

APPENDIX

DATED **2024/25**

LEICESTERSHIRE COUNTY COUNCIL (1)

AND

NHS LEICESTER, LEICESTERSHIRE (2)
AND RUTLAND INTEGRATED CARE
BOARD

SECTION 75 PARTNERSHIP
AGREEMENT FOR THE
COMMISSIONING OF HEALTH AND
SOCIAL CARE SERVICES

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BETWEEN:

- (1) **LEICESTERSHIRE COUNTY COUNCIL** of County Hall, Leicester Road, Glenfield, Leicester LE3 8RA ("**Council**"); and
- (2) **NHS LEICESTER, LEICESTERSHIRE AND RUTLAND INTEGRATED CARE BOARD** of Room G30, Pen Lloyd Building, County Hall, Glenfield, Leicester, LE3 8TB (the "**ICB**").

Each a "**Partner**" and together, the "**Partners**".

BACKGROUND

- (A) The Council has responsibility for commissioning and/or providing social care services on behalf of the population of Leicestershire.
- (B) The ICB has the responsibility for commissioning health services pursuant to the 2006 Act in the area of Leicester, Leicestershire and Rutland.
- (C) The Better Care Fund ("**BCF**") was established to provide funds to local areas in England to support the integration of health and social care services across England and to seek to achieve the BCF National Conditions and local objectives. To achieve such objectives, it is a requirement of the BCF that the ICB and the Council establish a Pooled Fund. The Partners wish to extend the use of pooled funds to include funding streams from outside of the Better Care Fund.
- (D) Section 75 of the 2006 Act gives powers to local authorities and integrated care boards to contribute to and maintain pooled funds out of which payment may be made towards expenditure incurred in the exercise of prescribed Health-Related Functions and/or prescribed NHS Functions.
- (E) The purpose of this Agreement is to set out the terms on which the Partners have agreed to collaborate and to establish a framework through which the Partners can integrate and commission health and social care services in Leicestershire. It also provides means through which the Partners will pool funds and align budgets as agreed between the Partners.
- (F) The Partners are entering into this Agreement in exercise of the powers granted pursuant to Section 75 of the 2006 Act.

IT IS AGREED:**1 Definitions and Interpretation**

- 1.1 The following definitions and rules of interpretation in this clause apply in this Agreement:

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“**2000 Act**” means the Freedom of Information Act 2000.

“**2004 Regulations**” means the Environmental Information Regulations 2004.

“**2006 Act**” means the National Health Service Act 2006.

“**2022 Act**” means the Health and Care Act 2022.

“**Affected Partner**” means in the context of clause 25, the Partner whose obligations under the Agreement have been affected by the occurrence of a Force Majeure Event.

“**Agreement**” means this agreement including its Schedules.

“**Annual Report**” means the annual report produced by the Partners in accordance with clause 21 (Review).

“**Applicable Laws**” means all laws, rules, regulations, orders, directions, regulatory policies, guidelines or industry codes, as amended from time to time, which are applicable to the exercise of the Partners' rights or the performance of their obligations under this Agreement.

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

“**Authorised Officers**” means an officer of each Partner appointed to be that Partner's representative for the purpose of resolving a Dispute in accordance with clause 24 (Dispute Resolution).

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

“**Better Care Fund**” means the Better Care Fund as described in NHS England Publications Gateway Ref. No.00314 and NHS England Publications Gateway Ref. No.00535 as relevant to the Partners.

“**Better Care Fund Plan**” means the plan agreed by the Partners for the relevant Financial Year setting out the Partners plan for the use of the Better Care Fund as set out in Schedule 5.

“**Better Care Fund Requirements**” means the Better Care Fund planning requirements 2023-25 published by NHS England on 4 April 2023, as amended or replaced from time to time.

“**Budget**” means in relation to a Service, the budget that the Partners have agreed for that particular Service, as set out in the relevant Scheme Specification.

“**Business Day**” means a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

“Business Hours” means the period from 8.30 am to 5.00 pm on any Business Day.

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

“Commencement Date” means 1st April 2024.

