activities for VAT purposes.

10 GOVERNANCE ARRANGEMENTS

- 10.1 Overall strategic oversight of partnership working between the Partners is vested in the Health and Wellbeing Board, which for these purposes shall make recommendations to the Partners as to any action it considers necessary.
- 10.2 The Partners have each determined arrangements by which they meet at the same time and in the same location, in order to govern and facilitate the integration of the commissioning functions of both the Council and the CCG with the objective of delivering a more efficient and effective commissioning of health and social care services. Further detail as to the governance arrangements is set out in Schedule 2 (Governance).

11 NON FINANCIAL RESOURCES

Each organisation will continue to be responsible for their own share of costs in relation to Premises, assets and equipment and central support

12 STAFF

There are no staff transferred or seconded. Each organisation will continue to be responsible for the pay and conditions of staff they employ to support the commissioning for the Individual Schemes.

13 ASSURANCE AND MONITORING

Overall performance will be managed through the Pooled Fund Executive Group who hold responsibility for:

- 13.1 Assurance and oversight of commissioning and savings programme and their impact against financial performance;
- 13.2 Monitoring and reviewing actual performance against budget and to suggest actions necessary to ensure that WHaCC remains within agreed budgets. To agree risks and mitigations across the integrated commissioning organisation;
- 13.3 Monitoring the progress and performance of specific commissioning programmes and other initiatives (QIPP) in delivering agreed financial;
- 13.4 Receiving specific reports in relation to the BCF programme and performance of the QIPP programme;
- 13.5 Exploring the efficacy and added value of schemes as necessary in order to recommend changes as necessary;
- 13.6 Assuring WHaCC that appropriate investments are being made through ensuring due process has been followed i.e. process within Commissioning Decision Policy has been adhered to; and
- 13.7 Advising the Joint Strategic Commissioning Board and the CCG Governing Body on:
 - (f) the financial position of the Pooled Fund. The Pooled Fund Executive Group will report on the financial position of each Partner in relation to monies which are not included in the Pooled Fund as at the Commencement Date, but which the Partners contemplate may be included in the Pooled Fund from 1 April 2019 or later during the term of this Agreement;
 - (g) the overall financial strategy forecasting and potential risks;
 - (h) an estimate of income and expenditure;
 - (i) performance of agreed programme of commissioning activity and any proposed significant changes from the plan.

14 LEAD OFFICERS

Council	Graham Hodkinson	Director of Care and Health, Deputy Chief Officer
CCG	Simon Banks	Accountable Officer

15 RISK AND GAIN SHARE ARRANGEMENTS

The risk and gain share in the first Financial Year of the First Pooled Fund is as set out in paragraph 4 of Schedule 3 (Financial Arrangements, Risk and Gains Share and Overspends).

16 DURATION and EXIT STRATEGY

As set out in Clause 22 and each Individual Scheme as appropriate.

Part 2 – Agreed Scheme Specifications

1 PUBLIC HEALTH SCHEMES

The total value of the Public Health Schemes is £12.4 million. These monies are ring-fenced to meet public health related outcomes.

Stop Smoking Interventions

- 1.1 Stop Smoking Interventions is a multi-faceted programme of tobacco control.
- 1.2 £0.8 million of the Ring-Fenced Monies are for Stop Smoking Interventions.
- 1.3 The outcomes of Stop Smoking Interventions are:
 - (a) a reduction in smoking among adults and young people with a focus on specific vulnerable groups;
 - (b) a reduction in illegal and illicit tobacco; and
 - (c) an increased awareness of the risks associated with smoking.

Sexual Health Services

- 1.4 £3.1 million of the Ring-Fenced Monies are for Sexual Health Services.
- 1.5 The outcomes of Sexual Health Services are:
 - (a) a better informed population, with access to differentiated on-line up-to-date information and tools, including for those at highest risk of poor sexual health, as well as signposting to local and national services;
 - (b) improved access to services among those at highest risk of sexual ill health;
 - (c) reduced sexual health inequalities;
 - (d) increased uptake and retention of effective methods of contraception, including rapid access to the full range of contraceptive methods including non-user dependant long acting reversible contraception;
 - (e) reduced prevalence and transmission of sexually transmitted infections;
 - (f) increased contraception use among sexually active young people under the age of 19;
 - (g) a reduction in unwanted pregnancies in all ages as evidenced by teenage conception and abortion rates;
 - (h) increased diagnosis and effective management of sexually transmitted infections; and
 - (i) increased uptake of HIV testing with particular emphasis on identified populations, symptomatic service users and repeat testing of those who remain at risk.

Adult Obesity

- 1.6 Adult Obesity are programmes considering a whole systems approach to tackle obesity.
- 1.7 £0.2 million of the Ring-Fenced Monies are for Adult Obesity.

- 1.8 The outcomes of the Adult Obesity programmes are weight loss and healthy weight maintenance in adults aged 16 years and over

Children's Services

- 1.9 Children's Services includes Healthy Child Programmes for early year's health improvement programme to support young children and their families living in Wirral. Children's Services includes statutory services such as Health Visitors and Family Nurse Partnerships.
- 1.10 £6.8 million of the Ring-Fenced Monies are for Children's Services.

Health Checks

- 1.11 Health Checks are a statutory service requiring the provision of health checks check-up for adults in England aged 40-74. Their purpose is to <https://www.nhs.uk/conditions/nhs-health-check/what-happens-at-an-nhs-health-check-new> of stroke, kidney disease, heart disease, type 2 diabetes or dementia.
- 1.12 £0.3 million of the Ring-Fenced Monies are for Health Checks.

Mental Health

- 1.13 Mental Health is the provision of services which improve mental health and wellbeing through the organised efforts and informed choices of society, organisations, public and private, communities and individuals.
- 1.14 £0.9 million of the Ring-Fenced Monies are for Mental Health.

Infection Control

- 1.15 Infection Control is the Community Infection Prevention and Control Service, which is responsible for providing:
- (a) information, advice and support to the public, professionals and commissioners regarding infection prevention and control (IPC);
 - (b) health and social care workforce IPC education and development;
 - (c) prevention, management and control of cases; and
 - (d) clusters and outbreaks of communicable disease (including health care associated infections) within the community, in partnership where necessary, and following agreed protocols.
- 1.16 £0.2 million of the Ring-Fenced Monies are for Infection Control.

2 ADULT SOCIAL CARE SCHEMES

- 2.1 The total value of non-Better Care Fund-funded social care services within the First Pooled Fund in 2018 is £39.8 million after taking account of income against services.
- 2.2 The contribution to the First Pooled Fund is based upon the cost of statutory services provided to individuals following an assessment under the Care Act contracts are with a broad range of providers and include direct payment awards to individuals.
- 2.3 The current value of Community Care services for people with learning Disabilities is £39.3 million and for people with mental health problems is £10 million.
- 2.4 Customer receipts provide income to the value of £3 million.

2.5 Jointly funded care packages bring income of £6.4 million.

3 CHILDREN AND YOUNG PEOPLE'S SCHEMES

3.1 Total value of children's and young people's services £3.2 million.

3.2 The contribution to the First Pooled Fund is based upon the cost of statutory services provided to individuals following an assessment under the Care Act. Contracts are with a broad range of providers and include direct payment awards to individuals.

