Contract for the Provision of Residential and Nursing Home Care

Made between Wirral Council Old Market House, Hamilton Street, Birkenhead, Wirral Merseyside CH41 5AL (hereinafter called ‘the Council’) And Of c/o (hereinafter called ‘the Provider’) 

Signed on behalf of the Council: Signed on behalf of The Provider: 

_________________________________  _______________________________________
Dated:___________________________ Dated: ________________________________

The COMMON SEAL OF THE COUNCIL was hereunto affixed in the presence of: 

_________________________________
Dated:___________________________
This Contract

(a) is made on or the latest date of signature of either party.

(b) comprises the following articles and scheduled documents:

Articles of Agreement
Schedule 1 The Service Specification
Schedule 2 Financial Arrangements
Schedule 3 Staffing and Employment
Schedule 4 Quality Assurance, Service Monitoring and Evaluation
Schedule 5 Insurance and Indemnity
Schedule 6 Health and Safety
Schedule 7 Complaints
Schedule 8 Income Collection Agreement
Schedule 9 Gifts and Bequests
Schedule 10 Unit Prices, Quality and Premiums
Schedule 11 Key Personnel Responsibilities, End of Life and Dementia

(c) is for the provision of Residential and Nursing Home Care (Permanent or short term) as specified in the Service Specification. Whereas; the Council wishes to have provided the Services set out in the Contract and Schedules to it, and the Provider is prepared to provide the Service in accordance with the provisions contained therein.

(d) is the sole Contract between the Council and the Provider for the Services described in the Service Specification except where there is written agreement to the contrary.

(e) makes provision for the Council to make payments to the Provider so long as the Service is provided in accordance with the Contract and to the reasonable satisfaction of the Council and customers supported by it.
Contents

1. Introduction ........................................................................................................................................ 5
2. Regulatory Requirements .............................................................................................................. 5
3. Underpinning National Drivers and Service Principles ............................................................ 5
4. Articles of Agreement ......................................................................................................................... 5
5. In this Contract ................................................................................................................................ 7
6. The Contract Period ............................................................................................................................ 7
7. The Complete Contract ...................................................................................................................... 7
8. Authorised Officer .............................................................................................................................. 8
9. Contract Management ....................................................................................................................... 8
10. Care Management ............................................................................................................................. 8
11. The Service ..................................................................................................................................... 8
12. Registration ..................................................................................................................................... 9
13. Other Residents (Not funded by this agreement) .......................................................................... 9
14. Placement ....................................................................................................................................... 9
15. Financial Arrangements .................................................................................................................... 9
16. Insurance and Indemnity ................................................................................................................... 10
17. Standards ....................................................................................................................................... 10
18. Emergency Planning ......................................................................................................................... 10
19. Quality Assurance, Monitoring and Evaluation ............................................................................. 10
20. Review .......................................................................................................................................... 10
21. Variation ....................................................................................................................................... 10
22. Default .......................................................................................................................................... 10
23. Referrals ....................................................................................................................................... 11
24. Restrictions on referrals .................................................................................................................. 11
25. Termination of an Individual Residency ....................................................................................... 12
26. Termination of the Contract ........................................................................................................... 13
27. Assignment and Sub Contracting .................................................................................................... 14
28. Resolution of Disputes and Mediation ............................................................................................ 15
29. Ombudsman ................................................................................................................................... 15
30. Waiver .......................................................................................................................................... 16
31. Notices .......................................................................................................................................... 16
32. Human Rights, Equal Opportunities and Information .................................................................... 16
33. Freedom of Information .................................................................................................................. 16
34. Human Rights Act 1998 ................................................................................................................ 16
35. Safeguarding Adults ....................................................................................................................... 17
36. Disclosure and Barring Service ....................................................................................................... 18
37. Anti Corruption ............................................................................................................................... 18
38. Confidentiality ................................................................................................................................. 19
39. Health and Safety ............................................................................................................................ 19
40. Severance ...................................................................................................................................... 19
41. Force Majeure ................................................................................................................................. 20
42. Business Continuity ......................................................................................................................... 20
43. Governing Law ............................................................................................................................... 20
44. General .......................................................................................................................................... 20
45. Provision of Information on the Provider’s employees for the purpose of the Transfer of Undertaking (Protection of Employment) Regulations 2006. ........................................ 21
46. Third Party Rights ............................................................................................................................ 21
S1 The Service Specification ................................................................................................................ 22
S1.1 Registration, Quality and Standards ............................................................................................ 22
S1.2 Definitions .................................................................................................................................. 22
S1.3 The Services ................................................................................................................................. 22
S1.4 Permanent Care ............................................................................................................................ 22
S1.5 Short Term (Respite) Care ........................................................................................................... 23
S1.6 Nursing Care ............................................................................................................................... 23
S1.7 Principles of Support .................................................................................................................... 23
S1.8 Provider Objectives ..................................................................................................................... 23
1. **Introduction**

1.1 This Agreement is effective from ________ and sets out the conditions for Residential and Nursing Home Support. It is intended to help foster a culture of partnership between the Council, Providers and Customers who need, and are eligible for, support.

1.2 Providers wishing to contract with the Council must be able to demonstrate an alignment with the Council’s vision (Wirral should be a place where the vulnerable are safe and protected, where employers want to invest and local businesses thrive, and where good health and an excellent quality of life is within the reach of everyone who lives here) and meet all the conditions set out in this specification.

1.3 This specification intends to encourage a business relationship with Providers built on trust and shared values in respect of achieving positive outcomes for people who may be vulnerable and who need support, avoiding unnecessary administration to achieve good value for money in local public services.

1.4 This Contract reflects the Council’s model to set actual costs of care which excludes those payments that are the responsibility of Wirral CCG, relating to nursing care.

2. **Regulatory Requirements**

2.1 The Provider must maintain its registered status with the Care Quality Commission and any subsequent regulatory body. The Provider will meet the statutory requirement for registration and regulation of a Residential, Nursing or dual registered service and must notify the Council of any change in its registration status and provide copies of all substantive notifications relating to it. The Provider must comply with all statutory requirements which relate to the carrying out of the service provided under this Agreement and also with the guidance issued by the Care Quality Commission for Residential and Nursing Home care.

3. **Underpinning National Drivers and Service Principles**

3.1 In agreeing to this Contract Providers are agreeing to provide services which are consistent with a number of national policy drivers and best practice guidance which are:

   a) Healthcare for All – (Independent Michael inquiry 2008)
   b) Valuing People: (DOH 2001)
   c) Independence Well Being and Choice (DOH 2005)
   d) Our Health, Our Care, Our Say (DOH 2006)
   e) Putting People First – Transforming Adult Services (DOH 2006)
   f) Health and Social Care Bill (DOH 2013)

4. **Articles of Agreement**

4.1 **Glossary of Terms**

   - **Council** This refers to Wirral Council
   - **Service** The provision of accommodation and personal support (with nursing support in Nursing Homes) in accordance with the requirements of this Agreement.
Service Specification The Service Specification set out in Schedule 1 describing the Services to be provided under this Agreement together with the Customer’s Individual Service Specification and/or Personal Support Plan.

Individual Service Specification The Service to be provided by the Provider to an individual Customer as set out in their Personal Support Plan and accompanying letter from the Council to the Provider.

Personal Support Assistance provided to people under this Agreement who are assessed as needing that support under the Council’s Fair Access to Care criteria. This is the activity that maintains people’s safety and independence, keeping them as active as they want to be and as well as they can be throughout their lives, enabling them to participate in and contribute to society.

Personal Support Plan A written agreement between the Council and the person using the service which sets out the support that is required to deliver the outcomes agreed in a Self Directed Assessment. It forms part of this Agreement insofar as it sets out the specific tasks and support that is required to be provided to a Customer by the contracted Provider.

Locality This is the geographical area of Wirral which the Department of Adult Social Services is organised into in order to provide more localised support. These are Birkenhead, South Wirral, Wallasey and West Wirral.

Provider The organisation authorised to deliver the Service to Customers under the terms of this Agreement.

Support Assistance provided to Customers that enables them to live safely with dignity and respect how, and where they so choose. These are the activities, services and relationships that maintain their safety and independence, keeping them as active as they want to be and as well as they can be throughout their lives, and enable them to participate in and contribute to society.

Standard Wirral Price The weekly price, or part thereof, for the provision of the Service provided by the Provider under the terms of this Agreement as set out in Schedule 10 or as subsequently revised pursuant to Clause S2.2.1.2

Customer A person who uses this Service. A resident of the Home or user of other services provided by the Home.

Carer A person, paid or unpaid, who supports someone who uses this Service.

Third Party A person other than the Council and the Customer who agrees to enter into an agreement with the provider to pay an additional top up fee. Is the person named in the Personal Support Plan other than the Council and the individual who may enter into an agreement with the Provider, and the Council, to pay fees in respect of the Individual above those fees which the Council normally expects to pay?

Self Directed Assessment A statutory assessment of a Customer’s needs undertaken by themselves, with or without the assistance of a third party
The Regulatory Body: The Care Quality Commission or any successor body.

Premises: Is a care home (or care home with nursing), appropriately registered in accordance with the Health and Social Care Act (2008) also known as the Home or the Care Home.

Fair Access to Care: The criteria set by the Council each year that determines whether people are offered support following their assessment of need. The Council has currently set this at ‘substantial’ and ‘critical’. People’s needs assessed as ‘moderate’ or ‘low’ are not met.

Enablement: An approach which focuses on supporting people to achieve their maximum potential for independence with the lowest appropriate level of support.

Worker: A person who on behalf of the Provider provides help and support under this Contract to a customer (including employees, agency workers and agents and sub-contractors).

NHS Wirral: Wirral Primary Care Trust, or its statutory successor(s). Statutory successor are the Clinical Commissioning Groups within Wirral.

5. In this Contract

(a) reference made to any gender includes any other gender and the singular includes the plural and vice versa

(b) headings are for ease of reference and do not affect the interpretation or construction of this Contract

(c) reference to any Act of Parliament or any Order, Regulation, Statute, Statutory Instrument, Code of Practice, Guidance, Directive or the like, whether detailed expressly or incorporated by general reference, shall be deemed to include a reference to any amendment, re-enactment or replacement of it

(d) references in the above definitions and interpretations to Council employees shall also be taken to refer to such offices and job titles as the Chief Executive of the Council shall from time to time indicate to the Provider.

6. The Contract Period

6.1 This Contract commences on         and shall continue (subject to variation and termination as provided for below) until terminated by either party.

7. The Complete Contract

7.1 The complete Contract is embodied by this Agreement and Schedules attached to it, the Service Specification, the Personal Support Plan and the Income Collection Agreement. These supersede all other written understandings and agreements about all matters to which they refer.
8. **Authorised Officer**

8.1 The Authorised Officer will be the person responsible for letting, managing and supervising the Contract on behalf of the Council and shall until further notice be the Director of Adult Social Services who may act through designated representatives.

9. **Contract Management**

9.1 The Provider must have a named person who will be responsible for day to day Contract performance, who will liaise with the Council, and who will be of sufficient seniority to make executive decisions on behalf of the Provider, this will be the Registered Manager, unless a designated person is identified other than the Registered Manager.

10. **Care Management**

10.1 The Provider will receive an up to date copy of each potential Customer's Personal Support Plan and Individual Service Specification prior to the commencement of the Service and a revised copy following a review of that Customer.

10.2 In exceptional circumstances, such as an emergency admission, the service can commence with verbal instructions from the Council regarding individual's support requirements. In these cases, an interim Personal Support Plan containing essential information relating to the support needs of the individual and any relevant risk assessment will be dispatched to the Provider by hand, facsimile transmission, or email where possible, and receipt must be confirmed immediately by the Provider.

10.3 Admissions arranged by a party other than the Council do not form part of this Contract until such a time as the Council agrees to accept financial responsibility which shall be following a statutory assessment. For the avoidance of doubt, Providers willing to accept new residents without a statutory assessment will bear in mind there is no guarantee of funding if that statutory assessment does not confirm the need for Residential or Nursing Home support.

10.4 Admissions will only be funded by this Agreement if they are properly authorised by the Authorised Officer. (The Authorised Officer will be the person responsible for letting, managing and supervising the Contract on behalf of the Council and shall until further notice be the Director of Adult Social Services who may act through designated representatives).

10.5 In the event of emergencies Personal Support Plans for new admissions will be provided by the Council within 24 hours or the next working day after a weekend or Bank Holiday.

10.6 The Provider must maintain records of the process described above to demonstrate that it is acting upon relevant information received from the Council in a timely way.

11. **The Service**

11.1 The Service must be provided in accordance with Schedule 1 (the Service Specification), the Customer's Individual Service Specification, Personal Support Plan and all other requirements of this Contract.
12. Registration

12.1 The Service shall be provided in the Premises which shall be registered under the Health and Social Care Act 2008 in respect of the category of person receiving the Service.

12.2 The Provider must inform the Council of any changes to, or restrictions placed upon, the registration status of any Home it operates under the terms of this Contract, or any conditions placed upon it by the Care Quality Commission, or any notice served under the Health and Social Care Act 2008, or subsequent amendments.

13. Other Residents (Not funded by this agreement)

13.1 The Provider may provide a service for which they are so registered to persons other than those covered by this Contract. Where such admissions occur the Provider must advise the potential resident receiving the service there is no guarantee or undertaking by the Council to agree to the funding should their private means fail to meet their fees.