“Confidential Information” means any information, however conveyed or presented, that relates to the business, affairs, operations, service users, patients, processes, budgets, pricing policies, strategies, developments, trade secrets, know-how, personnel, suppliers and providers of the disclosing Partner, together with all information derived by the receiving Partner from any such information and any other information clearly designated by a Partner as being confidential to it (whether or not it is marked "confidential"), or which ought reasonably be considered to be confidential.

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

“Data Protection Legislation” means the Data Protection Act 2018, UK GDPR, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

“Default Liability” means any sum which is agreed or determined by Applicable Laws or in accordance with the terms of a Services Contract to be payable by any Partner(s) as a consequence of:

(i) breach by any or all of the Partners of an obligation(s) (in whole or in part) under a Services Contract; or

(ii) any act or omission of a third party for which any or all of the Partners are, under the terms of the relevant Services Contract, liable to the Provider.

“Financial Contributions” means the financial contributions made by each Partner to any Pooled Fund or any Non-Pooled Fund in any Financial Year Schedule 3.

“Financial Year” means the period running from 1 April to 31 March.

“Force Majeure Event” means one or more of the following:

(a) war, civil war (whether declared or undeclared), riot or armed conflict;

- (b) acts of terrorism;
- (c) acts of God;
- (d) fire or flood;
- (e) industrial action;
- (f) prevention from or hindrance in obtaining raw materials, energy or other supplies;
- (g) any form of contamination or virus outbreak; and
- (h) any other event,

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

“Functions” means the NHS Functions and the Health-Related Functions.

“Health-Related Functions” means the health-related functions of the Council, set out in Regulation 6 of the Regulations, as more particularly described in each Service Specification.

“Host Partner” means the Partner that will host the Pooled Fund and for any Non-Pooled Fund the Partner that will host the Non-Pooled Fund.

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

“ICB Statutory Duties” means the duties of the ICB pursuant to Sections 3 and 3A of the 2006 Act (as amended by the 2022 Act).

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

“Integrated Commissioning” means arrangements by which both Partners commission Services in relation to a particular Scheme on behalf of the other Partner in exercise of the Partners’ Functions.

“Integration Executive” means the partnership board responsible for reviewing the performance of this Agreement as set out in clause 20 and Schedule 2.

“Joint (Aligned) Commissioning” means a mechanism by which the Partners jointly commission any Service without delegating any Functions pursuant to Section 75 of the 2006 Act.

“Lead Commissioner” means in respect of each Scheme, any Partner responsible for commissioning Services under a Scheme Specification.

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“**Lead Commissioning**” means arrangements by which one Partner commissions Services in relation to a particular Scheme on behalf of the other Partner in exercise of the Partners’ Functions.

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

“**month**” means a calendar month.

“**National Conditions**” means the national conditions set out in the 2023 to 2025 BCF Policy Framework as amended or replaced from time to time.

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

“**NHS Functions**” means the NHS functions set out in Regulation 5 of the Regulations, as more particularly described in each Service Specification.

“**Non-Pooled Fund**” means any fund, which is not a Pooled Fund, established and maintained by the Partners in respect of a particular Scheme.

“**Non-Recurrent Payments**” means funding provided by a Partner to a Pooled Fund in addition to the Financial Contributions pursuant to arrangements agreed in accordance with clause 9.3.

“**Overspend**” means any expenditure from a Pooled Fund or Non-Pooled Fund in a Financial Year which exceeds the Partners’ Financial Contributions for that Financial Year.

“**Partnership**” means the collaboration between the ICB and the Council for the purposes of integrating and commissioning the Services.

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

“**Permitted Expenditure**” has the meaning given in clause 8.3.

“**Pooled Fund**” means the pooled fund established and maintained by the Partners in accordance with the Regulations.

“**Pooled Fund Manager**” means such officer of the Host Partner which includes a Section 113 Officer for the Pooled Fund established under this Agreement as is nominated by the Host Partner from time to time to manage the Pooled Fund in accordance with clause 11.

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“**Provider**” means a provider of any Services commissioned under the arrangements set out in this Agreement.

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

- (a) 1 April to 30 June
- (b) 1 July to 30 September
- (c) 1 October to 31 December
- (d) 1 January to 31 March

and “**Quarterly**” shall be interpreted accordingly.