4 CCG CONTRIBUTION OUTSIDE OF THE BETTER CARE FUND

Total value of CCG contribution for non-BCF services £22M

This figure is made up of

1.	CHC – adult fully funded continuing care	3.7
2.	CHC – adult fully funded Personal Health Budgets (PHBs)	0.9
3.	Funded nursing care	0.8
4.	Learning disabilities	1.7
5.	Mental health	9.8
6.	Adult joint funded	3.8
7.	CHC – Adult joint funded PHBs	0.3
8.	CHC children's continuing care	0.9
9.	Children's PHBs	0.0

5 Better Care Fund Schemes

Total Value of the BCF element of the Pooled Fund £53.7M

This figure is made up of:

6	Integrated services	
	Services currently commissioned as fully integrated health and care services	£20.6M
7	Adult social care services	
	The protection of social care services	£25.2M
8	CCG services	
	Services currently solely commissioned by the CCG	£2.0M
9	Disabled Facilities Grant	
	Part of the Grant that is pass-ported to Housing for adaptations	£3.9M

10	Innovation fund	
	Part of the Grant set aside for innovative schemes during 2017 to 18 to enable system wide bids	£0.9M
11	Known pressures & contingency	
	Based on the annual forecast part of the Grant set aside to meet expected growth in demand	£1.1M

APPENDIX 1 – FINANCIAL CONTRIBUTIONS OF THE PARTNERS IN THE FIRST FINANCIAL YEAR

[Appendix 3a to JSCB report 16.10.18]

SCHEDULE 2 – GOVERNANCE

- 1 Overall strategic oversight of partnership working between the Partners is vested in the Joint Strategic Commissioning Board (for the Council) and the CCG Governing Body (for the CCG). The JSCB shall for these purposes make recommendations to the Council as to any action it considers necessary.
- 2 The JSCB and the CCG Governing Body shall arrange to hold a number of meetings together, to be agreed in advance, where matters in relation to this Agreement shall be considered and the JSCB and the CCG Governing Body shall aim to take the same decisions in respect of such matters (but it will be possible and permissible for each to make their own decision). The Partners have agreed a common chairing protocol with which each of the JSCB and the CCG Governing Body shall comply, as set out in Appendix 3 to this Schedule 2.
- 3 Where decisions are required in respect of this Agreement, decisions shall be taken by each of the JSCB and the CCG Governing Body (whether meeting together or not) and neither may bind the other. Where the JSCB and CCG Governing Body cannot reach the same decision then they may agree to defer their respective decisions to a future meeting to allow reflection by their respective members on the relevant matter. Following any further consideration of a deferred decision at a future meeting, if agreement of both the JSCB and the CCG Governing Body still cannot be obtained, then the matter may be referred to the dispute resolution process set out in this Agreement, provided that the first stage of such process shall be as set out in Clause 23.3, followed by CEDR as set out in Clause 23.4.
- 4 The JSCB and the CCG Governing Body shall be responsible for the overall approval and strategic direction of the Pooled Funds, ensuring compliance with the national requirements of the Better Care Fund. The terms of reference for the JSCB and procedures as at the date of this Agreement are set out in Appendix 1. The CCG Governing Body Standing Orders shall apply in respect of CCG Governing Body meetings.
- 5 A group of officers (the Pooled Fund Executive Group) will report to the JSCB and the CCG Governing Body jointly. This board is made up of relevant directors and senior representatives of Wirral Council and Wirral CCG and its purpose is to drive the development and delivery of the WHaCC work/action plans including the delivery of the Better Care Fund. The terms of reference for the Pooled Fund Executive Group are in Appendix 2.
- 6 It is the responsibility of the JSCB and the CCG Governing Body to ensure that strategic objectives across health and the local authority are aligned. Strategic issues are resolved through this forum.

Post-termination

- 7 The JSCB and the CCG Governing Body shall following any termination of this Agreement endeavour to ensure that the benefits of any contracts are received by the Partners in the same proportions as their respective contributions at that time.

APPENDIX 1

TERMS OF REFERENCE AND PROCEDURES FOR THE JOINT STRATEGIC COMMISSIONING BOARD CABINET COMMITTEE

1. Purpose

The purpose of the Committee is to make recommendations to and exercise delegated powers of the Executive of Wirral Borough Council (WBC) and suggest what recommendations might be suggested to the Governing Body of the NHS Wirral Clinical Commissioning Group (CCG) in order to bring about the integration of the commissioning functions of both WBC and the CCG to deliver more efficient and effective commissioning of health and social care services.

'Healthy Wirral' sets out a clear set of priorities for the health and care of residents on the Wirral. In order to deliver those priorities and improve services to residents, it is recognised that organisational change will be needed in all parts of the health and social care system.

The JSCB is established to assist in delivery of the integration that will be critical in the move towards commissioning that will deliver outcomes to enhance the quality and consistency of services while moving towards a more holistic approach to health and social care provision.

It is intended that integration will lead to better and more cohesive planning of services, and will be supported by the greater involvement of those people who use the services to help shape the outcomes required in the future.

2. Governance

The CCG and the Cabinet of the Council via the JSCB agree that they will meet at the same time to discuss a common agenda, but each of the Council and the CCG retain their own legal status and arrangements.

Individual arrangements for each body are codified in the Constitutions of each partner and are published on the respective partners' websites. This document provides the legal and procedural requirements of the JSCB Cabinet Committee.

The JSCB Cabinet Committee has a formal status of a Committee of the Cabinet whose members are appointed by the Leader of the Council and whose decisions are taken in consultation with and in the presence of members of the CCG Governing Body.

3. Terms of Reference

The JSCB Cabinet Committee is established to focus on the commissioning, strategic design and performance management of health and care services on Wirral, including the outcomes and quality of those services. The JSCB Cabinet Committee will oversee the development of population based commissioning.

The JSCB Cabinet Committee will undertake the following duties and responsibilities, exercising delegated powers of the WBC Executive and formulating recommendations for adoption by the WBC Cabinet and / or making suggestions to the CCG Governing Body, as the case may be, that seek –

- To promote the integration of health and social services generally across WBC and CCG;
- To approve integrated health and care commissioning strategies;
- To approve large scale health and care transformation programmes;
- To approve and maintain oversight of plans and oversight of delivery for specific areas such as:
 - Better Care Fund Schemes
 - Urgent Care Transformation
 - Commissioning Prospectus
 - Learning Disabilities Plan;
- To ensure effective stewardship of Section 75 pooled monies and address any issues of concern;

- To maintain oversight of health and care system performance and address any issues of concern;
- To ensure the implementation of integrated health and care commissioning strategies and transformation programmes.

In making decisions and / or recommendations to the Cabinet and / or making any suggestion it considers appropriate to do so to the Governing Body, the JSCB Cabinet Committee will look to ensure that those actions will seek in all cases -

- To reduce inequalities;
- To secure greater public involvement;
- To commission services effectively, efficiently and equitably;
- To secure quality improvements;
- To promote choice and inclusion.

The JSCB Cabinet Committee will not consider or deal with any matters relating to individual patients, service users or carers, including complaints or requests for specific treatments or services, which will be managed through existing procedures. The JSCB Cabinet Committee will review service user and patient experience data at an 'aggregate' rather than individual level.

The JSCB Cabinet Committee will make its decisions in accordance with the Budget and Policy Framework of Wirral Council and any matter coming before the JSCB Cabinet Committee that might involve a decision contrary to the Budget and / or Policy Framework shall be referred to the Cabinet for confirmation and, if necessary, referral to the full Council.

4. Membership

The membership of the JSCB Cabinet Committee shall be appointed and varied, as considered necessary, by the Leader of the Council. Membership of the JSCB Cabinet Committee at commencement shall be -

Cabinet Member for Adult Care and Health

Cabinet Member for Children and Families

Cabinet Member for Highways and Transport

The Leader of the Council may appoint deputy or substitute members who shall have voting rights on matters coming before the Board.

Substitution arrangements should be notified to the Clerk prior to the commencement of a meeting.

All the members of the JSCB Cabinet Committee hold a collective responsibility for its operation. The JSCB Cabinet Committee is able to invite additional persons to attend meetings on an ad hoc basis to inform debate, report or answer questions.

* * * * *

Procedural Arrangements for meetings of the Joint Strategic Commissioning Board Cabinet Committee

The following procedural arrangements represent the statutory requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the further statutory and procedural requirements contained within the Constitution of Wirral Borough Council as at the date of this agreement . These arrangements will change in line with any changes in statutory requirements and/or the Constitution.

1. Meetings of the Board

1.1 Meetings of the JSCB will be held on a bi-monthly basis.

1.2 Special meetings may, subject to the minimum notice period of five clear working days being given, be convened as provided for in the agreed common chairing protocol in Appendix 3 .

1.3 The JSCB shall meet within ten working days of a meeting of the full Council of WBC in the event of the Council meeting referring back to the JSCB Cabinet Committee a decision subject to call-in to which the Council objects (Rule 110.3 – 11.14 below refers).