13.2 Should the Provider become aware that a resident who is privately funded may need to seek Council funding in the near future they must notify the Council as soon as practically possible to allow for the statutory assessment process to begin or alternative accommodation to be sought. Failure to give 28 days notice, where it is the reasonable view of the Council that 28 days notice could have been given, will result in the Council not paying fees to the Provider until the statutory assessment is carried out and financial responsibility accepted.

14. Placement

14.1 The choice of Provider remains exclusively with the Customer with appropriate advocacy support if it is required. The exception is where the Customer is clinically judged not to have the capacity to make this decision, or where they are subject to Guardianship or a Guardianship Order under Sections 7 or 37 of the Mental Health Act 1983, or a Standard Authorisation, Deprivation of Liberty Safeguards where the decision on placement may be made by others on their behalf. The Council will make available to potential Customers a list of all registered homes in Wirral who are parties to this Contract.

14.2 The first four weeks of any new residency made under this Contract are made on a trial basis. This period shall be known as the ‘Trial Period’. If the period of residency ends within or at the end of the Trial Period, for whatever reason, the Council will only be responsible for fees due for the exact period of residency. This trial period is only relevant to long term placements.

14.3 If a potential Customer fails to arrive at the Home on the agreed day and a contractual commitment has been established, the Contract will be terminated immediately in relation to that Customer and no payment shall be made by the Council to the Provider.

14.4 Within the Trial Period a review of the placement will take place. This will involve the customer, their family or significant other, the Provider and the Care Manager. The Council and the Provider will respect the wishes of the Customer whose choice relating to their continued residency with that Provider will be of paramount importance.

15. Financial Arrangements

15.1 The Provider will receive payment from the Council for services provided under this Contract in accordance with the terms set out in Schedule 2 (Financial Arrangements).
16. Insurance and Indemnity

16.1 The Provider will maintain insurance and indemnity in accordance with the terms set out in Schedule 4 (Insurance and Indemnity).

17. Standards

17.1 The Provider must ensure that the service is provided in accordance with standards set out in the Service Specification, and by the Care Quality Commission in its guidance, any statutory regulations pertaining to the provision of Residential Support with Nursing Care where applicable, the Customer's Personal Support Plan and Individual Service Specification as varied from time to time by the Council, and to the overall satisfaction of the Customers and the Council.

18. Emergency Planning

18.1 In so far as the Provider is reasonably able and willing, meals, drinks, and accommodation will be provided during emergencies as requested by the Director of Adult Social Services. The proper and reasonable costs of such provision will be reimbursed by the Council upon receipt of an invoice when the emergency is declared over. Where the emergency necessitates the provision of such services for longer than 28 days the Provider may submit interim claims for reimbursement.

19. Quality Assurance, Monitoring and Evaluation

19.1 Performance will be monitored in accordance with the terms set out in Schedule 3 (Contract Monitoring and Service Quality).

20. Review

20.1 The Council may review this Contract or any part thereof in consultation with Providers in the event of legislative change or guidance issued by statutory bodies that have material impact on the provision or cost of the Service.

21. Variation

21.1 Variations to this Contract except in the case of a Customer’s Personal Support Plan and Individual Service Specification may not be made unless they are made by agreement in writing and by mutual consent.

21.2 Variations to the Personal Support Plan and Individual Service Specification may be made by the Council and communicated to the Provider which reflects the changing support needs of the Customer as determined by the Council’s statutory assessment of need. The Provider shall deliver the Service in accordance with such variations and for the fees set out in Schedule 10 unless otherwise determined by the Authorised Officer who shall have regard to any material effect on the Provider’s reasonable costs arising from the variations.

22. Default

22.1 Where either party fails to comply with the provisions of the Contract the party not in default may serve notice in writing stating:
(a)  The provision of the contract the party is deemed to be in default;

- When notice of default is issued the Provider is required to submit an action plan with time scales identifying what action will be taken to address the default in the provision of the contract within 5 working days. Failure to do so may invoke clause 17 termination of the contract.
- A meeting will then be held with the Provider following the receipt of the action plan for scrutiny and agreement of time scales.

22.2  If remedial action is not taken by the agreed time scales identified in the action plan the party not in default is entitled to terminate the Contract in accordance with Clause 26 (Termination) or terminate the residency of the Customer directly affected by the default.

22.3  If the Provider fails to meet the required Standards of Service pursuant to Clause 17 (Standards), then without prejudice to any other right or remedy the Council may have, and without terminating the Contract, the Council may:

(e)  itself provide or procure the provision of the relevant part of the Service from a third party not specified in this Contract until the breach has been remedied to the reasonable satisfaction of the Council;
(f)  deduct from any sums due or otherwise charge to the Provider the reasonable cost of any service so provided together with relevant administrative costs;
(g)  stop or suspend all further referrals to the Provider until satisfied that the default has been remedied.

22.4  Where the Council is in default under the terms of the Contract the Provider will be entitled to recover reasonable costs from the Council that are directly attributable to the default referred to in the notice, but only if the Provider has served notice of Default on the Council specifying the breach and a reasonable period within which it is to be remedied and the Council has failed to comply with that notice.

23.  Referrals

23.1  Where a Customer chooses to enter a home and the Provider is prepared to offer the Service in accordance with the terms and conditions of this Agreement, and the cost of the placement is no greater than the Standard Wirral Price as defined in Schedule 10, the Council will then make a referral for the prospective Customer.

23.3  In the event that the Provider is not so prepared to offer the Service, the Council may recommend to the prospective Customer any other Provider who is prepared to provide the Service in accordance with the Contract Price as defined in Schedule 10.

23.4  Referrals will be made in accordance with Clause S1.12 (Referrals) of the Service Specification.

24.  Restrictions on referrals

24.1  The Council will not agree to fund a placement in respect of a Customer not already accommodated in the Home if any person registered in respect of, or employed in, the Home is:

(a)  convicted of an offence under the Health and Social Care Act 2008 and any subsequent amendments, or any other legislation dealing with Residential or Nursing Home Care; except were the person has been dismissed or suspended from the home
(b) convicted of any offence involving dishonesty, undue influence or violence in respect of any resident or visitor; subject to the Rehabilitation of Offenders legislation

(c) served with a notice under the Health and Social Care Act 2008 and any subsequent amendments, where the requirements of the notice have not been met as certified in writing by the Care Quality Commission, or where the Council believes those requirements are not in the process of being met

(d) served with a notice of intent to cancel registration under the Health and Social Care Act 2008 and any subsequent amendments.

24.2 The Council will not make any referral to the Provider if it is proven that the service provision within the Home has been conducted in breach of this Contract in accordance with Clause 22.

24.3 The Council will not agree to fund a placement of a Customer not already accommodated in the Home if the Provider has served notice of their intention to cease to provide the Service.

25. Termination of an Individual Residency

25.1 General

25.1.1 The Contract in respect of an individual Customer’s residency will be immediately terminated and, for the avoidance of doubt, the Council’s financial responsibility for the Customer shall cease upon:

(a) the death of the Customer receiving the Service. Where a person dies who is subject to Guardianship or a Guardianship Order under Sections 7 or 37 MHA or subject to an Urgent or Standard Authorisation under the Deprivation of Liberty Safeguards, then the Coroner must be informed as this constitutes a death in custody. Please confirm to the Department you have referred the case to the Coroner

(b) the period of residency ending within or at the end of the Trial Period when the Council will only be responsible for fees due for the exact period of the Customer’s residency

(c) the permanent departure of the Customer from the Home for reasons other than the Customer’s death. Such termination will take effect after the giving to the Provider four weeks notice by the Council. Where the Council fails to give this notice the Council will pay the Standard Wirral Price for a maximum period of four weeks after the departure of the Customer, unless the home has failed to meet the needs of the Customer, whereupon the Council will not be liable for payment of any notice period.

(d) the failure of the potential Customer to arrive at the Home whereupon termination shall be immediate.

25.2 BY THE COUNCIL

25.2.1 The Council may terminate all or any of the Service provided to an individual Customer for any lawful reason whatsoever on giving not less than one week’s written notice to the Provider or if this is not reasonably practicable by giving less than one week’s notice including a notice to take effect immediately; such reason may include but is not limited to the following:

(a) the deterioration of the Customer’s condition to such an extent that the Council no longer considers that the Provider is capable of providing the support required by the Customer
(b) the failure on the part of the Customer or the Provider to agree to implement the requirements set out by the Council as documented on a new Personal Support Plan for a variation to the services to be provided to the Customer

(c) the Authorised Officer's opinion that the welfare of the Customer would be promoted or safeguarded by the termination of the Service

(d) the default in a payment by a Third Party of its contribution to the Provider's fee.

25.3 By the Provider

25.3.1 After the Trial Period, and subject to Clause 25.5 below, the Provider may terminate the service provided to an individual Customer on the expiry of at least four weeks written notice of an intention to do so in the following circumstances:

(a) if, in the Provider's reasonable opinion, and that of a qualified medical practitioner, the Customer's condition has deteriorated irreversibly to a point where long term care is needed of a standard which the Provider is unable to provide

(b) if, in the Provider's reasonable opinion and that of a qualified medical practitioner, the Customer's behaviour is persistently anti-social to such an extent that it has a serious adverse effect upon the well being of other Customers, private residents or staff

(c) if the Provider has been advised by the Care Quality Commission that the continued accommodation of the Customer constitutes an actual or potential breach of registration conditions as referred to in Clause 12 above. In such circumstance, the Provider must, concurrent with issuing notice of termination, request a review of the Customer's support needs in accordance with S1.14 below.

25.4 By the Customer

25.4.1 The Customer may terminate an individual Contract on the expiry of at least four weeks prior written notice served on the Council and the Provider but subject to clause 25.5 below.

25.5 Alternative Accommodation Proviso

25.5.1 Any notice to terminate a Customer's residency shall not take effect on its expiry unless and until the Council has notified the Provider that there is available to the affected Customer suitable alternative accommodation.

26 Termination of the Contract

26.1 Either party may terminate the Contract at any time by giving not less than three months notice in writing.

26.2 Without prejudice to the exercise of any other rights and remedies a party may possess, one party may terminate the Contract with immediate effect or by giving notice if the other party:

(a) is persistently in breach of its obligations under the terms of the Contract; or

(b) commits a material breach of any of its obligations under the Contract and/or

(c) where a breach is capable of being remedied, fails to remedy such breach within the period of time specified in a notice served in accordance with clause 22.
26.3 The Provider’s persistent failure to provide the Service in accordance with the Contract will (without limitation) be regarded as a material breach of Contract, and the Council shall be entitled to recover reasonable costs resulting from such refusal that are directly attributable to obtaining services from an alternative Provider.

26.4 The following reasons shall entitle the Council to terminate the Contract with immediate effect if the Provider, or worker acting on behalf of the Provider (in relation to 26.4(c), (d), (e), (f) and (g),

(a) ceases to be financially viable in the reasonable view of the Council after taking professional financial advice
(b) become bankrupt, or become subject to any application or arrangement or process under the Insolvency Act 1986, including administration, receivership or liquidation
(c) is convicted of a criminal offence having a direct bearing on their fitness to carry out the Provider’s obligations under the Contract
(d) takes advantage, financial or otherwise, of the relationship with the Customer or other private resident, their carer, or other member of their family
(e) offers, gives, or agrees to give to any person any gift or consideration of any kind as an inducement or reward for doing any action in relation to the execution of the Contract
(f) gives or offers any gift or consideration whatsoever as an inducement or reward to any employee or Member of the Council for doing or forbearing to do any action in relation to this or any other Contract with the Council
(g) if there is evidence of any other corrupt practice on the part of the Provider its agents or sub-contractors including any offence under the Bribery Act 2010.

26.5 Where notice of termination is served for any of the reasons described within clause 26.2, 26.3 and 26.4, and the termination takes effect, the server shall be entitled to recover from the other party the reasonable amount of any loss resulting from such termination and any loss directly attributable to any breach of this Contract which preceded the termination.

26.6 Termination of this Contract, for whatever reason, shall not affect the liability of either party for the payment of any sums arising under this Contract prior to the date of termination.

26.7 In the event of there being served any notice to terminate the Contract in accordance with any provision of the Contract either party may dispute the proposed termination and such issue shall be determined in accordance with Clause 28 (Resolution of Disputes and Mediation).

26.8 In the event that this Contract is terminated, the Provider must continue to supply the Services up to and including the date of termination or until such time as arrangements are made to transfer the support to its Customers to an alternative Provider.

27. Assignment and Sub Contracting

27.1 The Provider may not assign the benefit or advantage of this Contract or any part thereof to any person without the previous written consent of the Council. In the event of a sub-contract being requested consent will not be unreasonably withheld. Such consent if given:

(a) will involve the vetting of any potential sub-contractor by the Council
(b) will not relieve the Provider of any liability or obligation under the Contract
(c) will not relieve the Provider becoming liable for the acts, defaults or neglect of its sub-contractor or its agents or employees.

27.2 The Council gives its general consent to the Providers sub-contracting activities in the following areas:
(a) laundry
(b) transportation of Customers
(c) construction works or maintenance of the building or grounds
(d) installation and maintenance of plant and equipment
(e) catering
(f) use of agency staff
(g) use of specialist staff in relation to the specialist contract specification (e.g. physiotherapists, reminiscence sessions for Individuals with dementia).

27.3 The Council may not assign the Contract except where there may be statutory succession. Upon any such assignment all obligations and responsibilities imposed by this Contract shall be released except for liabilities connected to any antecedent breaches.

28. Resolution of Disputes and Mediation

28.1 The Provider and the Council agree to make every reasonable effort to resolve by agreement any dispute between them by representatives of the Council and The Provider meeting within 14 days to discuss the matter of dispute. Such meetings in terms of seniority of representation will depend on the nature and materiality of the dispute.