“**Quarterly Reports**” means the reports that the Pooled Fund Manager shall produce and provide to the Integration Executive on a Quarterly basis.

“**Regulations**” means the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 No 617.

“**Reserved Functions**” means any NHS functions or Health-Related functions which are prohibited from being commissioned under this Partnership pursuant to any Applicable Laws.

“**Scheme**” means any of the schemes documented in a Scheme Specification and set out in 0 of Schedule 1.

“**Scheme Specification**” means a specification setting out the arrangements for a particular Scheme to be commissioned in accordance with the terms of this Agreement.

“**Services**” means the health and social care services to be commissioned for each Scheme in accordance with this Agreement, as more particularly described in each Scheme Specification.

“**Services Contract**” means an agreement entered into by either or both Partners to secure the provision of Services in respect of a particular Scheme.

“**Service Users**” means those individuals who access or are eligible to access the Services commissioned by the Partners in accordance with this Agreement.

“**Third Party Costs**” means all such third party costs (including legal and other professional fees) in respect of each Scheme as a Partner reasonably and properly incurs in the proper performance of its obligations under this Agreement and as agreed by the **Integration Executive**.

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“Underspend” means any expenditure from the Pooled Fund or Non-Pooled Fund in a Financial Year which is less than the aggregate value of the Partners’ Financial Contributions for that Financial Year.

- 1.2 A reference to legislation or a legislative provision is a reference to it as amended or re-enacted and shall include all subordinate legislation made under that legislation or legislative provision.
- 1.3 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.4 References to clauses and Schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.5 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.6 In the event of a conflict between any of the provisions of this Agreement and the provisions of the Schedules, the provisions of this Agreement shall take priority.
- 1.7 Any words following the terms “including”, “include”, “in particular”, “for example” or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.8 A "person" includes a natural person, partnership, firm, trust, body corporate, government, governmental body, trust, agency or unincorporated body (whether or not having separate legal personality).
- 1.9 Any reference to the Partners shall include their respective statutory successors, employees and agents.
- 1.10 In this Agreement, words in the singular shall include the plural and vice versa.
- 1.11 Any reference to “staff” shall include full or part time employees, officers, directors, managers and agents.
- 1.12 Unless expressly stated otherwise, all monetary amounts are expressed in pounds sterling but in the event that pounds sterling is replaced as legal tender in the United Kingdom by a different currency then all monetary amounts shall be converted into such other currency at the rate prevailing on the date such other currency first became legal tender in the United Kingdom.
- 1.13 All references to this Agreement include (subject to all relevant approvals) a reference to the Agreement as amended, supplemented, substituted, novated or assigned from time to time.

2 Term

- 2.1 The Partnership, having been established by the Partners before the Commencement Date, shall be deemed to have been carried on under the terms of this Agreement as of the

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Commencement Date and shall continue, unless terminated earlier in accordance with clause 23 (Termination), until the expiry of the Initial Term, when it shall terminate automatically without notice [unless, no later than three (3) months before the end of the Initial Term (or any Extended Term agreed under this clause), the Partners agree in writing that the term of this Agreement shall be extended for [A SPECIFIED PERIOD](Extended Term). Unless it is further extended under this clause or terminated earlier in accordance with clause 23 (Termination), this Agreement shall terminate automatically without notice at the end of an Extended Term].

- 2.2 The duration of each Scheme shall be as set out in the relevant Scheme Specification or if unspecified, shall continue for the duration of this Agreement unless otherwise agreed by the Partners.
- 2.3 Any liabilities up to and including the Commencement Date arising under any earlier agreements or arrangements relating to the Partnership which was entered into by the Partners shall not be waived or be released by the creation of this Agreement.
- 2.4 From and including the Commencement Date, this Agreement wholly supersedes all earlier agreements or arrangements relating to the Partnership between the Partners without prejudice to any antecedent rights and liabilities set out in such agreements or arrangements.