2. Chair

2.1 Chairing arrangements will be in line with the Chairing Protocol in Appendix 3.

3. Voting

3.1 Voting shall be in line with the Council's procedural rules and constitution.

4. Notice of Meetings

4.1 Five clear working days' notice of JSCB Cabinet Committee meetings will be given. The notice will comprise the date, time and place at which the meeting is being held, together with an agenda listing all matters for consideration at the meeting and such supporting papers / reports as can be published (see Rule 6.2 – 6.7 below). A copy of the notice and agenda will be forwarded to each JSCB Cabinet Committee member, and the agenda will be published / made available at Wallasey Town Hall and on the Council's website. *Access to Information Procedure Rules 4-5*

5. Business to be considered

5.1 The agenda for all meetings will include

- confirmation of the Chair for the meeting of the JSCB;
- declarations of interest;
- confirmation of the Chair of each Committee for the purpose of voting at the meeting;
- approval of minutes of the previous meeting (if available and circulated prior to the meeting). The minutes are to be submitted only for the purpose of determining accuracy, and shall not otherwise be debated;
- the business to be transacted at the meeting.

5.2 The agenda will not contain an item of 'any other business'. Urgent business can only be considered

- (i) at the discretion of the Chair of the meeting and the grounds for urgency being recorded in the minutes of the meeting; and
- (ii) in the event of the urgent business being a 'key decision', the special urgency procedures at Rule 5.8 below being followed; and
- (iii) in the event of the urgent business being private business, the procedures at Rule 6.11 below for the consideration of private business at less than 28 days' notice being followed.

Key decisions and advance notice of intention to take a key decision

5.3 A key decision is defined in the Council Constitution as –

- (a) any decision incurring expenditure or making savings in excess of 10% of the relevant budget head or £500,000, whichever is the smaller, unless
 - i. the specific expenditure or saving has previously been agreed in full Council, or
 - ii. it is a decision taken in accordance with the Council's Treasury Management Policy;or

- (b) any decision which, in the view of the Leader of the Council, will have a significant effect on a significant number of people;
or
- (c) any decision approving proposals for the making of a plan or budget which requires the approval of full Council.

5.4 If the JSCB Cabinet Committee is to consider business that will require the taking of a 'key decision', that decision shall not be taken unless 28 days public notice of the intention to take a key decision has been taken. This notice is called the 'Executive Forward Plan'.

5.5 The Executive Forward Plan shall contain the following detail insofar as the information is available or might reasonably be obtained:-

- (a) the name of the JSCB Cabinet Committee and a list of membership;
- (b) the date on which, or the period within which, the decision will be taken;
- (c) a list of any documents to be submitted to the decision taker for consideration in relation to the matter and how such documents might be accessed; and
- (d) an indication of the Officer responsible for preparing the report and their contact details.

5.6 There is no requirement to disclose confidential or exempt information in such a Notice.

Key decisions – general exception

5.7 If 28 days' notice of a matter likely to be a Key Decision has not been given then the decision may still be taken if:-

- the date by which the decision must be taken makes it impractical to defer until it has been included on a later Notice issued in accordance with the procedures at 5.4 – 5.5 above.
- notice of the matter has been given to the Chair of the Adult Care and Health Overview and Scrutiny Committee, or in their absence to each Member of that Committee, together with an explanation as to why it is impractical to apply procedure 5.5 above,
- this notice is available to the public at the offices of the Council and on the Council website, and
- at least five clear days have elapsed since the notice was given.

Key decisions – special urgency

5.8 If the date by which a decision must be taken means the general exception procedure at 5.7 above cannot be followed, the decision can only be taken

if agreement has been obtained from the Chair of the relevant Overview and Scrutiny Committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no Chair of the Overview and Scrutiny Committee, then the Mayor, or in his / her absence, the Deputy Mayor shall be consulted. A notice indicating the reasons why the decision is urgent and cannot reasonably be deferred shall be published at the offices of the Council and on the Council website as soon as reasonably practicable.

6. Press and Public

6.1 The press and public shall be entitled to attend and to record or film all meetings of the JSCB Cabinet Committee, except when it is likely that confidential and / or exempt information is likely to be considered and the JSCB Cabinet Committee has resolved to exclude the press and public.

Reports and other documents to be considered by the JSCB Cabinet Committee may likewise be excluded from publication.

Confidential information - requirement to exclude public

- 6.2 Confidential information means information given to the Council by a Government Department on terms which forbid its disclosure or information which cannot be publicly disclosed by Court Order.
- 6.3 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

Exempt information - discretion to exclude public

- 6.4 The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information, as defined below, would be disclosed.
- 6.5 In all cases, before the public is excluded the meeting must be satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 6.6 Where the meeting will determine any person’s civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.
- 6.7 Exempt information means information falling within the following categories (subject to any condition):-

CATEGORY	QUALIFICATIONS / INTERPRETATION
1. Information relating to an individual	
2. Information which is likely to reveal the identity of an individual	
3. Information relating to the financial or business affairs of any particular person (including the authority holding the information)	<p>‘Financial or business affairs’ includes contemplated, as well as past or current, activities.</p> <p>Information is not exempt information if it is required to be registered under either the Companies Acts (as defined in the s2 of the Companies Act 2006); the Friendly Societies Act 1974; the Friendly Societies Act 1992; the Industrial and Provident Societies Acts 1965 to 1978; the Building Societies Act 1986; or the Charities Act 1993.</p> <p>“Registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or	‘Labour relations matters’ are as specified in paragraphs (a) to (g) of Section 218(1) of the Trade Unions and Labour Relations

CATEGORY	QUALIFICATIONS / INTERPRETATION
<p>negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office-holders under, the authority</p>	<p>(Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute within the meaning of that Act, or any dispute about a matter falling within the above.</p> <p>'Employee' means a person employed under a contract of service.</p> <p>'Office-holder' means the holder of any paid office appointments which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	
<p>6. Information which reveals that the authority proposes</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	

6.8 Information falling within any of paragraphs 1-7 above is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

Advance notice of intention to consider business in private

6.9 If the JSCB Cabinet Committee is to consider business in private, 28 days prior notice must be given by the Council on the Council's website, including a statement as to the reasons for the meeting being held in private. A further notice must be published five clear days before the meeting, including a statement as to the reasons for the meeting being held in private, the details of any representations received about why the meeting should not be held in private, and a statement of response from the JSCB Cabinet Committee to any such representation.

6.10 There is no requirement to disclose confidential or exempt information in such a Notice.

6.11 If the proper notice of private business has not given in accordance with Rule 6.9 above, the decision to hold a meeting or part of a meeting in private may still be taken if the Cabinet Committee has obtained the agreement of the Chair of the Adult Care and Health Overview and Scrutiny Committee

(or in their absence the Mayor or, in the absence of the Mayor, the Deputy Mayor) that the meeting is urgent and cannot reasonably be deferred. As soon as is practicable, a notice shall be published setting out the reasons why the meeting is urgent and cannot reasonable be deferred.

Excluding the press and public

- 6.12 Where a meeting of the JSCB Cabinet Committee is to resolve to exclude the press and public, the Committee must resolve the following resolution –

“That, under section 100 (A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph [*INSERT RELEVANT PARAGRAPH NUMBER*] of Part I of Schedule 12A (as amended) to that Act in that it contains [*INSERT RELEVANT TEXT CONSISTENT WITH QUOTED PARAGRAPH NUMBER*]. The Public Interest test has been applied and favours exclusion”.

7. Quorum

- 7.1 The quorum for a meeting of the JSCB Cabinet Committee is set at two members.
- 7.2 If a quorum is not present at the conclusion of 15 minutes following the notified commencement time for a meeting of the JSCB Cabinet Committee, the meeting shall not be held and business referred either -
- to a special meeting of the JSCB (if so agreed by the co-chairs); or
 - to the next scheduled meeting of the JSCB; or
 - exceptionally, direct to the Cabinet and / or the Governing Body if timescales so dictate and such referral is agreed by both the Chief Executive of WBC and the Chief Officer of WCCG

- 7.3 Business remaining should a meeting in progress become inquorate shall be dealt with in a similar manner.