28.2 In the event that the dispute cannot be resolved, by agreement of both parties the dispute may be referred to mediation by an independent person acceptable to both parties or to arbitration.

28.3 In the event that both parties cannot agree on mediation or arbitration, the issue will be resolved though normal legal proceedings.

28.4 Notwithstanding clauses 28.1, 28.2 and 28.3 where the Council believes the matter under dispute gives rise to a serious risk to the welfare of a Customer, or other individual, it shall have the right to enter the Home and facilitate transfer of any resident so affected and their personal effects to alternative suitable accommodation. Until such transfer has been effected the Council will continue to pay the Contract Price.

28.5 The use of this dispute procedure will neither delay nor take precedence over any exercise of any right by a party to terminate this Agreement or a Customer's residency.

29. Ombudsman

29.1 The Ombudsman, under the Local Government Act 1974, may investigate a complaint made by a Customer, or any other person of actions taken by the Provider whilst operating under the terms of this Contract. The Provider must co-operate fully with any such investigation and will bear the cost of any payment made to any complainant where a finding of mal-administration causing injustice is a result of fault which is attributable to the Provider.
30. Waiver

30.1 A failure of either party to insist upon the strict performance of any term of the Contract or to exercise any right or remedy upon breach of any provision of the Contract will not constitute waiver of any term or waiver of any subsequent breach or default in the performance of any term.

31. Notices

31.1 Any communication made under any condition of the Contract will be sufficiently served if:

(a) the communication is served personally on the addressee;

(b) it is sent by prepaid first class recorded delivery post, electronic mail or facsimile to the registered office or last known address of the intended recipient; and if so sent will, be deemed to have been received by the addressee on the second business day after the date of posting, or on successful relay of electronic mail, as the case may be, subject to sufficient proof of sending.

31.2 The Provider must inform the Council within 24 hours, or the first working day after a Weekend or Bank Holiday, should a Customer leave the Home without giving notice.

32. Human Rights, Equal Opportunities and Information

32.1 The Council and the Provider must comply with all statutory requirements relating to the provision of the Service including in particular The Race Relations Act 1976, The Sex Discrimination Act 1975, the Disability Discrimination 1995, Employment Rights Act 1996 and the Equality Act 2010 including any subsequent amendments, modifications or re-enactments. Discrimination against any individual or group of people will be seen as a breach of the conditions of this Contract.

32.2 The Provider must not act in a manner which is incompatible with the Council’s current and future obligations under the Data Protection Act 1998, Freedom of Information Act 2000, Human Rights Act 1998, and the Equality Act 2010 (all as amended from time to time) and any codes of practice and best practice guidance issued by the Government and the appropriate enforcement agencies, including the Care Quality Commission or its successors).

33. Freedom of Information

33.1 The Provider shall as soon as reasonably practicable but in any event within ten working days of a Council request, provide to the Council appropriate reports and any information which is required by the Council pursuant to a request under the Freedom of Information Act 2000. The Provider must note particularly that the Council may be required to provide information relating to this Contract or the Provider to another person in order to comply with its obligations under these provisions.

34. Human Rights Act 1998

34.1 The Provider will act in respect of any person who receives or requests services under this Contract as if the Provider were a public authority for the purpose of the Human Rights Act 1998. Furthermore, the Provider shall:

(a) act in a manner which is compatible with the European Convention on Human Rights as enacted by the Human Rights Act 1998; and
(b) ensure that its servants, sub-contractors, agents and/or suppliers shall also act in a manner which is compatible with the European Convention on Human Rights as enacted by the Human Rights Act 1998; and

(c) be liable for any breach and/or infringement by the Provider of the said Convention or Act and/or any breach and/or infringement by its servants, sub-contractors, agents and/or suppliers of the said Convention or Act; and

(d) indemnify the Council against any claim, proceedings, liability, damage, loss expense, and/or costs in respect of any such breach and/or infringement of the said Convention and/or Act whether by themselves or their servants, sub-contractors, agents and/or suppliers.

34.2 The Provider must facilitate the Council’s compliance with the Council’s obligations under these provisions and comply with any request from the Council for that purpose.

34.3 The Provider must comply with any and all legislation in so far as it places obligations upon the Provider in the performance of its obligations under this Contract.

34.4 The Provider shall upon request by the Council, supply a copy of its written policy on Equal Opportunities at the outset of operating under the terms of this Contract and when material amendments are made throughout the Contract period.

35. Safeguarding Adults

35.1 The Owner and Registered Manager of the Provider are responsible for ensuring the organisation is fully compliant with the Safeguarding Adults Partnership Board policies and procedures.

35.2 Owners and Registered Managers of the Provider that are engaged in or undertake in any way operational duties must be appropriately cleared to do so, be fully trained and identified on the staffing rota.

35.3 Owners and Registered Managers of the Provider are responsible for responding to Safeguarding Quality Assurance processes including self assessment within timescales agreed by the Council.

35.4 The Provider must ensure that it has suitable procedures in place in respect of adult and child protection to prevent and respond to allegations of abuse. These must be compatible with the Safeguarding Vulnerable Adults Policy and procedures agreed by the Safeguarding Adults Partnership Board, and the Child Protection Policy and procedures agreed the Safeguarding Children and Young Peoples Partnership Board.

35.5 The Council will inspect these procedures from time to time, and shall expect the Provider to make every effort to attend seminars it provides on Safeguarding issues. Such attendance may be mandatory where concerns over the safety of any individual have been recorded at the Home.

35.6 The Provider must ensure that any internal procedures or inter-agency protocols are consistent with the above policies and procedures.

35.7 The Provider must ensure that any evidence of or allegation or complaint about abuse relating to an adult is brought promptly to the attention of the Council through implementing the safeguarding procedures.

35.8 The Provider has responsibility under The Health and Social Care Act 2008 to notify the Regulatory Body and the Council of any allegations of abuse or any other significant incidents.
35.9 If the Provider has services registered in more than one Local Authority area, it will defer to the Regulatory Body relevant to the area in which the alleged abuse took place.

35.10 It is the responsibility of the Provider to draw up its own Code of Practice on ‘abuse’. This must include a clear statement of what constitutes abuse, both in terms of broad definitions and examples. It must include a clear statement of what someone must do if they suspect abuse has taken place e.g. who to contact, telephone numbers, addresses etc. making reference to Wirral’s Safeguarding Vulnerable Adults Policy and Procedures and a commitment to Workers that make ‘good faith’ reports. This must be included in induction and training.

35.11 The Provider will co-operate with the Council in cases where an investigation must take place in line with Wirral’s “Safeguarding Vulnerable Adults Abuse, and Child Protection Policy and Procedures.

35.12 The Provider will promote good practice in responding to allegations of abuse, and provide all Workers with support to report and deal with the process.

- The Provider will ensure protective measures are put in place when allegations of abuse or poor practice are brought to their attention as a priority.
- The Provider is responsible to ensure the safety and well being of its customers at all times
- The Provider will suspend any worker who is identified through the allegations of abuse to pose a risk whilst the allegation is investigated.

36. Disclosure and Barring Service

36.1 The Provider has a responsibility to refer appropriate staff to the DBS, (Disclosure and Barring Service). Failure to ensure that Workers are referred will automatically result in a Default Notice being served on the Provider.

36.2 All Workers who have been suspended, dismissed or transferred to a non-care role because they are thought to have harmed, or placed at risk of harm, a vulnerable person, must be referred to the Disclosure and Barring Service. This also includes those workers who would have been dismissed but who have left the employment of the Provider prior to any disciplinary action being taken.

37. Anti Corruption

37.1 The Provider (including any employee, agent or sub-contractor of the Provider) shall not:

(a) Offer or agree to give any person working for or engaged by the Council (including a Member of the Council) any gift or other consideration which could act as an inducement or a reward for any act or failure to act connected to this Contract or any other contract between the Provider and the Council including its award to the Provider and any rights and obligations contained within it; nor

(b) Enter into this Contract if it has knowledge that, in connection with it, any money has been or will be paid by any person working for or engaged by the Council (including a Member of the Council) by or for the Provider or that an agreement has been reached to that effect;

(c) Contravene the Prevention of Corruption Acts 1889, 1916 in relation to this Contract or any other contract with the Council.

(d) Contravene the Bribery Act 2010.
37.2 The Provider shall promptly notify the Council in writing as soon as it becomes aware that any employee or member of the Council has a pecuniary interest in the award or performance of this Contract.

38. Confidentiality

38.1 The parties agree that in respect of any personal data (within the meaning of the Data Protection Act 1998) relating to any Customer receiving the Service, the Council is the Data Controller and that the Provider is the Data Processor (as those terms are defined in the Data Protection Act 1998).

38.2 The Provider shall at all times during the subsistence of the Contract;

(a) process personal data in accordance with instructions received from the Council
(b) process personal data only to the extent or in such manner as is necessary for the provision of the Service or as required by law or any Regulatory body
(c) implement appropriate technical and organisational measures to protect personal data against unauthorised or unlawful processing and against accidental loss, destruction, damage alteration or disclosure
(d) take reasonable steps to ensure the reliability of any employee or worker who has access to personal data and their compliance with the provisions of this Clause
(e) notify the Council within five working days if it receives a request from a data subject (as defined by the 1998 Act) to have access to personal data or if it receives any complaint relating thereto
(f) provide the Council with full co-operation and assistance in relation to any request made for access to personal data (or complaint relating thereto)
(g) provide the Council with any personal data it holds in relation to a data subject within the timescales required by the Council and any other information relating thereto.

38.3 Both parties agree to:

(a) observe normal commercial confidentiality in respect of all matters relating to this Contract (but subject to the Freedom of Information Act, and any other relevant statutory provisions)
(b) act in accordance with the Data Protection Act 1998; Computer Misuse Act 1990, Freedom of Information Act 2000, Copyright, Designs and Patents Act 1988 and the Caldicott Principles, and make every effort to safeguard confidentiality and preserve individual's identifiable information security
(c) to make available to each other, and any other appropriate bodies, information which could be regarded as confidential where it is in the best interests of the individual particularly in respect of safety and welfare or where an over-riding public interest prevails.

39. Health and Safety

39.1 The Provider must comply with the conditions set out in Schedule 6 (Health and Safety).

40. Severance

40.1 If any provision of this Contract becomes or is declared by any Court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall not impair or affect any other provision all of which will remain in full force and effect.
41. Force Majeure

41.1 Parties to this Contract shall be released from their respective obligations in the event of circumstances beyond the reasonable control of either of them rendering the performance of the service impossible but such events shall not include strikes or industrial action by employees of the party in default.

42. Business Continuity

42.1 The Provider acknowledges the Council’s duty to ensure critical functions continue to operate in the event of an emergency under the Civil Contingencies Act 2004. The service covered by this Contract is a critical function of the Council.

42.2 During the course of this Contract the Council and Provider will work together to ensure that such business continuity plans are established to meet the needs of both parties.

43. Governing Law

43.1 This Contract is made in England and according to English Law and will be subject to the exclusive jurisdiction of the English Courts to which the parties submit.

43.2 The Provider must comply with all statutory requirements relating to the performance of its obligations under this Contract.

43.3 The terms and conditions of this Contract may be varied in accordance with relevant changes in legislation or guidance issued by statutory bodies that relate to the service specified. Any such variation must be agreed between the Parties and communicated in writing in accordance with Clause 21 (Variation).

44. General

44.1 The Council does not warrant the accuracy of any representation or statement which may have been made or any information or advice which may have been given to the Provider and Customer using the Service prior to the formation of this Agreement by the Council, its servants or agents whether in relation to fact or law and the Council shall not be liable to the Provider for any economic loss or damage to property which it may sustain as a result of relying on any such representation, statement or advice whether in contract tort under the Misrepresentation Act 1967 or otherwise save in so far as the relevant statement, representation or advice was made or given fraudulently or negligently (and in the latter case in writing) by the Council or its servants or agents acting in the course of their employment.

44.2 The Provider shall retain for not less than six years all accounts, records, vouchers and documents whatsoever relating to the Contract and shall on request produce to the Council all such documents that it may require that are relevant to the performance of each party's obligations under the Contract. Such documents shall also include copies of any correspondence between the Provider and any regulatory body empowered under statute to regulate the provision of the Service and the provision of equipment or premises or the employment of staff or sub-contractors.

44.3 The Council reserves the right at common law and in equity to set off against its indebtedness to the Provider under this Contract any liability, damages, losses, costs (including administrative costs and overheads), charges and expenses it incurs in consequence of any breach of contract by the Provider or any overpayment made in error by the Council to the Provider under this Contract.
45. **Provision of Information on the Provider’s employees for the purpose of the Transfer of Undertaking (Protection of Employment) Regulations 2006.**

45.1 On receiving a request from the Council, the Provider shall within seven days provide in writing any information on its employees engaged on the Contract which is required by the Council for the purpose of the Transfer of Undertakings (Protection of Employment) Regulations 2006. Such information may include (without limitation) the number of employees employed upon the Contract, the employee’s age, gender, salary, length and conditions of service, contractual notice period, any pay settlement agreed by the Service Provider but not implemented, details of any relevant collective agreements, any outstanding or potential liability for any breach of an employee’s contract of employment and any outstanding or potential statutory liability that a new contractor or the Council may be required to meet in respect of employees transferred to it under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) as a result of a transfer of all or any part of the Service on the termination of this Contract under clause 26 or a termination of a Customer’s residency, but in the latter instance only if TUPE is likely to apply to any of the Provider’s employees.