3 General Principles

- 3.1 Nothing in this Agreement shall affect:
- 3.1.1 the liability of the ICB for the exercise of its NHS Functions;
 - 3.1.2 the liability of the Council for the exercise of its Health-Related Functions; or
 - 3.1.3 any power or duty to recover charges in respect of any services provided in the exercise of any Health-Related Functions.
- 3.2 The Partners shall:
- 3.2.1 co-operate with each other and treat each other with respect;
 - 3.2.2 make decisions that are focused on achieving the Partnership Objectives;
 - 3.2.3 be open, honest and transparent with each other about all matters relating to the performance of its obligations under this Agreement and its financial status; and
 - 3.2.4 promptly notify the other Partner in writing about any issues relating to the Partnership and shall work collaboratively with the other Partner to resolve any such issues.
 - 3.2.5 Make no changes to the budget or operational arrangements for any Individual Scheme or Financial Contributions will be made without the prior approval of the

4 Partnership Objectives

4.1 During the continuance of this Agreement, the Partners shall work together to achieve the following objectives:

4.1.1 improve the quality and efficiency of the Services through improvements in integrated care and support;

4.1.2 meet the BCF National Conditions [and any local objectives];

4.1.3 make more effective use of resources by establishing and maintaining the Pooled Fund to be used for revenue expenditure on the Services [; and] (collectively, the “Partnership Objectives”).

4.2 The Partners hereby agree to use their reasonable endeavours to achieve the Partnership Objectives set out in this clause 4.

5 Functions

5.1 Each Partner shall exercise the Functions necessary to fulfil their obligations under this Agreement PROVIDED ALWAYS that:

5.1.1 no Partner shall delegate to the other Partner any Reserved Function;

5.1.2 the Council shall only exercise Health-Related Functions or delegated NHS Functions; and

5.1.3 the ICB shall only exercise NHS Functions or delegated Health-Related Functions.

6 Schemes

6.1 To achieve the Partnership Objectives, the Partners have agreed to collaborate on the Schemes set out in 0 of Schedule 1. Each Scheme sets out, inter alia, the relevant Functions and Services to be commissioned in respect of that particular Scheme together with the relevant Arrangements and identify of the Lead Commissioner (where applicable).

6.2 The Partners may add new Schemes to this Agreement at any time provided that for each new Scheme:

6.2.1 the Partners are satisfied that it is likely to lead to an improvement in the way the relevant Functions are exercised;

6.2.2 a Scheme Specification is completed in the form set out in PART 1 - of Schedule 1; and

6.2.3 such Scheme Specification is approved by the Partners in accordance with clause 31 (Variations).

6.3 The addition of any new Scheme will be subject to business case approval by the Partners and the **Integration Executive**.

7 Commissioning Arrangements

General

7.1 This Agreement sets out the mechanism through which the Partners will work together to commission services. In respect of each Scheme, the Partners may include one or more of the following commissioning mechanisms:

7.1.1 Lead Commissioning;

7.1.2 Integrated Commissioning;

7.1.3 Joint (Aligned) Commissioning;

7.1.4 the establishment of a Pooled Fund; and/or

7.1.5 the establishment of a Non-Pooled Fund,

(together, the "**Arrangements**").

7.2 The Partners shall comply with the commissioning Arrangements set out in each Scheme Specification.

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

7.4 Each Partner shall keep the other Partners, the **Integration Executive** regularly informed of the effectiveness of the arrangements including the Better Care Fund and any Overspend or Underspend in a Pooled Fund or Non-Pooled Fund.

7.5 The **Integration Executive** will report back to the Health and Wellbeing Board as required by its terms of reference set out in Schedule 2.

7.6 The Partners shall attend regular review meetings to discuss the effectiveness of the Partnership. As part of the review meetings, the Partners shall:

7.6.1 review, assess, plan and implement strategies for achieving the Partnership Objectives;

- 7.6.2 identify any issues or barriers to achieving the Partnership Objectives and determine strategies to seek to overcome these;
- 7.6.3 review and assess the effectiveness of the commissioning arrangements for each Scheme; and
- 7.6.4 discuss and review the Budgets, including any Overspend or Underspend of any Pooled Fund or Non-Pooled Fund.
- 7.7 Prior to any Partner entering into a Services Contract, the Partners shall agree in writing:
- 7.7.1 if and how the liability under such Services Contract should be apportioned between the Partners; and
- 7.7.2 whether such Services Contract should give rights to any third parties (and in particular a Partner who is not a party to the Services Contract) under the Contracts (Rights of Third Parties) Act 1999 and if it is agreed that such rights should be granted, the Partner entering into the Services Contract shall ensure that such rights are included in the relevant Services Contract.