8. Conflicts of Interest

- 8.1 Members of the JSCB Cabinet Committee will comply with the requirements of the Members' Code of Conduct as contained in the Council Constitution. It is acknowledged that the Codes of Conduct for each organisation may place different obligations on their Members, but members of the JSCB Cabinet Committee must make whatever declarations of interest at meetings and take such actions as are required by law and by the Council's Members' Code of Conduct, and these shall be recorded in the minutes of the meeting.
- 8.2 For the avoidance of doubt, should a member of the JSCB Cabinet Committee declare a disclosable pecuniary interest and / or a prejudicial interest they must withdraw from the meeting room in accordance with the Members' Code of Conduct.

9. Minutes

- 9.1 The minutes of the meeting will include
- a record of attendance, including any substitution arrangements;
 - a record of any declarations of interest made and whether any JSCB Cabinet Committee member(s) left the meeting due to a declared interest and at which point in the proceedings; and
 - a record of the decision or recommendation, the reasons for the decision or recommendation being forwarded, and any alternative options considered and rejected at the meeting.
- 9.2 Minutes shall be published for both public and private parts of a JSCB Cabinet Committee meeting. There is no requirement to reveal confidential or exempt information within the published minutes.

- 9.3 The minutes of meetings of the JSCB Cabinet Committee shall be submitted to the Cabinet regardless of whether or not there are decisions to note or recommendations for approval contained therein. Submission of minutes shall provide surety to the Cabinet of the progress of the JSCB Cabinet Committee towards the agreed objectives of integrated commissioning.

10. Scrutiny and Audit

- 10.1 The JSCB Cabinet Committee shall be subject to Overview and Scrutiny arrangements through the Adult Care and Health Overview and Scrutiny Committee. The Overview and Scrutiny Committee may
- review the work of the JSCB and performance data of services provided by the JSCB
 - exercise the right of call-in in respect of decisions made by the JSCB Cabinet Committee;
 - scrutinise recommendations or referrals being made by the CCG JSCB and / or the JSCB Cabinet Committee to the Cabinet and the Governing Body (as appropriate) under a prior-scrutiny arrangement;

- 10.2 A matter relating specifically to a service provided solely for children may be referred by the Chair of the Overview and Scrutiny Committee to the Children and Families Overview and Scrutiny Committee for consideration.

Call-in

- 10.3 All decisions of the JSCB Cabinet Committee shall be published and be available at the main offices of the Council within two working days of being made or at the earliest opportunity. All members of the Council will be sent a copy of the decision.
- 10.4 The Notice will include the date of publication and specify that the decision(s) will come into force and may then be implemented on the expiry of five clear working days (the 'call-in period') after publication, unless the decision is called in for scrutiny by 5:00p.m. on the final day of the call-in period.
- 10.5 During the call-in period, the WBC Chief Executive shall call-in a decision for scrutiny by the Overview and Scrutiny Committee if so requested by any six members of the Council who have given detailed reasons for the Call-in of the decision. The detailed reasons must be provided by the first or lead signatory by the call-in deadline.
- 10.6 The Chief Executive shall liaise with the first named or lead Member listed on the call-in schedule to ensure there is sufficient information to enable the call-in to proceed. As long as there is clear reason given, the call-in should be allowed. He / she shall then notify the decision-taker(s) of the call-in and shall call a special meeting of the relevant Overview and Scrutiny Committee, on such date as he / she may determine, where possible and in any case within 15 working days of the decision to Call-in.
- 10.7 The relevant Chief Officer and all Members of the Council will be notified of a call-in immediately and no action will be taken to implement the decision until the call-in procedure has been completed.
- 10.8 Other matters relating to the call-in process –
- a decision may be called in only once;
 - the meeting of the Overview and Scrutiny Committee to consider the call-in shall be quorate if four or more members are in attendance;
 - the meeting of the Overview and Scrutiny Committee to consider the call-in shall commence at 4:00pm unless otherwise agreed by the Chair; and
 - should an Overview and Scrutiny Committee meeting be adjourned with a call-in part-heard, it must be convened within seven working days thereafter otherwise it shall be abandoned and a new committee meeting convened within seven working days.
- 10.9 Having considered the decision, the Overview and Scrutiny Committee may determine to:-

- (i) take no action in which case the decision shall take effect on the date of the Overview and Scrutiny Committee meeting
- (ii) refer the decision back to the JSCB and / or the JSCB Cabinet Committee for reconsideration, setting out in writing the nature of its concerns or;
- (iii) refer the matter to full Council. Such a referral should only be made where the Overview and Scrutiny Committee believes that the decision is outside the Council's policy framework or contrary to or not wholly in accordance with the Council's budget. Procedures set out in the Budget and Policy Framework Procedure Rules at Part 4 of the WBC Constitution must be followed prior to any such referral.

10.10 A decision referred back to the JSCB Cabinet Committee shall be reconsidered by the JSCB Cabinet Committee in the light of the written concerns of the Overview and Scrutiny Committee before a final decision is made.

11.11 If the Overview and Scrutiny Committee does not meet, the decision shall take effect from the date when the Committee should have met.

11.12 If the matter is referred to full Council and the Council does not object to a decision which has been made, then the decision will become effective on the date of the Council meeting.

11.13 If the Council does object the Council may take a decision that would otherwise have been determined by the JSCB Cabinet Committee which is outside the policy and budgetary framework. Otherwise the Council will refer any decision to which it objects back to the JSCB Cabinet Committee together with the Council's views on the decision. The JSCB Cabinet Committee shall determine whether or not to amend the decision before reaching a final decision. A meeting of the JSCB Cabinet Committee (as appropriate) will be convened to reconsider within ten working days of the Council request.

11.14 Call-in should only be used in circumstances where members of the Council have evidence which suggests that the decision was not made in accordance with the principles of decision making in the Constitution.

Call-in and urgency

11.15 The Call-in procedure set out above shall not apply where the decision being taken by the JSCB Cabinet Committee is urgent. A decision will be urgent if any delay likely to be caused by the Call-in process would seriously prejudice either WBC's, CCG's or the public's interest. The record of the decision and the notice by which it is made public shall state whether, in the opinion of the JSCB Cabinet Committee, the decision is an urgent one and therefore not subject to call-in. The Chief Executive must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

11.16 Decisions of the JSCB Cabinet Committee not eligible for call-in are those -

- making a recommendation or a referral to the Cabinet or a suggestion to the CCG Governing Body, as appropriate, (the decision of the Cabinet shall be eligible for call-in, unless the matter has received prior scrutiny or been otherwise exempted from call-in); or
- where an Officer or other body has sought guidance on the use of their delegated powers; or
- calling for further information to enable the JSCB Cabinet Committee to determine recommendations or to interrogate performance data; or
- suggesting options for remedial actions in respect of performance reports.

11.17 The decisions and / or activities of the JSCB Cabinet Committee may be subject to review by the Council's external auditors and / or the Audit and Risk Management Committee.

Scheme of Delegation *DRAFT DRAFT*

Joint Strategic Commissioning Board

Delegations to the Committee of the Cabinet

The Leader of the Council has generally delegated to all Cabinet Members the power and authority to make decisions, advise upon and deal with all matters falling within their respective Portfolios.

The following powers and authority to make decisions, advise upon and deal with the following matters falling within the Adult Care and Health, Children and Families, and Highways and Transport Portfolios shall lie with the JSCB Cabinet Committee –

- The approval of integrated health and care commissioning strategies;
- The approval of large scale health and care transformation programmes;
- The approval of plans and oversight of delivery for specific areas such as:
 - Better Care Fund Schemes
 - Urgent Care Transformation
 - Commissioning Prospectus
 - Learning Disabilities Plan;
- The effective stewardship of Section 75 pooled monies and make recommendations in respect of any issues causing concern;
- To maintain oversight of health and care system performance and take any remedial actions necessary;
- To ensure the implementation of integrated health and care commissioning strategies and transformation programmes

The Leader of the Council has delegated generally the following powers and responsibilities to the Committee of the Cabinet meeting within the JSCB Cabinet Committee–

- (i) approval of the appointment of consultants up to the value of £50,000.
- (ii) approval and authorisation of the submission of any formal response on behalf of the Council to Government consultation documents
- (iii) determination of grant applications
- (iv) approval and authorisation of the submission of grant funding (or other resource) applications on behalf of the Council
- (v) approval and authorisation of the extension of contracts for a maximum of up to 2 years where such an extension was an option in the original contract, provided any extension is on advisement of the relevant Chief Officer, the Chief Finance Officer) and the Monitoring Officer.
- (vi) authorisation of consultations (whether statutory or otherwise) as considered necessary and appropriate
- (vii) approval of the commencement of all procurement exercises in accordance with the Council's Contract Procedure Rules
- (viii) acceptance of tenders up to the value of £5,000,000 where the tender is considered the most economically advantageous, the tender complies with all the price, quality, safety, sustainability and any other criteria set out in the tender document; and the tender value is below the figure set out in the relevant budget, on advisement of the relevant Chief Officer, the Chief Finance Officer) and the Monitoring Officer.
- (ix) Approval of additional or replacement items for the current year's Capital Programme, where the amount of the estimate does not exceed £5,000,000 and does not increase the overall total of the Departmental Capital Programme, on advisement of the relevant Chief Officer, the Chief Finance Officer) and the Monitoring Officer.