45.2 The Provider shall warrant to the Council that all information supplied pursuant to 45.1 above is full and accurate in all respects and shall indemnify the Council in respect of its losses arising from any claim by any party as a result of the Provider failing to provide any of the information or as a result of any material inaccuracy in such information.

45.3 Where notice to terminate this contract has been given by the Council or the Provider (for whatever reason), the Provider shall not prior to the termination date alter the terms and conditions of employment of any employees employed upon the Contract other than to make reasonable wage or salary awards which are in line with those offered generally to employees of a similar status within the Provider’s workforce or as required by law, unless the Provider has the Council’s prior written consent, such consent not being unreasonably withheld.

45.4 Nor shall the Provider recruit an employee after notice of termination has been given who would if recruited be employed in the performance of the Service unless the Provider has the Council’s prior written consent, such consent not being unreasonably withheld. This sub clause shall apply where the Council reasonably believes that employees of the Provider may transfer under TUPE on the termination date.

46. **Third Party Rights**

46.1 Any right of any person to enforce the terms of this Contract pursuant to the Contracts (Rights of 3rd Parties Act 1999) is excluded.
S1 The Service Specification

S1.1 Registration, Quality and Standards

S1.1.1 The Service provided under this Contract must be provided in accordance with the requirements of:

(a) Health & Social Care Act 2008
(b) The Health and Social Act 2008 (Regulated Activities) Regulations 2010 and the Care Quality Commission Regulations 2009
(c) the Service Specification and Standards defined in this document
(d) any relevant Additional Specialist Contract Specification
(e) the Customer’s Personal Support Plan and Individual Service Specification as varied from time to time by the Council
(f) Guidance issued by the Care Quality Commission in relation to Care Homes with or without Nursing (as appropriate).

S1.1.2 Both parties agree to maintain high standards of behaviour and performance in carrying out their duties and should ensure that all employees understand the nature and purpose of the Service they are providing.

S1.2 Definitions

S1.2.1 Unless the contrary intention appears, terms used in the Contract Conditions have the same meaning in this Schedule.

S1.3 The Services

S1.3.1 This Contract does not in any way guarantee the purchase of the Services specified below.

S1.3.2 The Council will purchase the Services on a ‘call off’ basis as and when required after taking into account the expressed choices of Customers. The Services are as follows:

S1.4 Permanent Care

S1.4.1 This Service is defined as accommodation, board and personal care for Customers as defined in the Health and Social Care Act 2008, and is for people who need assistance, monitoring or supervision with their daily living activities, safety and well-being, or who may be mentally or physically frail, or predisposed to self neglect and therefore need more intensive assistance or supervision with their daily living activities, safety and well-being. Permanence is implied by the fact there is no specified end date to the Service. Nursing, therapeutic or clinical input may be provided by Health Service professional (e.g. District Nurse, Occupational Therapist, Speech Therapist etc) to the same level as would be available to Customers with the same needs living in their own homes in the community according to their individual need. Customers will arrange their own transport or be transported by the Council or its Agent to and from the Home at pre-determined and agreed times.
S1.5  Short Term (Respite) Care

S1.5.1  This Service is defined as accommodation, board and personal care for Customers as defined in the Health and Social Care Act 2008, and is for people who need routine assistance, monitoring or supervision with their daily living activities, safety and well-being, or who may be mentally or physically frail, or predisposed to self neglect and therefore need more intensive assistance or supervision with their daily living activities, safety and well-being. The short term nature of the care is implied by the fact there should be a specified end date to the Service. Nursing, therapeutic or clinical input may be provided by Health Service professional to the same level as would be available to Customers with the same needs living in their own homes in the community according to their individual need. Customers will arrange their own transport or be transported by the Council or its Agent to and from the Home at pre-determined and agreed times.

S1.6  Nursing Care

S1.6.1  The Council does not itself have the legal power to purchase nursing care and nothing in this specification shall be construed as creating any responsibility by the Council for the arrangement or purchase of Nursing Care which is the responsibility of Wirral Clinical Commissioning Group. Customers who require the services of a Registered Nurse may be accommodated, either permanently or temporarily, in a care home. The detailed requirements and responsibilities in relation to NHS nursing care will be provided by Wirral CCG. In such event the provision of nursing services must be subject to an agreement between the Provider and Wirral Clinical Commissioning Group.

S1.7  Principles of Support

S1.7.1  Both parties agree to work together to ensure that Customers who receive services under the terms of this Agreement is driven by the following principles of support:

(a) People have the right to dignity, privacy, confidentiality and independence

(b) Customers are central in making all decisions about their own lives

(c) Everyone involved in the provision of support treat peoples’ property with respect

(d) People acknowledge and respect each others gender, sexual orientation, age, ability and potential, race, religion, culture and lifestyle

(e) Customers and their carers have the greatest possible control over where, and the way, they live their lives

(f) Support is delivered to enable, facilitate and promote Customer’s independence by helping them wherever possible to be involved in delivering tasks for themselves

(g) Support recognises the needs of carers and family members and is delivered in partnership with them to achieve Customers’ identified goals

(h) Support is flexible and able to respond to Customers’ changing needs.

S1.8  Provider Objectives

S1.8.1  The primary aim of the Provider is to enable Customers they support to lead a better quality of life. This means:

(a) The Provider aims to maximise the independence of Customers they support, enabling them to remain safe and comfortable whilst maintaining their individual dignity, respecting their privacy and freedom of choice
(b) The Provider enables Customers they support to maintain their contribution as active citizens within their communities

(c) The Provider enhances the quality of life of Customers they support and assists them in doing tasks that they find difficult, maintaining and developing abilities, skills and motivation

(d) The Provider values difference and ensures the social, cultural and religious needs of Customers they support are acknowledged and addressed

(e) The Provider works to sustain the existing support networks offered by carers, family, friends and local communities, and will, wherever possible, create further links and build social capital

(f) The Provider works in partnership with all those involved to ensure effective multi-agency working in order that the Customers receive a co-ordinated approach to their support

(g) The Provider is innovative in seeking to develop, in partnership with the Council and its Customers, flexible and responsive support services that improve people’s lives

(h) The Provider recognises that staff are accountable for the delivery of high quality services and set clear standards for all aspects of support

(i) The Provider ensures that Customers are involved in determining their own support and that their decisions are respected and wherever possible acted upon

(j) The Provider will promote a culture that enables staff to place residents, families and carers at the centre of all activities, embracing courtesy and respect and intervening when others who should do not

(k) Care Home staff should act as ‘quality inspectors’ never knowingly passing on a defect, error or risk to a colleague or a resident, putting things right where they can, and reporting matters where specific help is required to put matters right. Equally to acknowledge and be open when something has gone wrong and to recognise such matters and to apologise where appropriate

(l) To strive to promote a wider responsibility to include the broader health and social care system to reinforce continuous improvements

(m) A commitment to learning about resident/patient safety as a core professional responsibility and the development of capabilities to detect problems

(n) Finally and importantly to celebrate and take pride in improvements to residents care.

S1.9 Outcomes for People

S1.9.1 General Outcomes to be demonstrated for Customers are those that are outlined in the white Paper ‘Our Health, Our Care, Our Say’

The council expects that as a result of receiving the Service, Customers are able to report the following: (This will be used as the primary quality assurance of the Service provided under the terms of this Contract)

1) Improved health and emotional well-being

Customers are asked and able to report ‘I am as healthy as I can be’

This measure will be used as evidence of the outcome that Customers live longer and report better physical, mental and emotional health and well-being.

2) Improved quality of life

Customers are asked and able to report ‘I am able to live a fulfilled life’
This measure will be used as evidence of the outcome that Customers have the best possible quality of life including life with other family members supported in a caring role. They are supported to access ordinary housing, transport, leisure, information, life-long learning and support that promote their well-being.

(3) **Making a positive contribution**

Customers are asked and able to report ‘**I can participate as a full and equal member of my community**’

This measure will be used as evidence of the outcome that Customers live, work, learn and participate in their community as equal members. They are involved in planning and decision making about the direction of their support and in the design and delivery of the services they receive. Customers report a positive experience of their support.

(4) **Exercise of choice and control**

Customers are asked and able to report ‘**I have the same life chances as other adults**’.

This measure will be used as evidence of the outcome that Customers determine for themselves where they live, how they are supported and how they spend their day, with reliable information and advice available in accessible formats.

(5) **Freedom from discrimination and harassment**

Customers are asked and able to report ‘**I have an equal chance to live free from avoidable harm, fear, discrimination and prejudice**’.

This measure will be used as evidence of the outcome that Customers are supported to live without maltreatment, neglect and exploitation and are assisted to action against it as appropriate.

(6) **Economic well-being**

Customers are asked and able to report ‘**I am financially stable and have as much control as possible over my money**’.

This measure will be used as evidence of the outcome that Customers have the opportunity to achieve economic well-being and have access to work and/or benefits as appropriate.

(7) **Maintaining personal dignity**

Customers are asked and able to report ‘**I feel valued by others**’.

This measure will be used as evidence of the outcome that Customers experience secure, stable and good quality support. People experience privacy and appropriate levels of confidentiality. Customers feel they are treated with respect and listened to, have a sense of self worth and are valued by others.

**S1.10 Specific Outcomes for Customers**

S1.10.1 Personal outcomes for each Customer will be specified in their Personal Support Plan.

S1.10.2 Each Personal Support Plan will be regularly reviewed by the Council, not less than once a year, with any changes notified to the Provider.
S1.10.3 The Provider will have appropriate mechanisms in place for effective monitoring of the impact it has on the outcomes of the person it supports. This will include quantifiable data focusing on how far the Customer has achieved each of the general and specific outcomes and the Customer's experience and satisfaction level.

S1.11 Conditions of Services Delivery

S1.11.1 Managing Medication, dressings and other prescribed appliances

S1.11.2 The Provider must comply with all the statutory regulations and meet the outcomes for the management of medicines specified by the Care Quality Commission and in any statutory code of practice in particular the Provider must comply with Regulation 13 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2009. These state that:

(a) The registered person must protect residents against the risks associated with the unsafe use and management of medicines, by means of making the appropriate arrangements for obtaining, recording, handling, using, safe keeping, dispensing, safe administration and disposal of medicines used for the purposes of the regulated activity.

(b) In making the arrangements referred to in S1.11.2(a) the registered person must have regard to any guidance issued by the Secretary of State or an appropriate expert body in relation to the safe handling and use of medicines.

S1.11.3 Wherever standards are not met, this will constitute a material breach of this Contract and the Council may terminate the Contract under Clauses 25 and 26 (Termination).

S1.11.4 In order to comply with these regulations and meet the care Quality Commission outcomes, the Provider must also comply with the guidance in the Council’s procedures - ‘Administration of Medication and Health Related Interventions’. They must also adhere to any further good practice guidance issued to them by the Council or NHS Wirral which may be in response to local initiatives or to national guidance such as National Patient Safety Agency alerts.

S1.11.5 The Provider must support and enable Customers who wish to manage their own medicines to do so within a risk management framework.

S1.11.6 The Provider must ensure that whenever they assign a medication or health related task to one of their employees, they must ensure that the employee has the skills necessary for that task and has demonstrated an appropriate level of competency.

S1.11.7 The Provider must follow the good practice guidelines for the management of repeat prescriptions produced by NHS Wirral and endorsed by The Council. The Provider must ensure that there is no unnecessary ordering of repeat prescriptions, they should have systems in place to reduce unnecessary waste of medicines and must be able to demonstrate an audit trail for all medicines that they have responsibility for managing.

S1.11.8 The Provider must have a procedure for dealing with all medication errors and near miss incidents and must make a written record of all internal investigations regarding errors and near misses, which will be made available for review at contract monitoring visits.

S1.12 Referrals

S1.12.1 The Council will produce a Personal Support Plan and Individual Service Specification for each Customer and make this available to the Provider upon admission. This will contain, as a minimum, the following information:
- A description of the Customer’s needs, outcomes and aspirations
- Any cultural, religious, ethnic, dietary or other needs
- An analysis of risk relating to the Customer
- A statement of medication requirements
- A statement of any specialist care and support needs
- A description of the Customer’s preferred lifestyle

S1.12.2 The Provider has the right to veto or refuse the Service to any individual at the pre admission stage. Where this right is exercised the Provider must give an explanation in writing to the Council. Explanations must relate to the homes ability to care for the Customer’s needs or to how their admission would adversely affect the lives of other residents.

S1.12.3 In situations where a Customer is ‘at significant risk’ an Emergency Admission can take place. Initial authorisation will be a Social Work Team Manager or more Senior Manager of the Council, or Emergency Duty Team if outside normal working hours. In exceptional circumstances such as these, the service can commence in the absence of a Personal Support Plan and Individual Service Specification, and these will be provided within 24 hours or the next working day after a weekend or Bank Holiday. The Care Home Provider should also notify the adult Social Services Contract Liaison Officer of an emergency placement on the next working day.

S1.13 Commencement of the Service

S1.13.1 Wherever possible, the Provider must acquaint the prospective Customer with the Home and its facilities preferably by no later than the date of admission but later if the Customer states a preference. The prospective Customer must be introduced to staff, with one nominated Key Worker being identified who will take a special interest in that Customer.

S1.13.2 The Provider must ensure that the admission of new residents does not disrupt or diminish in any way the quality of life of others.

S1.13.3 The Provider may wish to visit the prospective Customer prior to admission, however, such access shall not delay an individual’s discharge from hospital nor result in the individual remaining longer in an unacceptable environment.

S1.14 Reviews

S1.14.1 The Provider is responsible for monitoring the day-to-day needs of its Customers and for ensuring that the Service continues to be appropriate. Customers’ records must reflect ongoing monitoring and review and be updated regularly. Physical or psychological changes and the actions resulting from them must also be recorded.