- (x) the award of contracts of up to 5 years, where the contract value does not exceed £5,000,000, where the tender is the most economically advantageous, the tender complies with all the price, quality, safety, sustainability and any other criteria set out in the tender document; and the tender value is below the figure set out in the relevant budget, on advisement of the relevant Chief Officer, the Chief Finance Officer) and the Monitoring Officer.
- (xi) approval of variations to contract values post-tender where the value of the variation, or series of variations exceeds £20,000.
- (xii) the fixing, variation or amendment of fees and charges for services (as permitted).

All executive functions / matters may be referred by the JSCB Cabinet Committee to the Cabinet for consideration, determination and / or decision. Only those executive functions / matters that fall into one or more of the following categories should be referred to Cabinet -

- (i) the matter under consideration is a high profile matter;
- (ii) the decision has a significant budgetary impact;
- (iii) there is a need or it is considered prudent to engage the public and/or raise public awareness; and / or
- (iv) The function / matter provides important performance management information.

The JSCB Cabinet Committee is authorised to give whatever agreements are necessary to proposals of the CCG in pursuance of the objectives of integration and improvement of health and care service delivery.

APPENDIX 2 – POOLED FUND EXECUTIVE GROUP TERMS OF REFERENCE

Constitution and Purpose

The Pooled Fund Executive Group (PFEG) is a sub group reporting to the JSCB Cabinet Committee and the CCG Governing Body.

Remit

The PFEG shall undertake the following activities and make recommendations to the JSCB and the CCG Governing Body as appropriate:

1. Monitor and review financial performance of all budgets related to Wirral Health and Care Commissioning.
2. This includes those funds pooled under Section 75 and those running in shadow for 2018/19.
3. Assurance and oversight of commissioning and savings programme and their impact against financial performance.
4. To triangulate activity and performance against allocated budget and ensure appropriate progress against agreed budgetary plans is made including the taking of any necessary mitigating steps to the extent permitted within agreed budgets, and making recommendations to the JSCB and the CCG Governing Body where further actions are necessary to ensure that Wirral Health and Care Commissioning remains within **agreed** budgets .
5. Monitor the progress and performance of specific commissioning programmes and other initiatives (QIPP) in delivering agreed financial plans.
6. Receive specific reports in relation to the BCF programme and performance of the QIPP programme. To request further details of a specific programme if concerns are raised in relation to performance and/or spend.
7. To explore the efficacy and added value of schemes as necessary in order to recommend changes as necessary to the JSCB and the CCG Governing Body.
8. To provide assurance to the JSCB and the CCG Governing Body that appropriate investments are being made through ensuring due process has been followed i.e. process within Commissioning Decision Policy has been adhered to.

To advise/assure the Joint Strategic Commissioning Board and the CCG Governing Body on the:

1. Financial position of Wirral Health and Care Commissioning Pooled Funds. To report the financial position of each Partner in relation to the broader shadow pooled fund
2. Overall financial strategy forecasting and potential risks
3. Provide estimate of income and expenditure
4. Performance of agreed programme of commissioning activity and any proposed significant changes from the plan

Membership

Director Health and Care, Deputy Chief Officer (chair)

<p>Director Health and Wellbeing (Council)</p> <p>Chief Finance Officer (CCG)</p> <p>Director of Commissioning (CCG)</p> <p>Director of Quality and safety (CCG)</p> <p>Nominee for children's services (Council)</p> <p>Director of Public Health (Council)</p> <p>Director of Children's Services (Council)</p>
<p>Quorum</p> <p>Quorum - One of either the Director Health and Care (DCO), Chief Finance Officer or Deputy plus two other members from the organisation which is not chairing the meeting.</p>
<p>Chair</p> <p>Director Health and Care</p> <p>Vice chair - Chief Finance Officer</p>
<p>Frequency</p> <p>Monthly should be 10 meetings per year.</p> <p>Agenda and papers will be circulated 7/5 days prior to the meeting.</p> <p>minutes will be circulated 7 days post meeting</p>
<p>In Attendance</p> <p>Assistant Director Integrated Commissioning / Urgent Care</p> <p>Assistant Director Care and Health Outcomes</p> <p>Assistant Director Programme Management</p> <p>Other officers of WHaCC will be co-opted as necessary in order to offer reports</p>
<p>Confidentiality</p> <p>All records of meetings and decisions made will be disclosable unless specifically exempted under the FOI Act</p>
<p>Reporting Procedures</p> <p>Minutes of the meeting will be noted at meetings of the JSCB and the CCG Governing Body.</p> <p>Reports will be made available to the JSCB and the CCG Governing Body as required. This must include finance and performance update.</p> <p>The minutes of this meeting will be noted at the CCG Governing Body, the CCG's finance committee and relevant council committee.</p>

It is acknowledged during 2018 there will be some elements of overlap between PFEG and CCG Finance Committee whilst there are shadow pooled fund arrangements in place. The role of the CCG's finance committee will be reviewed as the pool grows.

Matters may require escalation to the JSCB and the CCG Governing Body and/or to the Council cabinet as appropriate.

Actions To Be Taken; align these with GBB/other committees

- **Note**
- **Receive**
- **Consider**
- **Support**
- **Approve**
- **Recommend**
- **Reject**
- **Escalate**

Resources

The Agenda will be agreed with the Chair and PA support.

The meeting will be minuted by Commissioning Administration.

Finance reports will be provided through the joint accountancy service.

APPENDIX 3 – COMMON CHAIRING PROTOCOL

NHS Wirral CCG Governing Body and Wirral JSCB Cabinet Committee

Common Chairing Protocol: Key Principles for Implementation

Context

In August 2018, NHS Wirral CCG (the “CCG”) Governing Body and Wirral Borough Council (the “Council”) Cabinet decided that the CCG Governing Body should hold certain meetings at the same time, and in the same location around one table with the Council Cabinet committee known as the “JSCB Cabinet Committee,” as part of an aligned decision-making model. These meetings would be in furtherance of the objective to integrate the CCG’s and the Council’s commissioning functions (underpinned by a Section 75 Agreement) to ultimately improve outcomes for the Wirral population.

The aim of this alignment is to further the collaboration between the two organisations whilst still respecting the legal reality that there remain two sovereign organisations.

Key points:

- There are two separate bodies meeting at the same time, which are part of two separate organisations (the CCG and the Council respectively).
- The Governing Body and the JSCB Cabinet Committee will arrange to hold certain meetings (a schedule of which will be agreed in advance between the organisations) in the same place at the same time around the same table.
- For each such meeting, the Governing Body and the JSCB Cabinet Committee will have their own individual agendas although they will, insofar as possible, be identical to help meetings run smoothly.
- The Council must give a statutory 28 day notice of the intention of the JSCB Cabinet Committee to make a ‘key decision’ and / or consider business in private. Procedures do exist for permission to be granted for shorter notice on urgency grounds. The grant of such permission is not guaranteed.
- The Governing Body and the JSCB Cabinet Committee must each make its own decision and their decision together with the discussion leading up to the decision must be recorded in their own respective minutes. It is acknowledged that sections of the minutes recording discussions of each organisation will often be similar given that the meetings are taking place at the same time. It is further acknowledged that the minutes of one organisation may require procedural content or steps not required in the minutes of the other. In some cases, the Governing Body and the JSCB Cabinet Committee may make the same decision – although it is possible and permissible for each to make their own, different decision.
- Each organisation retains its own individual accountability for the matters discussed; decisions made and discharge of its individual responsibilities.
- A decision taken by the JSCB Cabinet Committee may be subject to the Council’s ‘call-in’ procedure and be subject to review by an Overview and Scrutiny Committee. A relevant decision of the JSCB Cabinet Committee may only be implemented if (i) it is exempted from call-in; or (ii) the call-in period expires without the decision being called in; or (iii) in the event of the decision being called-in, the Council’s call-in procedures are concluded (which may include referral back to the JSCB for re-consideration).
- Any disputes between the Governing Body and the JSCB Cabinet committee shall be referred to the Chief Executive of the Council and Chief Officer of the CCG, and, if they cannot be resolved at this level, they must be referred to the mediation stage of the dispute resolution procedure set out in the Section 75 Agreement between the Council and the CCG.