S1.14.2 The Provider must ensure that they are able to meet the continuing needs of the Customers they support and if not request re-assessment to ensure that appropriate support is arranged, which may necessitate a transfer of the Customer to an alternative Service Provider.

S1.14.3 In the event of either party considering that a different level of support is required than the one specified in the Personal Support Plan and Individual Service Specification, a referral should be made to the Central Advice and Duty Team, requesting a re-assessment of support needs.
S1.14.4 A written copy of the Review and the outcomes from it will be made available to the Provider by the Council within ten working days of the Review being completed.

S1.15 Ending the Service

S1.15.1 The Service shall continue subject to the provisions contained in Clauses 25 and 26 (Termination) or as agreed between the Customer, Authorised Officer and The Provider.

S1.16 Death of the Customer

S1.16.1 The Provider must notify the QA Team as soon as possible, but within 24 hours, of the death of a Customer supported by this Agreement. Such notification must be made to the Social Services Contracts Liaison Officer.

S1.16.2 The Provider must request the Customer’s next of kin to make the necessary arrangements including funeral arrangements upon the death of the Customer either at the Home or within a hospital or hospice. Where the deceased Customer has no next of kin the Provider should contact the Council’s Central Advice and Duty Team. The removal of personal effects must be done sensitively in accordance with Clause 25.1 (Termination of Residency).

S1.17 Risk Taking and Risk Management

S1.17.1 The Provider must have a written Risk Assessment Policy which is to the reasonable satisfaction of the Council and must operate systems to ensure it can complete an assessment of all aspects of tasks carried out by its staff.

S1.17.2 The Provider must maintain clear policies and guidance for all staff on safety precautions that must be taken relating to risk and will ensure that staff are familiar with the guidelines and their application in the work situation.

S1.17.3 Responsible risk taking is a normal part of living. The Provider must not discourage Customers from participating in activities solely on the grounds that there is an element of personal risk. The Provider must encourage Customers to discuss and judge risk for themselves and make their own decisions where the safety of others is not unreasonably threatened. A risk assessment should be undertaken in all circumstances where a risk has been identified and maintained on the Customer’s file for staff reference and for inspection by the Council if so required.

S1.17.4 Where the Council has completed a relevant Risk Assessment, a copy of the Assessment will be made available to the Provider.

S1.18 Equipment

S1.18.1 The Provider must ensure that its employees are provided with the necessary equipment of appropriate specification and materials to undertake their tasks effectively and that this equipment is maintained according to their use and the manufacturer’s recommendations.

S1.18.2 The Providers’ employees must use equipment that is indicated for such use in the Personal Support Plan and Individual Service Specification regardless of the wishes of the Customer (e.g. transferring equipment), where not to do so would present a risk to the Customer and/or care worker. A risk assessment will identify the necessity for specific equipment, and should be kept on the Customer’s file for reference.

S1.18.3 All equipment operated at the Premises must be in accordance with the appropriate British Standard Specification or European equivalent where one exists.
S1.18.4 The Provider is responsible for facilitating access to continence advice and equipment where necessary, via NHS Wirral, District Nursing Services.

S1.19 Vehicles

S1.19.1 The Provider must ensure its employees who make use of a vehicle to transport Customers, whether their own or belonging to the Provider, have a full and valid driving licence and that they are adequately covered for insurance and that the vehicle they use is fit for the purpose.

S1.20 Legal Aspects

S1.20.1 The Provider must notify the Council of any evidence it has of improper conduct by its staff in connection to any part of this Contract. The Police must also be informed if the said conduct is of a criminal nature. Failure to do so will be considered a breach of the Contract and may result in termination under Clause 26 (Termination). Workers for the Provider must be made available to be interviewed by the Council if there are reasonable grounds to suspect there has been improper conduct.

S1.20.2 Examples of improper Conduct include:

- Fraud or theft from the Customer’s room or person
- Cruelty, assault or verbal abuse of the Customer, their family or friends
- Sexual harassment or abuse
- racial abuse, harassment or discrimination of any kind
- inducements to employees or members of the Council
- conspiracy to defraud or disadvantage any Customer, family or friends
- financial malpractice
- acceptance of monies or gifts from Customers, their family or friends or procuring loans or bequests from them
- acts which could be interpreted as a violation of the Customer’s Human Rights, as defined in the Human Rights Act 1998
- neglect of a Customer’s health or safety or need for personal support.

S1.21 Equality

S1.21.1 The Provider must ensure that Customers are treated with equality irrespective of their age, race, gender, colour, religion, culture, nationality, disability, health status, political persuasion, economic, marital status or sexuality.

S1.21.2 The Provider must ensure that all staff receive diversity training and demonstrate a commitment to equality in day to day service provision. Such training records will be maintained and available for production to the Council if so requested.

S1.22 Restriction of Customers Self Determination

S1.22.1 The Provider must have procedures to record circumstances where there is a need to restrain a Customer or impose sanctions
(e.g. to control extreme behaviour that might seriously affect the Customer’s safety or that of any other person). Such restriction on a Customer’s rights must be established by undertaking a risk assessment and be clearly stated in the Personal Support Plan so that employees understand what measures are permissible. All such restrictions or deprivation of liberty must be in accordance with the Mental Health Act 2007.

S1.22.2 The management of care for Customers with challenging behaviour should be discussed with their GP and/or other relevant professional, the Care Manager, and any carers. The Customer must be fully involved in any decisions regarding their care and their agreement or disagreement recorded on their personal file.

S1.23 Electronic Procurement

S1.23.1 It is the Council’s intention that as many procurement process and procedures as possible will be enacted electronically in the future. The Provider agrees to co-operate with the Council in developing such systems. Furthermore, the Provider must ensure that they are able to send and receive electronic mail using industry standard computer programs.

S1.24 End of Life Support - See Schedule 11

S1.24.1 Providers must ensure their Workers undertake End of Life Training offered by Wirral End of Life Team.

S1.24.2 Providers must ensure that Customers who are at the end of their life will have their care, treatment and support needs met as set out in their Personal Support Plan and the Provider must work in partnership with other agencies to promote the principles of end of life care that ensures that:

(a) Customers are involved in the assessment and planning for their end of life care and are able to make choices and decisions about their preferred options, particularly those relating to pain management

(b) There are systems in place to ensure further assessments by Specialist Palliative Care Services and other specialists, where needed

(c) Customers have information relating to death and dying available to them, their families or those close to them

(d) There are arrangements to minimise unnecessary disruption to the care, treatment, support and accommodation of the Customer, their family and those close to them

(e) Customers are able to have those people who are important to them, with them at the end of their life

(f) Customers have a dignified death and the Provider’s staff are respectful of the Customer’s needs for privacy, dignity and comfort

(g) The Personal Support Plan records their wishes with regards to how their body and possessions are handled after their death and the Provider’s staff must respect their values and beliefs.

S1.25 Dementia – See Schedule 11

S1.25.1 Providers must ensure the following:
• Staff are required to undertake basic dementia awareness training as a minimum. Training must be mapped to the Qualification and Credit Framework or equivalent. Examples would include Dementia Awareness Training provided by the Alzheimer’s Society, the Common Core Principles for Supporting People with Dementia – Skills for Care/Skills for Health, Department of Health 2011. This will apply to all staff and learning should be monitored and evaluated.

• Care Home Managers are required to ensure all staff involved in providing support to people with dementia are trained and briefed to a level where they are familiar with, and adhere to.

• Care Home Managers and their staff as required, must attend all dementia training sessions offered by health, social care and fellow partners.

• Care Home Managers and their staff are required to play a proactive role in the effective management of dementia resident’s prescribed anti-psychotic medication and ensure they are reviewed as necessary in line with recommendations such as the Royal College of Psychiatrists whereby individual’s prescribed anti-psychotic medication are reviewed every three months to prevent extended unnecessary use of such medication.

• Care Managers must ensure that staff are aware and work to current guidance e.g. The Alzheimer’s Society guides ‘Reducing the use of Antipsychotic Drugs’ and ‘Optimising Treatment and Care with Behavioural and Psychological Symptoms of Dementia – A best practice guide’ and any subsequent guidance approved by NHS/Wirral Clinical Commissioning Group/Wirral Council.

• All care homes in contract with Wirral Council Adult Social Services are expected to sign up to the Dementia Care and Support Compact which sets out new standards for dementia care. More information can be found at: http://dementiachallenge.dh.gov.uk

• Care Home residents with a diagnosis of dementia currently prescribed an antipsychotic should have a review by their doctor every three months with the aim of reducing and/or stopping the medication. Care Homes should monitor proactively individual circumstances and generate appropriate referrals to WMAS for those not diagnosed with dementia when evidence of changing mental and physical conditions.
S2 Financial Arrangements

S2.1 Payment of Residential and Nursing Home Care Fees

S2.1.1 The Fee due to Providers is the agreed Wirral Standard Prices for the different services as specified in Schedule 10 to this Agreement.

S2.1.2 Customers are assessed to make a contribution to the cost of care in accordance with the Charging for Residential Care Guidelines (CRAG) as amended by the Department of Health from time to time. Residents may choose to make this payment directly to the Provider. In such event, the Council will pay the amount due less the amount the Customer is assessed to pay otherwise the Council will pay the Provider the full agreed price.

S2.1.3 The Council will inform the Provider in writing in an ESCR6 document the total amount it will pay towards the cost of the individual’s care and, where relevant, the contribution to be collected from the Customer by the Provider.

S2.1.4 The Council will act on behalf of Wirral Clinical Commissioning Group in making Nursing Care contributions to homes operating in Wirral.

S2.1.5 The Council will make payments to the Provider in respect of Customers who are joint funded by Wirral Clinical Commissioning Group and who are placed under the terms of the Contract.

S2.1.6 Payments to the Provider in respect of Customers who have Continuing Health Care needs will be made by Wirral Clinical Commissioning Group.

S2.1.7 The Council will notify in writing any changes to a Customer’s assessed contribution should that contribution be paid directly to the Provider in accordance with S2.1.2 above.

S2.1.8 Where the Provider has agreed to collect the Customer’s assessed charges they must do so in accordance with Schedule 8 (Income Collection Agreement).

S2.1.9 The Council will make payment by BACS transfer to Providers at four weekly intervals based on the information it maintains in its electronic social care system.

S2.1.10 The Provider must notify the Council if any Customer that it believes is supported under the terms of this Agreement is not covered by such payment or if payment is received for a Customer that is not supported under the terms of this Agreement or is not in receipt of the Service in full or in part for the period the payment relates to. Such notification should be made not less than 5 working days before the next payment is due. An adjustment will then be made to the subsequent payment.

S2.1.11 Providers should not accept a placement without a properly authorised ESCR6 document from the Council confirming the details of the placement. For the avoidance of doubt, no payments will be made for any Customer unless a properly authorised ESCR6 has been issued.

S2.1.12 Where a short term placement has been agreed and the arrangements for the individual’s support following the end date of the placement are unclear the Provider should contact the Team Manager who authorised the placement to confirm those arrangements. No payments will be made for placements that are extended beyond the agreed end date.
S2.2 Pricing

S2.2.1 Standard Wirral Price

The Standard Wirral Price payable by the Council to the Provider is recorded in Schedule 10. These rates are set by the Council.

The Standard Wirral Price will remain fixed for one year from the contract commencement date and shall be reviewed annually and revised by the Council in its absolute discretion after consultation with contracted Providers, and where support is partly funded by Wirral Clinical Commissioning Group, with Wirral Clinical Commissioning Group.

S2.2.2 Tendered Price for Specialist Support

Specialist Residential and Nursing Home Care support is outside and separate to the remit of this contract and will be part of a Framework Agreement for such services.

S2.3 Personal Finances

Customers who are residents are entitled to a Personal Allowance at a level not less than that set out in the Charging for Residential & Nursing Home Care Guidelines. The Provider must have arrangements in place to ensure Customers who are residents have unrestricted access to this Allowance where the Provider is involved in the encashment and/or retention of their funds.

The Provider must keep auditable records detailing income and expenditure for all Customers for whom they retain or manage funds.

Where the Provider suspects a Customer has restricted access to these funds, or if there is suspicion of any other form of their financial abuse the Provider must notify the Council immediately so that appropriate action can be taken. Such notification must be made using the Safeguarding Vulnerable Adults Procedures.

S2.4 Where a Customer Needs Support to Manage Their Personal Finances

The Provider should not act, or seek to act, in the capacity of a deputy or Donee of a power of attorney or appointee for a Customer placed under the terms of this Contract, except where:

(a) the Customer has stated that they do not wish to, or lack the capacity to, manage their own personal finances, and
(b) where there is no other person who is willing or able to manage their finances, and
(c) only when appropriate safeguards are in place to protect the Customer’s interests, and
(d) where the following standards are met:

(i) a system is in place that ensures records are maintained of all income and expenditure incurred on behalf of Customers
(ii) the written agreement must be obtained from the Customer and / or their family/carer to act as an appointee. Such agreement shall be available for inspection by the Customer, the Council, the Care Quality Commission or the Department of Work and Pensions
(iii) the Provider must complete Department of Work and Pensions, Social Security Office form BF56 (Application for appointment to act on behalf of someone else) for each Customer for whom they are acting as appointee
(iv) the Provider must inform the Council which Customers they are acting for and in what capacity.

S2.4.2 The Provider must not pool or consolidate the resources / savings of any Customers for whom they act as appointee into one corporate account.

S2.4.3 Where a Provider is an appointee for social security purposes then they should complete Benefits Agency applications for any Customer for whom they act as appointee to ensure that they receive their maximum income entitlement.

S2.4.4 Secure facilities must be provided for the safe keeping of Customer’s money and other valuables and a system of recording and receipting must be in place.

S2.4.5 The Provider must keep copies of all correspondence that they have with the Benefits Agency or any other organisations e.g. banks on behalf of any Customer they act for.

S2.4.6 Under no circumstances may the Provider or any of its employees, borrow from, or loan money to, any Customer, their family or friend.

S2.4.7 If there is suspicion of there being any form of financial abuse of any Customer, then the Provider must notify the Council immediately in accordance with the Safeguarding Vulnerable Adults policy and procedures.

S2.4.8 The Provider must not use Customer’s personal monies to purchase improvements or items of equipment that would benefit the Provider or to pay a top up to fees.

S2.5 Retention Fees

S2.5.1 The Council will pay the Provider a Retention Fee which will be 80% of the Standard Wirral Price to secure accommodation for any Customer supported by the Contract under the following conditions:

(a) The Retention Fee will be paid for the full duration of a temporary period of absence which exceeds seven days
(b) Temporary periods of absence which are less than seven days shall be paid at the full Standard Wirral Price
(c) The Provider must inform the Council of any such temporary period of absence via the RS29 four weekly return form. The Council reserves the right to terminate the placement in accordance with Clause 25 where it believes with reasonable grounds that it is not the Customer’s intention to return to the home or if the period of absence is likely to exceed one month.
S3 Staffing and Employment

S3.1 Employment

S3.1.1 The Provider must comply with its statutory obligations to its employees. Non-compliance will constitute a breach of this Contract and may be considered grounds for its termination as defined in Clause 26 (Termination).

S3.1.2 The Provider must comply with the guidance issued by the Care Quality Commission in relation to Care Homes.

- The Provider must comply with the Local authority Safeguarding Adults Partnership board policy in relation to allegations against employees and volunteers.

S3.1.3 The Council may by written notice to the Provider require the Provider to remove from the performance of this Contract any person who is reasonably believed by the Council to be unfit to deliver the Service whether by reason of their misconduct, lack of competence, state of health or lack of appropriate Criminal Records Bureau clearance or otherwise. The Provider shall indemnify the Council against any liability the Council incurs as a result of the exercise of its rights under this Clause.

S3.1.4 The Council or its agent will monitor the employment practices of the Provider. If it is found these practices are unacceptable this will constitute a breach of this Contract and may be considered grounds for termination as defined in Clause 26 (Termination).

S3.1.5 The Provider must ensure its workers are aged over 18 if they provide personal care to people.

- The Provider must ensure that the Quality Assurance team is made aware of any staff that have a positive CRB and must have a robust risk assessment in place to identify what risks the individual poses and how they will be managed by the organisation.

S3.2 Recruitment

S3.2.1 The Provider will use its best endeavours to maximise employment opportunities for people living in Wirral, and provide such opportunities for people who are long term unemployed or people with physical and/or learning disabilities wherever possible.

S3.2.2 The Provider must ensure it has more than one written acceptable reference before employing its staff, one of which must be from a previous employer, school/college.

S3.3.3 The Provider must ensure it seeks an appropriate Criminal Records check before employing people to provide personal support that does not indicate the person may be unfit to carry out their duties.

S3.2.4 The Provider must not use Agency staff unless the Agency has confirmed they hold more than one acceptable written reference for the person so engaged, and at least one of them is from a previous employer or school/college, and that an appropriate Criminal Records check has been performed and does not indicate the person may be unfit to carry out their duties.

S3.2.5 The Provider must ensure there are robust contingency plans to cover unexpected staff shortages.
S3.3 Training

S3.3.1 The Provider must have adequate training and staff development practices for its workers. Such practices that are deemed inadequate by the Council or its agent will constitute a breach of this Contract and may be considered grounds for its termination in accordance with Clause 26 (Termination).

S3.3.2 The Provider must ensure the concepts of enablement, reablement and outcome based personalised support are explicit in all of its policies and procedures and competency framework for its staff.

S3.3.3 The Provider must ensure it matches its workers’ skills, training and proficiencies with Customers’ needs, including requirements related to religious and ethnic backgrounds.

S3.3.4 The Provider must have a documented period of induction all its new staff which covers the requirements of this Contract. This must have within it explicit content relating to the maximisation of Customer’s independence. These records may be inspected by the Council or its agent from time to time.

S3.3.5 Where the Provider is engaged to deliver Specialist Support under the terms of this Contract, the Provider must ensure its staff are appropriately trained to meet the needs of its Customers.

S3.3.6 The Provider must ensure all staff working with service-users receiving initial and regular update training with regards to the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards. In addition staff must be trained on relevant sections of the Mental Health Act. The Provider will obtain copies of the following statutory guidance:

- Mental Health Act Code of Practice
- Deprivation of Liberty Safeguards Code of Practice
- Mental Health Act Code of Practice.

S3.4 Staff Evaluation and Personal and Professional Development

S3.4.1 The Provider must maintain an individual file for each staff member which records details of their induction, training and development.

S3.4.2 The Provider must ensure its staff have an identified line manager who provides regular supervision and an annual appraisal and keeps written records that are held on an individual staff file. Supervision must take place no less frequently than every two months, the frequency agreed on an individual basis according to their experience and job role.

S3.4.3 The Provider must hold regular Team meetings to ensure the Service develops to meet the changing needs of Customers and allows staff the opportunity for shared learning in a structured environment.

S3.5 National Minimum Data Set for Adult Social Care

S3.5.1 The Provider must comply with the National Minimum Dataset for Adult Social Care, completing both the establishment details and the worker details in respect of its employees, updating this data as and when it changes and providing a copy of this information that is of a non-confidential nature to the Council on request.
S4 Quality Assurance, Service Monitoring and Evaluation

S4.1 Quality Systems, Monitoring and Evaluation

S4.1.1 The Provider will comply with all the monitoring and evaluation arrangements set out in this Contract and Service Specification and will:

(a) when deemed necessary by the Council, and with the consent of the Customer agree to an authorised employee of the Council being present in the Customer’s place of residence in order to monitor the Contract Standards which will include the carrying out of spot checks

(b) ensure there is a documented system of Quality Assurance to ensure the Service offered to Customers meets with this Specification

(c) operate a system whereby the views of Customers about the Service provided, or to be developed are sought and taken account of

(d) provide to the Council reasonable access to employee rotas, incident books and other relevant records and other documents relating to the Service, except where this conflicts with any overriding duty of confidentiality

(e) provide to the Council reasonable access to all financial records. The use of this information is confined to regularity audits and testing the Provider’s financial viability and will not be used for the purpose of price determination for this or any other Contract

(f) inform the Council of any serious event that affects or might affect the well being or safety of a Customer

(g) Allow the Council to interview all Workers who deliver the Service for or on behalf of the Provider

S4.1.2 The Council may at its discretion share information with Customers or prospective Customers and their families about the Provider in so far as it relates to the provision of Services covered by the Contract in order to assist them making an informed choice about where they live or who they purchase support from.

S4.1.3 These provisions are without prejudice to statutory requirements and do not duplicate, replace or take precedence over regulations with regard to registration and inspection and the functions of the Care Quality Commission and the requirements of essential standards of quality and safety.

S4.2 Monitoring Systems

- An annual quality assurance self assessment will be completed by the Provider. This will be submitted to the Quality assurance team who will collate an annual Monitoring report through the compilation of the self assessment and information provided by stakeholders.

- The Provider will be issued with an initial Annual Monitoring report and be given 28 days for comments prior to publication.

- The Provider will comply with any requests for information related to monitoring

S4.2.1 The Provider must ensure there are adequate systems in place to review and assess the quality and effectiveness of the Service provided under this Contract inclusive of evidence that they seek and record the views of all stakeholders in relation to the quality of the service they provide.

S4.2.2 The Provider must be able to produce on request by, and to the satisfaction of, the Council the following records and documented procedures in addition to any other requirement of any other clause in this Contract:
(a) Statement of Purpose, incorporating the Provider's aims and objectives, philosophy and facilities and detailing any services for which there may be additional charges
(b) Complaints and compliments procedure
(c) Record of complaints and outcomes
(d) Individuals Consultation process
(e) Staff Training and Development Plans
(f) Review records
(a) Risk assessment documents
(b) Debt collection policy and procedures
(c) Risk assessment records
(d) Guidance for all staff on safety precautions to be taken following assessment of risk, including written procedures on Fire Prevention, First Aid, Safe use of Electricity, Food Safety and Hygiene, Safe Moving and Handling, Control of Infection and reporting Infectious Diseases, self management of medication, reporting of injuries, diseases, accidents and dangerous occurrences;
(e) Moving and handling training records
(f) Fire drill records
(g) Staff rotas
(h) A staffing structure and scheme of delegation of the organisation, indicating managerial relationships between staff, and how information can be effectively communicated throughout the organisation
(i) Staff supervision records
(j) Policies relating to equality, diversity and anti oppressive practice
(k) Sample menus which demonstrate choice and diversity
(l) Policies to illustrate that information for residents and their families can be made available in an appropriate range of formats and languages
(m) Policies and guidelines on intimate relationships between Customers receiving the Service
(n) Policies regarding confidentiality and access to records
(o) Log of requests to access records
(p) Policies, procedures and records for management of residents' personal finances
(q) Register of gifts, bequests accepted and refused from Customers receiving the Service
(r) Records of social activities, entertainments and materials provided to residents
(s) Medication management records
(t) Policy relating to the transmission of blood borne viruses such as HIV, AIDS and Hepatitis B
(u) Procedures regarding death of an individual, and how others are informed
(v) Record of emergency service documentation received prior to commencement of service
S4.2.3 The Council will make available to Providers on request copies of its own policies and procedures as amended from time to time which shall be the acceptable minimum standards.

- The Provider agrees that information received through monitoring will be made available to the public through the publication of its annual monitoring report on the council web site.

S4.2.4 Providers will be monitored to ensure their workers have undertaken End of Life Training (facilitated by Wirral End of Life Team). The attendance and completion of training will enable homes to be awarded the End of Life Quality Marker for Care Homes (as per National End of Life Care Programme) – note recent media statement

S4.3 Access Granted to Council Officers and Elected Members

S4.3.1 The Provider will grant reasonable access to officers and elected Members of the Council to the premises for the purpose of monitoring the service. Such people will receive training on their roles in this matter and will aim not to disrupt in any way the satisfactory provision of the Service nor place any unreasonable demands on the Provider.

S4.3.2 The Provider must comply with the duties and obligations of an Independent Provider which the Council as the Local Authority is required to impose on the Provider in accordance with the Directions about the Arrangements to be made by Relevant Bodies in respect of Local Involvement Networks 2008 issued by the Secretary of State on 31 March 2008. Without prejudice to the generality of the foregoing, the Provider:

(a) must allow authorised representatives within the meaning of the Directions to enter and view and observe the carrying out of activities on the premises of the Provider subject to the provisions of paragraphs 4 and 5 of the Directions.
(b) must comply with a request to provide information made by the Local Involvement Network (as defined by the Directions) subject to and in accordance with the provisions of paragraph 6 of the Directions.

S4.4 Customer Support – Quality Indicators

S4.4.1 The Council and its agent will monitor the following quality indicators and support arrangements. The Provider’s failure to deliver satisfactory performance as reasonably determined by the Council and NHS Wirral will result in the Provider being in default of this Contract in accordance with Clause 26.

S4.4.2 The Provider must comply with the requirements of the Health and Social Care Act (2008) Code of Practice for Health and Social Care on the prevention of control of infections.

S4.4.3 The Provider must meet the standards set out in Essential Steps to Safe Clean Care (Department of Health).

S4.4.4 The Provider must agree to a rolling programme of audits by the Council and the Infection Control team of NHS Wirral to monitor the Provider’s approach to infection control, and agree to implement their reasonable recommendations. Failure to do so within a reasonable period of time where it might lead to unacceptable risks of infection to Customers and staff will result in the Provider being in default of this Contract in accordance with Clause 22.

S4.4.5 The Provider can access advice from the Community Pharmacist on medicines management, and must participate in the Community Pharmacy enhanced service ‘Advice to Care Homes’ scheme. – is this still applicable.
S4.4.6 The Provider must ensure that all staff who administer medication must have received training and demonstrated their competency. They should also have attended regular training updates. The Provider must maintain written records to evidence this.

S4.4.7 The Provider must maintain a written record of medication errors and near misses. The Provider must be able to demonstrate appropriate action in response to such an error or near miss to prevent it happening again. The Provider will provide information to the Council or NHS Wirral on request on the number of incidents or near misses relating to medication errors, and report any medication interface issues in accordance with the agreed procedures.

S4.4.8 The Provider must contact the Customer’s GP if they think the Customer’s medication needs to be reviewed. Customers who use more than four medications should be assisted to have at least a Level 2 Medication Review every six months.

S4.4.9 The Provider must ensure its staff are appropriately trained and are competent in catheter care and male and female catheterisation where Customers are provided with that support under the terms of this Contract. Standards to be inserted from DoH Essential Steps to Safe Clean Care including catheter care.

S4.4.10 The Provider can access advice from the Community Continence Team in order to achieve a reduction in the number of Customers it supports with an indwelling catheter who are diagnosed with a Urinary Tract Infection.

S4.4.11 The Provider can access advice from the End of Life Team of NHS Wirral in order to achieve a reduction in the number of its Customers receiving end of life support who are admitted to hospital. The Provider will be expected to use the Gold Standards Framework (GSF) and Liverpool Care Pathway (LCP) tools, and provide information on request of the Council or NHS Wirral on the number and percentage of its staff who have undertaken End of Life Training and the number of Customers it supports on the GSF/LCP Pathways.