Chairs

The Governing Body and the JSCB Cabinet committee will each continue to have its own respective chair and the two (or 'dual') chairs shall chair their meetings jointly in accordance with the following principles:

1. The dual chairs agree that in accordance with the integrated commissioning strategy agreed on behalf of both the CCG and the Council it is in the best interests of the organisations to collaborate more closely and seek to align working to deliver greater benefits and outcomes for the Wirral population.
2. To that end, the dual chairs agree that a consensus approach between two chairs should be adopted where possible, without prejudice to the need to properly discharge their individual rights and responsibilities.
3. Before each meeting to be held together, the dual chairs shall meet to discuss and plan for the forthcoming meeting including addressing any issues as to meeting agenda and papers, attendees and who will be the 'primary' chair of that meeting. In general, the dual chairs should agree to take it in turn to be the 'primary' chair of each meeting. A primary chair may agree that for certain part(s) or agenda item(s) of meetings he/she is leading, the other chair should take over and chair that part of the meeting/agenda item.
4. Where a chair is unable to attend a meeting held together, or to undertake a specific action relating to planning for such a meeting by reason of illness or absence for any other cause, references to the 'chair' shall be taken to refer to the deputy chair as per the relevant standing orders of the CCG Governing Body or terms of reference of the JSCB Cabinet committee as applicable.
5. Where possible, identical but separate agendas and papers will be used for meetings held together and they will be served on behalf of each organisation at the same time.
6. The 'primary' chair shall:
 - a. Open the meeting;
 - b. Keep the meeting focussed on the agenda;
 - c. Ensure proper order at the meeting including but not limited to who is entitled to speak and ask questions;
 - d. Ensure that only one agenda item may be discussed at any one time;
 - e. Facilitate discussions at each meeting;
 - f. Ensure the meeting follows proper process including when making decisions;
 - g. Ensure there is clarity as to what decision/action is agreed on behalf of which organisation;
 - h. Ensure appropriate arrangements for the meeting minutes to be taken; and
 - i. Closes the meeting.

In doing so, the other chair may assist the primary chair as agreed between the two chairs.

7. Quorum and Voting

For the avoidance of doubt, acting as primary chair does not affect or amend either the membership of or the requirements as to quorum for either the Governing Body or the JSCB Cabinet Committee and each chair only has the voting rights given to him/her by his/her own organisation in respect of decisions being made, even if acting as primary chair.

On the occasion of a vote, the Governing Body and the JSCB Cabinet Committee will vote in turn using the following process:

- The 'primary' Chair shall first preside over the vote of the Governing Body or JSCB Cabinet committee of which he / she is a member.
 - The primary Chair shall then defer to the other co-chair (or the person appointed to act as chair in the absence of the co-chair, as the case may be) to preside over the vote of the other organisation (i.e. the Governing Body or the JSCB Cabinet Committee as the case may be) of which that co-chair (or such other person appointed to act as chair) is a member.
8. The primary chair can seek the views of the other chair during the course of the meeting as he or she sees fit. The other chair may also raise queries/concerns with the primary chair as to proper conduct and procedure of the meeting as they see fit, which the two chairs shall seek to resolve by consensus wherever possible.
 9. If at any time in the course of a meeting, there arises a dispute between the two chairs which it is not possible to resolve, either chair may decide to call a halt to the meeting and to request that the two meetings continue separately with their individual membership and chairmanship. Where such a step is taken, it shall be reported by each chair to their respective Chief Executive or Chief Officer.
 10. At any time in the preparation for a meeting or during a meeting, either or both chairs may seek the advice and support of the governance leads for both organisations as to process, procedure and/or facilitating an agreed way forward.
 11. Special meetings of the JSCB Cabinet Committee may, subject to the minimum notice period of five clear working days being given, be convened with the agreement of both co-chairs.
 12. Each committee must have its own meeting minutes approved in accordance with each organisation's governance practices. However, in recognition of the above points and principles, the dual chairs acknowledge that it is reasonable and appropriate for minutes of such meetings to often largely mirror each other, save for any requirement for procedural content to be included in one set of minutes, but not the other.

These principles are to be reviewed by the CCG Governing Body and the Leader of the Council or the Council Cabinet (as may be determined by the Leader of the Council) six months after initial adoption and then annually thereafter. These principles may be refreshed by agreement between the CCG and the Council at any time, including on any such review.

SCHEDULE 3 – FINANCIAL ARRANGEMENTS, RISK AND GAINS SHARE AND OVERSPENDS

- 1 Unless the context otherwise requires, the defined terms used in this Schedule shall have the same meanings as set out in Clause 1 of the main body of Agreement.
- 2 Subject to any contrary provision in the relevant Scheme Specification, the Parties agree that Overspends or Underspends shall be managed in accordance with this Schedule 3.
- 2A References in this Schedule 3 to decisions made by the JSCB and the CCG Governing Body shall mean that each of the JSCB and the CCG Governing Body shall consider the relevant matter and aim to make the same decisions in line with the governance procedures as set out in Schedule 2.

Financial Contributions

- 3 Payment of contributions into a Pooled Fund will be made by both Partners on a quarterly basis as follows:
 - 3.1 June 2018;
 - 3.2 September 2018;
 - 3.3 December 2018; and
 - 3.4 March 2019.

Payments from the Pooled Fund will be made to the respective Partners in arrears on agreement of the Joint Strategic Commissioning Board and the CCG Governing Body as set out below:

- 3.5 July 2018 (based on Q1 2018/19 performance);
- 3.6 October 2018 (based on Q2 2018/19 performance);
- 3.7 January 2018 (based on Q3 2018/19 performance); and
- 3.8 March 2019 (based on Month 11 2018/19 performance).

Risk Share

- 4 Both the CCG and the Council agree that subject to any decision of the JSCB and the CCG Governing Body otherwise as to the treatment of any Overspend or Underspend in accordance with paragraphs 5 to 10 (inclusive) of this Schedule 3:
 - 4.1 the risk share in respect of Overspends in relation to the Schemes contained within this Agreement shall be made on the basis of 56% for the CCG and 44% for the Council, based upon a calculation of relative risk and investment, except in the case of:
 - 4.1.1 the Better Care Fund Plan, where the risk share shall be made on the basis of 50% for the CCG and 50% for the Council; and
 - 4.1.2 the Ring-Fenced Monies, where Overspends cannot be attributed elsewhere and no virement can take place. The risk share in respect of Overspends on the Ring-Fenced Monies shall therefore be made on the basis of 0% for the CCG and 100% for the Council;
 - 4.2 the gain share in respect of Underspends in relation to the Schemes contained within the Agreement shall be made on the basis of 50% for the CCG and 50% for the Council, except in the case of the Ring-Fenced Monies, where no Underspend can be attributed elsewhere and no virement can take place. Any gain in respect of the Ring-Fenced Monies must therefore be reinvested for the purposes of the Public Health Schemes).

Pooled Fund Management

- 5 Out-turn will be reported on a monthly basis to the JSCB and the CCG Governing Body. Any variances will be scrutinised by the JSCB and the CCG Governing Body and corrective or mitigating action identified and agreed by the JSCB and the CCG Governing Body. The relevant Lead Partner will be requested to attend the JSCB and the CCG Governing Body to account for any Overspend.

Overspends

- 6 Once the JSCB and the CCG Governing Body agree that there is no alternative other than to Overspend then the risk share arrangements set out in paragraph 4 will be triggered.
- 7 It shall be a general principle that any Overspend will be determined by the JSCB and the CCG Governing Body jointly in a just and equitable manner. If the JSCB and CCG the Governing Body identify poor management by the Lead Partner as a contributing factor to an Overspend they will give due consideration to that poor performance and the extent of it to the contribution to the Overspend when determining the division of the Overspend.
- 8 Where both the JSCB and the CCG Governing Body agree, in relation to the division of Overspends the JSCB and the CCG Governing Body may:
 - 8.1 determine that Partners should agree an action plan to reduce expenditure;
 - 8.2 identify Underspends that can be vired from any other Scheme maintained under this Agreement
 - 8.3 ask for more money from the respective Partners; and
 - 8.4 if no more money is available agree a plan of action, which may include decommissioning all or any part of the Individual Scheme or service to which the Overspend relates.
- 9 Decisions regarding Overspends will be mindful of Better Care Fund guidelines outlined in Schedule 6.

Underspends

- 10 Underspends should be considered by the JSCB and the CCG Governing Body regardless of who commissions the Scheme or where the Underspend is reported. In doing so the JSCB and the CCG Governing Body may, where they both agree:
 - 10.1 identify the reason for underspend and impact on the overall performance targets;
 - 10.2 review if further investment would benefit the overall outcomes defined within the Agreement;
 - 10.3 if there are any other Schemes contained within this Agreement for which an Overspend has been identified that can be negated by Underspend on other schemes; and
 - 10.4 if there are Schemes that will run into the following financial year and would benefit from the funding being carried forward.
- 10.5 Decisions regarding Underspends will be mindful of Better Care Fund Guidelines outlined in Schedule 6.

Risk Management Framework

- 11 A comprehensive risk register and monitoring arrangements have been developed between the Council and the CCG to manage or mitigate known and emerging risks associated with the development and implementation of this Agreement.
- 12 This register includes an assessment of risk both financial and system impact for each scheme and is RAG rated. This will be monitored by the JSCB and the CCG Governing Body monthly and will include

a clearly defined escalation protocol to feed into both Partners' reporting frameworks. The risk register will be maintained and reported to the JSCB and the CCG Governing Body.

Risk Escalation Protocol

- 13 The Out-turn will be monitored on a monthly basis alongside the risk register. In the event of adverse performance the Lead Partner will report directly to the JSCB and the CCG Governing Body on Scheme performance and mitigating actions.
- 14 If the JSCB and the CCG Governing Body identify that adverse performance cannot be contained within the funding contributions set out within this Agreement then each Partner shall report significant risks to its governing executive and Health and Wellbeing Board as appropriate.
- 15 An example of how risk share is intended to operate is:
 - 15.1 A gain (Underspend) or loss on the Better Care Fund Schemes of £1 million would be split as follows:
 - 15.1.1 the Council £0.5 million; and
 - 15.1.2 the CCG £0.5 million.
 - 15.2 A gain (Underspend) on Schemes other than the Public Health Scheme of £1 million would also be split as set out in paragraph 15.1.
 - 15.3 A loss (Overspend) of £1 million on Schemes other than the Public Health Schemes and the Better Care Fund Schemes would be split as follows:
 - 15.3.1 the Council £0.44 million; and
 - 15.3.2 the CCG £0.56 million.
- A loss (Overspend) of £1 million on the Better Care Fund Schemes would be split as follows:
 - 15.3.3 the Council £0.5 million; and
 - 15.3.4 the CCG £0.5 million.
- A loss (Overspend) of £1 million on the Public Health Schemes would be split as follows:

the Council £1 million; and

the CCG £0.

SCHEDULE 4 – JOINT WORKING OBLIGATIONS

Part 1 – LEAD PARTNER OBLIGATIONS

Terminology used in this Schedule shall have the meaning attributed to it in the NHS Standard Form Contract save where this Agreement or the context requires otherwise.

1 The Lead Partner shall notify the other Partners if it receives or serves under a Service Contract:

1.1 a Change in Control Notice;

1.2 a Notice of an Event of Force Majeure;

1.3 query; or

1.4 a notice indicating breach of contract or notice requiring remedial actions

and provide copies of the same.

2 The Lead Partner shall provide the other Partners with copies of any and all:

2.1 CQUIN Performance Reports;

2.2 monthly activity reports;

2.3 remedial action plans; and

2.4 Service Quality Performance Report.

3 The Lead Partner shall consult with the other Partner before attending:

3.1 a contract management meeting; or

3.2 a contract review meeting;

and, to the extent the Service Contract permits, raise issues reasonably requested by a Partner at those meetings.

4 The Lead Partner shall not:

4.1 permanently or temporarily withhold or retain monies pursuant to any payment provisions or other provisions in a Service Contract;

4.2 vary any service specifications

4.3 agree (or vary) the terms of a joint investigation or a joint action plan undertaken in respect of a Service Contract;

4.4 give any approvals under a Service Contract;

4.5 agree to or propose any variation to the Service Contract (including any Schedule or Appendices);

4.6 suspend all or part of the Services;

4.7 serve any notice to terminate the Service Contract (in whole or in part);

4.8 serve any notice; or

4.9 agree (or vary) the terms of a Succession Plan,

without the prior approval of the other Partner (such approval not to be unreasonably withheld or delayed).

5 The Lead Partner shall advise the other Partners of any matter which has been referred for dispute and agree what (if any) matters will require the prior approval of one or more of the other Partners as part of that process.

6 The Lead Partner shall notify the other Partners of the outcome of any Dispute that is agreed or determined by Dispute Resolution.

7 The Lead Partner shall share copies of any reports submitted by the Service Provider to the Lead Partner pursuant to the Service Contract (including audit reports).

Part 2 – OBLIGATIONS OF THE OTHER PARTNER

1 Each Partner shall (at its own cost) provide such cooperation, assistance and support to the Lead Partner (including the provision of data and other information) as is reasonably necessary to enable the Lead Partner to:

1.1 resolve disputes pursuant to a Service Contract;

1.2 comply with its obligations pursuant to a Service Contract and this Agreement; and

1.3 ensure continuity and a smooth transfer of any Services that have been suspended, expired or terminated pursuant to the terms of the relevant Service Contract.

2 No Partner shall unreasonably withhold or delay consent requested by the Lead Partner.

3 Each Partner (other than the Lead Partner) shall:

3.1 comply with the requirements imposed on the Lead Partner pursuant to the relevant Service Contract in relation to any information disclosed to the other Partners; and

3.2 notify the Lead Partner of any matters that might prevent the Lead Partner from giving any of the warranties set out in a Service Contract or which might cause the Lead Partner to be in breach of warranty.

SCHEDULE 5 – PERFORMANCE ARRANGEMENTS

An Outcomes Framework is in the process of being drafted, which will be linked to the Healthy Wirral programme. The KPIs contained within it will be monitored by the Council's Business Intelligence Team and the CCG's Performance Team and reported to the JSCB and the CCG Governing Body on a monthly basis.

SCHEDULE 6 – BETTER CARE FUND PLAN

The BCF is intended to transform local Health and Social Care services, driving integration at a local level. Nationally driven by NHS England and Central Government to bring resources from both the NHS and Local Authorities into a single pooled budget.

Fundamentally, we believe that the Better Care Fund should be used for a genuine transformation of the health and social care system in Wirral. However, this transformation is not just about reducing admissions to hospital, but rather about changing the whole system so that it is focused on supporting people wherever possible with person-centred and professionally-led primary, community and social care, with the goal of living as independently as possible for as long as possible. A key part of this will be to ensure that access and response times of all services will meet the needs of the population and that capacity also meets demand across the range of services. This aligns with the principles set out by Government, NHS England and LGA, is consistent with the priorities set out in Wirral's Joint Strategic Needs Assessment, NHS Wirral CCG's Strategic Plan and the Council's Corporate Plan and Commissioning Intentions.

The BCF closely aligns to the Urgent Care strategy, and supports the Urgent Care commissioning priorities.