S4.4.12 The Provider must aim to reduce the number of Customers it supports who attend Accident and Emergency or non-elected hospital admissions for, but not exclusive to, the following reasons:

(a) Fractured neck of femur
(b) Falls not resulting in harm (senility as the main diagnosis)
(c) Urinary Tract Infection
(d) Blocked Catheter
(e) Dehydration
(f) Gastroenteritis
(g) Constipation
(h) COPD
(i) Heart failure

S4.4.13 The Provider will aim to reduce the pressure on acute hospital emergency admissions by contacting and working with GP’s to develop training programmes and referral pathways for its customers with long term conditions.

S4.4.14 The Provider will contact GP’s out of hours before contacting emergency services via 999 for non-emergency patients requiring medical attention.

S4.4.15 The Provider can access advice from the Community Tissue Viability Service and be able to evidence its staff are trained and have the appropriate competency required in effective skin care.
S4.4.16 The Provider will work with partners to reduce the incidence of pressure ulcers occurring in their Homes(s). The Provider will provide on request of the Council or NHS Wirral information (to obtain baseline data by the end of quarter 1 and determine % reduction milestones for quarters 2, 3 and 4) on the number of Customers it supports who have pressure ulcers occurring in the home and be able to evidence a reduction in these incidents over time. The Provider will be able to evidence staff training and competency required in SKIN (Surface, Keep moving, Incontinence and Nutrition) care bundle).

S4.4.17 The Provider can access advice from the Community Dietetic Service in order to limit the need for costly prescribed food supplements. The Provider will deliver the dietary requirements set out in a Customers Support Plan and use fortified / liquid diets as directed and as required to meet people’s changing needs.

S4.4.18 The Provider can access advice from the Community Falls Prevention Team in order to reduce the number of its Customers from falling. (Reduce number of falls against baseline).

S4.4.19 The Provider must ensure its staff are kept up to date with the local implementation of the National Dementia Strategy and ensure Tiered Training (Basic and Higher) is undertaken as appropriate to its Customer base.

S4.4.20 The larger Provider (more than 20 beds) will identify a Dementia Champion who will take responsibility for improving quality and ensuring that its Customers have access to a range of activities and social opportunities. (Including their families).

S4.4.21 The larger Provider (more than 20 beds) will identify a Dignity Champion for the Home.

S4.4.22 The Provider will work with partners to reduce the level of atypical antipsychotic medication use of its Customers. The Provider will work with partners to achieve a one third reduction in line with national targets by 2011. (Operational Framework target November 2011). Providers will use the Cheshire and Wirral Partnership Trust Behavioural and Psychological Symptoms in Dementia Decision making Pathway as guidance.

S4.4.23 The Provider must be able to evidence that all of its staff have received Safeguarding Training appropriate to their role within three months of their appointment, attend regular updates at least every two years and receive regular supervision which checks their understanding of Safeguarding Policy and Procedures.

S4.4.24 The Provider must ensure its staff access stroke training which as a minimum must include:

(a) what is a stroke?
(b) primary and secondary prevention of stroke
(c) supporting people with stroke, and
(d) support that is available in Wirral for people with stroke.

S4.4.25 Nursing Homes have at least two sphygmomanometers which must be calibrated annually with all staff trained in their use. Nursing Homes must also have an adequate supply of urine testing strips and specimen bottles. Nursing Homes should also have ear syringe propulse machines and ensure its staff are trained in their use.

S4.4.26 The Provider must ensure its Customers who are resident in the Home have access to three monthly blood pressure and pulse checks. Nursing Staff in Nursing Homes should be trained to take blood samples where necessary.
S4.4.27 The Provider must have an adequate supply of thermometers and accurate scales to check the monthly weights of all Customers who are residents.

S4.4.28 The Provider must ensure there is access to regular activities to meet the Customers’ physical, social and emotional needs.

S4.4.29 The Provider must be able to evidence the views of its Customers, family and friends are regularly sought, captured and acted upon.

S4.4.30 For Providers who support Customers with a learning disability, the Provider must provide to the Council and/or NHS Wirral progress reports against the ‘6 Lives’ Framework targets.

S4.4.31 The Provider must ensure that Customers it supports who have diabetes have an individualised Support Plan that is tailored to meet their needs. Where such a Plan does not cover diabetes, for example if the condition is developed post entry, the Provider must make the appropriate referral to a GP. In order to improve patient care and reduce inappropriate hospital admissions, every Provider should implement the recommendations in the ‘Good Clinical Practice Guidelines for Care Home Residents with Diabetes’. Providers should ensure potential Customers have been screened for diabetes and existing Customers have access to such screening every two years.

S4.4.32 Providers must ensure staff who are engaged in providing support to its Customers have undertaken appropriate diabetes-specific training. This must include annual retinopathy surveillance, HbA1c and cholesterol (QOF standards as minimum), foot examination and care.

S4.4.33 Nursing Homes should develop staff competency in maintaining syringe drivers for people at the end of their life.

S4.4.34 Providers should ensure appropriate vaccination is offered to its Customers. For example; influenza. (Nursing Home only).

Providers should ensure IV antibiotics are administered (Nursing Home only).

Phlebotomy. Nursing staff to be trained to take blood samples. (Nursing Home only).

Rectal Examinations to be carried out by Nursing Staff. (Nursing Home only).
S5  Insurance and Indemnity

S5.1 Insurance and Indemnity

S5.1.1 The Provider must indemnify and keep indemnified the Council against any liability as regards the death of or injury to any person or the loss of or damage to any property connected to the provision of the Service or any act or omission of the Provider except and to the extent that it may arise out of a negligent act of the Council, its employees or agents not being the Provider or employed by the Provider. The Provider must:

(a) comply with all relevant and any future legislation that might apply to the services defined in this Contract;

(b) maintain Public Liability Insurance of not less than five million pounds for any one claim or series of claims arising out of one event;

(c) maintain Employers Liability Insurance of ten million pounds for any one claim or series of claims arising out of one event;

(d) maintain cover for malpractice of up to ten million pounds in any one year;

(e) maintain adequate Buildings and Contents insurance which must include cover for loss or damage to Individuals’ property, howsoever and by whomsoever that damage or loss may have been caused on or off the premises up to a value of £500 per individual item.

(f) maintain insurance cover for any motor vehicle used in connection with any part of the Service that complies with the Road Traffic Act 1972 and is adequate for the type of use being made in connection with the Service;

(g) procure and maintain the above mentioned insurance(s) with a reputable company or companies approved by the Council;

(h) make available to the Council upon request copies of the above mentioned insurance policies together with receipts for current premiums relating to their requirements.

(i) advise Customers receiving the Service that they are responsible for insuring individual personal items with a value exceeding £500.
S6  Health and Safety

S6.1 Health and Safety

S6.1.1 The Council will monitor the health and safety performance of the Provider and the Provider must provide such information as the Council requests in pursuance of its health and safety responsibilities.

S6.1.2 Practices or conditions which give rise to an unacceptable level of health and safety performance will constitute a breach of the Contract. Where the Provider repeatedly under performs in this area the Council may:

(a) Serve notice on the Provider outlining essential improvements within a given timescale

(b) Suspend all or part of the Service in accordance with Clause 24 (Restriction of Referrals) until it is satisfied that the required improvements have been made

(c) Terminate the Contract in accordance with Clauses 25 and 26 (Termination).

S6.2 Hygiene and Infection Control

S6.2.1 The Provider must comply with the requirements of the Health & Social Care Act 2008, Code of Practice for Health and Social Care on the prevention and control of infections.

S6.2.2 The Provider will work collaboratively with all agencies and participate in case reviews in relation to (but not exclusive of) MRSA and Clostridium Difficile Infections.

S6.3 Good Hygiene

S6.3.1 The Provider must adopt good hygiene practices to mitigate the risk of spreading infection.

S6.3.2 The Provider must ensure its staff follow good hygiene practices at all times including thorough hand washing before and after personal contact with Customers receiving support.

S6.3.3 The Provider must ensure its staff avoid contaminating themselves or their clothing with blood.

S6.3.4 The Provider must ensure wounds or moist skin conditions of Customers are covered with a waterproof dressing without visible air holes as a temporary measure where appropriate.

S6.3.5 The Provider must ensure food is only handled where absolutely necessary.

S6.3.6 The Provider must ensure that where food is handled, its staff must cover any cuts or sores they have with a blue dressing.

S6.3.7 The Provider must ensure that where staff are engaged in food preparation they must have a basic knowledge of food hygiene practices and have attended relevant food hygiene courses.
S6.4 Dealing With Bodily Fluids

S6.4.1 The Provider must ensure it equips its staff with latex or vinyl gloves and aprons and ensure they are used when dealing with bodily fluids. They must be appropriately disposed of, using clinical waste collection facilities wherever possible, or secured in plastic bags if using normal waste collection.

S6.4.2 The Provider must ensure that any spillage of bodily fluids is cleared up properly and promptly.

S6.4.3 The Provider must ensure that any soiled laundry (that which is dirty but not fouled) is washed by hand or in a machine.

S6.4.4 The Provider must ensure that fouled laundry (that which is contaminated with bodily fluids) is treated as infected with potential for cross-infection. Fouled laundry must be washed in a suitable washing machine and not taken to the launderette.
S7 Complaints

S7.1 Complaints Procedure For Individuals

S7.1.1 The Provider must be aware of and operate a complaints and compliments process compatible with the Council’s Complaints and Compliments Procedure and make this available to Customers and their relatives on request.

S7.2 Defining a Complaint

S7.2.1 A complaint is defined as: ‘Any expression of dissatisfaction requiring a response’.

S7.2.2 A complaint may be made in any of the following ways:

(a) During a conversation, meeting or phone call
(b) In a letter or e-mail
(c) From a third party or other agency
(d) On a completed complaints form where this is available

S7.2.3 If the complaint is of a detailed nature then it is preferable that it be made in writing. If this should prove difficult for the complainant to do a letter should be written to the complainant setting out the receiver’s understanding of the complaint and explaining what will happen next.

S7.2.4 A log of all complaints and the outcome will be recorded in a ‘Complaints Log’, which will be available for inspection by the Council upon request.

S7.3 Rights of the Complainant

S7.3.1 It is the right of every individual or their representative to complain about the service they receive. Notwithstanding the complaints procedures within the home, it is the right of every Customer or their representative to complain directly to the Care Quality Commission, Director of Adult Social Services, Councillor and/or Member of Parliament.

S7.4 Complaints Relating to Contractual Matters

S7.4.1 Organisations providing support services on behalf of the Council may be dissatisfied with the service received from the Council and/or wish to complain about a member of the Council’s staff. In such situations the Council’s Corporate Complaints Procedure should be used if there is no adequate recourse provided for elsewhere within the Contract.
S8 Income Collection Agreement

S8.1 Income Collection

S8.1.1 In the event that a Provider is acting as a Customer’s Appointee, Deputy, Attorney, or Receiver or where it has been agreed by the Council that the Provider shall collect the Customer’s contribution to their care costs, the Provider agrees to act as the Agent of the Council in collecting and retaining such payments.

S8.1.2 Providers who have collected assessed Customer contributions shall retain such monies and account for their receipt.

S8.1.3 For Providers who have agreed to collect monies on behalf of the Council, the Debt Recovery process described below must be adhered to. In the event that the Debt Recovery procedure is not adhered to, the Council reserves the right to pursue any consequential debt as a debt against the Provider

S8.2 Debt Recovery

S8.2.1 Where a Customer’s invoice remains unpaid for a period of 14 calendar days the Provider will issue a reminder to the Customer including a statement which must detail contributions made and the balance owing. Copies of all reminders and statements will be held on file for future reference.

S8.2.2 Where a Customer’s invoice remains unpaid for a period of 28 calendar days, the Provider will further contact the Customer by either letter or personal meeting to ascertain the reason for non-payment. A record of the letter or interview with the debtor will be made and retained on file for future reference.

S8.2.3 Where, in the Provider’s opinion, there is good reason for late-payment (e.g. delays in Benefit payments) and the risk of continued non-payment is low, Customers may be given a reasonable further period of time in which time to pay their invoice.

S8.2.4 Where in the Provider’s opinion the risk of non-payment is high, the Provider must notify the Council and inform the Customer or their representative, that the debt will be transferred to the Council for further collection procedures.

S8.2.5 Where a Provider suspects non-payment by a Customer may be attributable to financial abuse then the Council must be notified immediately in accordance with the Safeguarding Vulnerable Adults Policy and Procedures. The Council will treat all reports of this nature in the strictest confidence and under no circumstances will discuss the source of the allegation with the Customer or the alleged abuser.

S8.2.6 If a debt remains unpaid for eight weeks, or earlier if considered appropriate, then it may be transferred to the Council for collection. The Provider will submit an invoice to the Council, detailing the amounts it has not been able to collect, and believes it will not able to collect, from a Customer, together with all evidence of steps taken to recover the debt. If the debt is transferred later than ten weeks after it first became payable then the Provider shall be responsible for any amount accrued beyond the eight week period due to late notification to the Council.

S8.2.7 Following a period of investigation, which shall be no longer than four weeks, where the Council is satisfied the Provider has taken all reasonable steps to recover the debt and the debt is, in the opinion of the Council, a true debt, the Council will take appropriate action to recover or write off the debt.
S8.3 Third Party Contributions

S8.3.1 This Contract allows for Third Party payments to be made to a Provider where the Customer has chosen to stay in a Home where the fee levels are higher than the prices set by the Council and where the Customer and a Third Party knowingly and expressly agree to that arrangement.