We already have a programme of work which is working towards:

- Development of Integrated Care Coordination Teams (ICCTs)
- Investing in Community health and social care services, accessible 7 days a week, with a focus on hospital admission avoidance.
- More effective joint commissioning of key services
- Developing a sustainable and responsive market with the independent and 3rd sector
- Developing more effective community interventions such as falls response and prevention services, assistive technology, community equipment, appropriate mental health and dementia interventions
- Redesign of existing services to effectively target resources to deliver key outcomes, re-commissioning where appropriate
- Supporting flow and capacity in acute care

Key components of this programme of work include:

- Rapid community MDT providing a 4 hour response at home for GP's and NWAS
- Investment and expansion of the intermediate and transitional care service
- Development of a single front door and gateway
- Transformational redesign of our discharge pathways to improve LOS and patients experience and outcomes

These will all require a much closer level of integration and collaboration between the Acute sector (consultants and nursing /therapies), primary health (GPs), community health (e.g. district nursing, physiotherapy) and social care (support to live independently), so that these services can identify, support and intervene much earlier to prevent a crisis occurring or someone feeling they are unable to access the support they need.

An effective communication strategy and focus upon changing workforce culture across all organisations underpins the success of this transformational change in Wirral.

Information technology will play a key role in facilitating new ways of working, streamlining information sharing and reducing duplication.

Our priority focus will be to ensure appropriate investment in a range of community services and to see a reduction in demand on acute care and long term residential/nursing placements. This will result in both an improved experience and outcomes for patients.

In addition we will aim to invest in new schemes, particularly to support 7 day working across health and social care and information technology. We are also working with public health colleagues to retain a focus on early intervention and prevention and to ensure that a range of requirements are delivered through existing investments, for example supporting self-care and falls prevention.

The value of individual schemes is as follows, with the final column indicating commissioning responsibility for individual schemes.

Scheme Name	2017/18	2018/19	Contract with (CCG or Council)
	Total	Total	
1. Assistive Technologies			
Innovation bid scheme 9 - Medequip/Falls	69,000	69,000	Council
Known Development Pressures (TeleHealth, TeleTriage)	0	58,387	CCG
Tele-triage - Single Gateway/7 Day Response	100,000	100,000	CCG
Tele-triage role out across Care Homes	110,820	226,705	CCG
Whole System VSA for frail and elderly support at home	15,000	0	Council
Wirral Independence Service	4,295,000	4,295,000	Council
1. Assistive Technologies Total	4,589,820	4,749,092	
2. Care navigation / coordination			
Brokerage	27,000	27,000	Council
Clinical Streaming at the front door	200,000	300,000	CCG
Comms - Home First	12,000	12,000	Council
IMC - WCT existing schemes	1,445,762	1,445,762	Council
Integrated Assessments Training & Implementation	8,250	0	De-commissioned
Street triage	152,000	152,000	CCG
2. Care navigation / coordination Total	1,845,012	1,936,762	
3. Carers services			

Carers Service	653,912	653,912	Council
3. Carers services Total	653,912	653,912	
4. DFG - Adaptations			
DFG	3,591,765	3,858,041	Council
4. DFG - Adaptations Total	3,591,765	3,858,041	
6. Domiciliary care at home			
Dom Care	200,000	200,000	Council
Home First Capacity - supporting growth in dom care, reablement, mobile nights	66,955	73,651	Council
Mobile Night Service	536,600	536,600	Council
Trusted Assessor - Dom Care	110,000	110,000	Council
6. Domiciliary care at home Total	913,555	920,251	
7. Enablers for integration			
BCF Scheme Lead/ROI Evaluation	24,000	48,000	Council
Communication and Engagement Lead Role	30,000	0	CCG
Transformation Programme Manager Role	60,000	60,000	CCG
Whole System Acute/Community Capacity and Demand Model (WI Posts)	91,000	0	CCG
Whole System Modelling Senior Performance Analyst	40,000	40,000	CCG
7. Enablers for integration Total	245,000	148,000	
8. Healthcare services to Care Homes			
Care Homes Scheme/Quality Improvement Nurse	40,000	40,000	CCG
8. Healthcare services to Care Homes Total	40,000	40,000	
9. High Impact Change Model for Managing Transfer of Care			
Additional MDT support, including clinical cover for extra beds (10)	106,343	106,343	

			CCG
Home First - Clinical Support/Discharge Capacity	540,808	540,808	CCG
Home First - MDT	399,657	399,657	Council
Primary Care & Therapies for T2A Beds	967,428	967,428	CCG
Ward Discharge Coordinators - Additional 2fte	116,250	0	CCG
9. High Impact Change Model for Managing Transfer of Care Total	2,130,486	2,014,236	
10. Integrated care planning			
7 Day Community Offer (ASC)	3,932,992	3,932,992	Council
7 Day Community Offer (CCG)	854,011	854,011	CCG
10. Integrated care planning Total	4,787,003	4,787,003	
11. Intermediate care services			
10 x T2A Residential Beds - core funding	260,520	273,546	Council
86 x T2A Nursing Beds - core funding	3,358,472	3,526,396	Council
Adapted Flats (temporary accommodation for people awaiting major adaptation)	40,000	35,643	Council
Growth in T2A Beds (Nursing)	178,625	164,460	Council
Reablement - Commissioned Care	1,162,249	1,162,249	Council
T2A - 10 beds - Cover for Pressure periods (Nursing)	230,012	241,513	Council
Winter Pressure Beds	284,396	0	Council
11. Intermediate care services Total	5,514,274	5,403,807	

12. Personalised healthcare at home			CCG
IV Antibiotics	562,300	562,300	
12. Personalised healthcare at home Total	562,300	562,300	
13. Primary prevention / Early Intervention			
Age UK - Discharge lounge/home of choice/single gateway presence/falls army	55,000	110,000	Council
Complex Needs Service	250,000	250,000	Council
Crisis Response	150,576	150,576	CCG
Dementia LES	71,400	71,400	CCG
Dementia Nurse	150,580	150,580	CCG
Early Intervention & Prevention	1,090,169	1,090,169	Council
Early onset Dementia	146,000	146,000	Council
Joint Posts - Mental Health	474,587	474,587	CCG
13. Primary prevention / Early Intervention Total	2,388,312	2,443,312	
14. Residential placements			
Known Development Pressures (Enhancing Health in Care Homes)	0	50,000	Council
Trusted Assessor - Care Homes	71,000	71,000	Council
14. Residential placements Total	71,000	121,000	
16. Other			
Care & Support Bill Implementation	497,180	497,180	Council
CCG Third Sector	485,378	485,378	CCG
Green Car	357,786	357,786	Funding to be Re-allocated
Homeless Service	93,279	93,279	Council
Maintaining Social Care	9,697,189	13,265,830	

			Council
Mental Health detention transport	52,500	70,000	CCG
Protection of Out of Hospital Services	0	482,000	CCG
Public Health - Drugs & Alcohol	7,312,913	7,093,526	Council
Stabilising the Market	1,414,337	1,414,337	Council
Street Triage - enhanced hours of operation	84,501	112,668	CCG
Street Triage for NWS	131,064	174,752	CCG
Winter Planning & Contingency	529,814	529,814	CCG
16. Other Total	20,655,941	24,576,550	
Grand Total	47,988,380	52,214,265	

SCHEDULE 7 – POLICY FOR THE MANAGEMENT OF CONFLICTS OF INTEREST

Both the Council and the CCG have established and practised Conflicts of Interest policies in place. The following principles will apply:

1. Doing business appropriately. If commissioners get their needs assessments, consultation mechanisms, commissioning strategies and procurement procedures right from the outset, then conflicts of interest become much easier to identify, avoid and/or manage, because the rationale for all decision-making will be clear and transparent and should withstand scrutiny;
2. Being proactive, not reactive. Commissioners should seek to identify and minimise the risk of conflicts of interest at the earliest possible opportunity, for instance by:
 - considering potential conflicts of interest when electing or selecting individuals to join the governing body or other decision-making bodies;
 - ensuring individuals receive proper induction and training so that they understand their obligations to declare conflicts of interest; and
 - establishing and maintaining registers of interests, and agreeing in advance how a range of possible situations and scenarios will be handled, rather than waiting until they arise;
3. Individuals will seek to act ethically and professionally, but may not always be sensitive to all conflicts of interest. It is assumed people will volunteer information about conflicts and, where necessary, exclude themselves from decision-making, but there will be prompts and checks to reinforce this;
4. Following proper procurement processes and legal arrangements, including even-handed approaches to providers; and
5. Ensuring sound record-keeping, including up to date registers of interests.