S8.3.2 Third Party payments shall always be made directly to, and subject to a contract with the Provider.
S9 Gifts and Bequests

S9.1 The Provider will ensure that its staff do not accept gifts, financial or otherwise, or bequests from any Customer, their family or carer for whom they are providing services under this Contract, excepting in the circumstances described below. Failure to enforce this policy will be considered a breach of the Contract and may result in termination under Clause 26 (Termination of the Contract).

S9.2 The Provider will provide to all of its staff and Customers clear information regarding what is an acceptable nominal gift. The information should be user friendly and faithfully reflect this Schedule.

S9.3 Exceptionally nominal value gifts only may be accepted by employees. Examples of nominal value gifts include flowers and chocolates. Such nominal value gifts should only be accepted on a communal basis and should be shared with others in the Home.

S9.4 Any offer of a gift must be discussed by the employee with the employee’s line manager before acceptance.

S9.5 In no circumstances shall an employee request a gift.

S9.6 Providers or their employees are prohibited from accepting cash gifts from Customers or their friends or relatives regardless of the sum involved.

S9.7 If a Customer or their friend or relative wishes to give a cash gift in recognition of a Service received under this Contract, then the gift should be made payable to the Council, for the attention of the Director of Adult Social Services, indicating whom it relates to and the home to which it refers.

S9.8 It is a breach of this Contract for a Provider or their employee to accept a legacy or bequest under a will where that legacy or bequest comes to the employee as a result of personal contact with a Customer under the employee’s employment with the Provider providing Services under this Contract.

S9.10 Where a gift or intended bequest has to be refused the employee or employee’s Manager should sensitively explain the reason to the person making the offer.

S9.11 At all times the Provider and its employees should consider how acceptance of the gifts may be viewed by others.

S9.12 All gifts (whether accepted or refused) must be entered into a register held by the Provider, which should be available for inspection by the Council upon request.
S10  Unit Prices and Quality Premiums

S10.1 The Unit Prices, agreed by Council for April 2013 are as follows:

S10.2 Resolution of Disputes regarding Premium Payments

In the event that a Provider disputes the judgement of the Authorised Officer, the issue will be resolved through the use of the disputes procedure described in Clause 28 of this Agreement.
S11 Responsibilities of Key Personnel

S11.1 Responsibilities of Registered Manager / Responsible Person

Regulator requirements – The Provider ensures that the Registered Manager/Responsible Person meets the requirements of Regulator, complies with the regulatory framework governing the provision of care and meets the Essential Standards for Quality and Safety 2010.

Notifications to the Commissioner – the Provider shall promptly inform the Commissioner of:

- any changes to the Registered Manager / Responsible Person;
- any changes to the registration of the Provider with the Regulator;
- any absence of the Registered Manager/Responsible Person in excess of 4 weeks;

Quality Assurance – Ensures that robust quality system is in place to assure the satisfactory quality of the Services.

Quality audits – Ensures that there is regular and consistent audit of the quality of care provided through the delivery of the Services (including for example, audit of accidents / incidents, medicine administration, compliance with regulatory requirements, care plans, provision of meals, etc)

Enforcement proceedings – whether instigated by the Regulator or any public sector Commissioning Authority (including Social Services), the Registered Manager shall supply a copy of the proceedings to the Commissioner within five working days including an action plan to detailing remedial actions and associated timescales.

Infection control - Ensures compliance with the annual infection prevention programme of the Commissioner, including compliance with infection prevention audits and up to date prevention and control of infection procedures.

S11.2 Responsibilities of Registered Nurse

Qualification - The Provider shall employ Registered Nursing Staff who are suitably qualified and have received appropriate training to enable them to plan, deliver and evaluate care in order to meet the individual and collective assessed needs of Service Users.

Role - In the provision of the Services, the Registered Nurse shall assume responsibility to (the following list should not be considered exhaustive):

- Adhere to the Nursing and Midwifery Council (NMC) ‘Code of Conduct’ and guidance within the NMC ‘Scope of Professional Practice’;
- Plan, implement and evaluate care/support plans for each Service User that contains the required detail to ensure individual care needs can be met;
- Promote the independence of Service Users whereby they are consulted and encouraged to participate in their own plans of care/support
- Contact appropriate agencies when a Service User requires support of an independent advocate;
- Adhere to the regulatory framework governing the delivery of care of the Provider;
- Ensure that they are up to date in their own professional practice;
• Administer record and dispense all medications in a safe, evidence based way;
• Administer and participate in health care initiatives for Service Users such as immunisation and vaccination programmes;
• Implement practice that will reduce the risk of infections;
• Promote practice that will ensure prevention and control of infection;
• Review and update care/support plans as and when necessary but as a minimum on a monthly basis;
• Act as leader and role model for non-registered staff to promote quality of care;
• Liaise with other health and social care professionals to ensure that each Service User has their individual care needs met;
• Ensure the Service User is informed of any changes to their assessed care needs and actions taken as a result.
• Ensure that all accidents / incidents are accurately and contemporaneously recorded;
• Conduct continence assessments and promote continence for all Service Users in line with Good Practice in Continence Services (Department of Health, 2000)
• Declare /inform the Registered Manager / Responsible Person of any issues that may impact on their ability to provide quality care.

Additional requirements for the provision of the Services to registered Care Categories

The following section sets out key expectations of the Commissioner where the Provider delivers care to the Service User in respect of care categories for which the Provider may be registered with the Regulator.

End of Life – to note recent media position

Pathway - The Provider is working towards compliance with a recognised end of life care pathway.

Aim – To promote independence and quality of life to Service Users with advanced, progressive, incurable illness until they die.

Compliance – In delivering Services to a Service User having End of Life needs, the Provider shall ensure compliance with:

• Department of Health’s National End of Life Care Strategy including the use of end of life tools including for example:
  o Gold Standards Framework;
  o Advance Care Planning;
  o Preferred Priorities of Care;
  o The use of a recognised End of Life care pathway i.e. 6 Steps Approach
  o The ECL care plan should be discussed and agreed with the person concerned and Wirral is now actively considering using the ‘Deciding Right@ document which is a national tool. It provides all the documents necessary for advanced care plans and will be recognized by the North West Ambulance Service.
Palliative Care Lead – Provider to ensure that there is a named ‘lead’ for palliative care:

- having responsibility for the appropriate induction and training of staff; and
- working in partnership with Specialist Palliative Care teams, GPs and other Healthcare professionals to identify support and resources required to meet Service User’s needs and to anticipate changes in their condition
- Wirral are currently in the process of developing and implementing EPaCCS (electronic palliative care co-ordination system) which is also a national requirement.

Specific Requirements & Measures

1. Provider has developed an action plan for end of life care that is congruent with the strategic plan developed for the locality by the Commissioner.
   Measures:
   - Availability of an action plan for end of life care for the care home (including for example: training, development and skills needs; use of an end of life care tool such as those referred to above; regular contact with a medical practitioner; access to specialist palliative care advice); and
   - Post-implementation evaluation of the action plan’s impact and progress.

2. Provider has mechanisms in place to discuss record and (where appropriate) communicate the wishes and preferences of the Service User approaching the end of life (advance care planning).
   Measures:
   - Documentation of processes for assessing / recording preferences for end of life care;
   - Audits of numbers of Service Users with a written record of their preferences for end of life care, such as preferred priorities for care, advance care plans and advance decisions; and
   - Protocols for sharing information with other health and social care professionals.

3. Provider ensures that the Service User’s needs for end of life care are assessed and reviewed on an ongoing basis.
   Measures:
   - Documentation of processes to review Service User’s needs, including evidence of written record of assessment and review; and
   - Written evidence of continuing assessment of changes in care needs as death approaches, including changes in the desired place of death.

4. Provider working in accordance with the Service User’s preferences seeks to avoid the admission of the Service User to hospital when the Service User is within an End of Life pathway, ensuring that care continues to be provided within the Services Environment of the Services.

5. All Service Users who are dying are entered onto a care pathway.
   Measure:
   - Number/proportion of Service Users who have died for whom a recognised care pathway (such as those referred to above) was used.

6. That families and carers are involved in end of life care decisions to the extent that they and the Service User wish.
   Measures:
   - Documented processes for involving families and carers in end of life care
decisions;
  o Audits of the care records of deceased Service Users assessing involvement of families and carers in end of life care decisions.

7. Provider ensures that other Service Users are supported following the death of any Service User within the Services Environment.
   Measure:
   o Documented processes to support other residents following a death.

8. Provider has a system for the audit and review of the quality of end of life care.
   Measures:
   o Documented processes to audit and review end of life care;
   o Results of surveys (or other assessments) of Service Users’ views regarding the deaths of other Service Users;
   o Reports of audits/reviews; and
   o Audit of complaints and compliments regarding end of life care.

9. Provider has processes in place to identify the training needs of all staff (registered and unregistered) that take into account the four core common requirements for workforce development (communication skills, assessment and care planning, advance care planning and symptom management) as they apply to end of life care.
   Measures:
   o Documentation showing processes for determining training needs and a training investment plan; and
   o Staff training records evidencing appropriate training received, including refresher courses.

10. Provider ensures that particular account is taken of the training needs of staff involved in discussing end of life issues with Service Users.
    Measures:
    o Relevant Staff have access to training programmes in regard to discussing end of life issues with Service Users, families and carers; and
    o Staff training records evidencing appropriate training received.

11. Provider maintains awareness of relevant End of Life Care training (including training related to the Liverpool Care Pathway or equivalent) and enables relevant staff to access or attend appropriate programmes, dependent on their needs.
    Measures:
    o Availability of educational programmes related to the introduction of the Liverpool Care Pathway or an equivalent pathway; and
    o Staff training records evidencing appropriate training received.

12. Provider has processes to review all transfers into and out of the Services and the Services Environment for Service Users approaching the end of life.
    Measures:
    o Documentation of Service Users who are appropriately transferred and admitted to hospital, with the date of transfer, the date of return to the Provider’s Premises and the date of death
    o References – The following sources provide helpful reference material in the planning of services to support End of Life Care:
      o Core Competences for End of Life Care, Common Core Competences and Principles for Health and Social Care Workers working with adults at the
end of life, Skills for Health, National End of Life Care Programme, Skills for Care, Department of Health;
- End of Life Care Strategy, promoting High Quality Care for all adults at the end of life, Department of Health.
- Complex and enduring Mental health needs;
- Pervasive development disorders such as autism and Autistic Spectrum Disorder (ASD);
- Severe Challenging Behaviours;
- Dementia;
- Complex physical disabilities including sensory impairments;
- People detained for assessment and/or treatment under the Mental Health Act.

Dementia

The requirements for providing the Services to a Service User with Dementia shall incorporate the following:

**Aim** - To ensure Service Users who have dementia attain and maintain their optimum level of health and independence.

**Compliance** – The Provider shall ensure Services are delivered in compliance with relevant legislation and guidance including:

- The Mental Capacity Act and Deprivation of Liberty Safeguards (2005)
- Living Well with Dementia a National Dementia Strategy (Department of Health, 2009)
- National Institute for Health and Clinical Excellence (NICE) Guidance:
  - CG 42 Dementia – Supporting people with dementia in health and social care

**Requirements – Provider to ensure:**

1. **Leadership** – Provider to identify a dementia champion/lead who will take responsibility for improving quality and quality of life of the Service User in line with all relevant guidance and good practice

2. **Staff competencies** – Provider to employ Staff offering an appropriate mix of skills that is able to meet the specific and unique needs of Services Users with dementia including Staff having a level of expertise that may have been gained through experience and qualification, having an understanding which includes the principles contained within guidance referred to above as applicable to the Service User. Staff receive training appropriate to the needs of the Service User, including higher levels of training

3. **Services Environment** is conducive to meeting the cognitive, communication, behavioural, psychological, social and cultural needs of Service Users with dementia

4. **Links with specialist organisations** as appropriate to the Service User’s condition (including for example, The Alzheimer’s society)
5. **Atypical antipsychotic medication** - Provider to avoid the use atypical antipsychotic medication use where alternative therapies and/or interventions may be utilised to best enhance the Service Users’ quality of life.

**Activities** - Activities available to enable the Service User to transfer the skills acquired during any agreed therapy sessions into their daily living as appropriate.

**Discharge Planning** - Ensure good working relationships with other agencies where active discharge is being planned.

**Complex needs** - Provider to provide Services for Service Users with complex health care needs. Complexities of need may refer to for example, cognition, altered states of consciousness and behaviour management.

**Staff competencies** - Providers to ensure Staff are appropriately trained, having evidence of specialist training to manage the complex needs of Service Users with a brain injury including the physical, psychological, behavioural and cognitive aspects of care.

**Principles** – Provider to deliver the Services recognising that:

- Assessment is both general, physical disability and brain injury specific;
- Planning is based on the individual Service User’s assessed abilities and needs;
- Care planning includes identifying those responsible for monitoring and evaluating the plan and takes a proactive approach to predictable changes in circumstances;
- Evaluation takes account of personalised goals agreed with the Service User;
- A consistent approach is essential to realise an individuals full potential;
- Rehabilitation and management is a continuous process that manages the changing needs for Service Users with brain injuries and their families;

**Services Environment** - Is conducive to meeting the cognitive, communicative, behavioural, physical, psychological and social and cultural needs of Service Users

**Goal-oriented interventions** - Which are well planned, are delivered at the appropriate intensity for the Service User.

**Involvement** - Support is provided to the Service User, their family and carers to contribute to planning the care process.