Integrated Commissioning

- 7.8 To the extent that there are Integrated Commissioning arrangements under a Scheme, the Partners shall cooperate with each other and use reasonable endeavours to ensure that:
- 7.8.1 the Services are commissioned with due skill, care and attention;
- 7.8.2 the Services are commissioned within the agreed Budgets set out in the relevant Scheme Specification; and
- 7.8.3 payments are made to Providers in accordance with the terms of the relevant Service Contract.

Lead Commissioning

- 7.9 Where there are Lead Commissioning arrangements and the ICB is Lead Commissioner, the Council delegates to the ICB and the ICB agrees to exercise, on the Council's behalf, the Health-Related Functions to the extent necessary for the purpose of performing its obligations under this Agreement in conjunction with the NHS Functions.
- 7.10 Where there are Lead Commissioning arrangements and the Council is Lead Commissioner, the ICB delegates to the Council and the Council agrees to exercise on the ICB's behalf, the NHS Functions to the extent necessary for the purpose of performing its obligations under this Agreement in conjunction with the Health-Related Functions.

- 7.11 To the extent that there are Lead Commissioning arrangements under a Scheme, the Lead Commissioner shall:
- 7.11.1 exercise the NHS Functions in conjunction with the Health-Related Functions as identified in the relevant Scheme Specification;
 - 7.11.2 endeavour to ensure that the NHS Functions and the Health-Related Functions are funded within the parameters of the Budgets for the Financial Year in relation to each particular Service provided under the Scheme.
 - 7.11.3 commission Services for individuals who meet the eligibility criteria set out in the relevant Scheme Specification;
 - 7.11.4 contract with Provider(s) for the provision of the Services on terms agreed with the other Partner;
 - 7.11.5 comply with all relevant legal duties and guidance of both Partners in relation to the Services being commissioned;
 - 7.11.6 where Services are commissioned using the NHS Standard Form Contract, perform the obligations of the “Commissioner” and “Co-ordinating Commissioner” with all due skill, care and attention and where Services are commissioned using any other form of contract to perform its obligations with all due skill, care and attention;
 - 7.11.7 undertake performance management and contract monitoring of all Service Contracts including (without limitation) the use of contract notices where Services fail to deliver contracted requirements;
 - 7.11.8 make payment of all sums due to a Provider pursuant to the terms of any Services Contract; and
 - 7.11.9 keep the other Partner and **Integration Executive** regularly informed of the effectiveness of the arrangements including the Better Care Fund and any Overspend or Underspend in a Pooled Fund or Non-Pooled Fund.

8 Establishment of a Pooled Fund

- 8.1 In exercise of their respective powers under Section 75 of the 2006 Act, the Partners have agreed to establish and maintain a Pooled Fund for revenue expenditure as agreed by the Partners.
- 8.2 The Pooled Fund shall be managed and maintained in accordance with the terms of this Agreement and Schedule 3.
- 8.3 Subject to clause 8.4, it is agreed that the monies held in the Pooled Fund may only be expended on the following:

8.3.1 the Contract Price; **193**

8.3.2 where the Council is to be the Provider, the Permitted Budget;

8.3.3 Third Party Costs where these are set out in the relevant Scheme Specification or as otherwise agreed in advance in writing by the Partners; and

8.3.4 Approved Expenditure as set out in the relevant Scheme Specification or as otherwise agreed in advance in writing by the Partners.

8.3.5 Management costs associated with the hosting and management of the Pooled Fund (including the costs of engaging the Pooled Fund Manager) as agreed in advance in writing and recorded in the minutes of the **Integration Executive**.

(“Permitted Expenditure”)

8.4 The Partners may only amend the revenue expenditure in clause 8.3 with the express written agreement of each Partner.

8.5 Monies held in the Pooled Fund may not be used on Default Liabilities unless this is agreed by all Partners in accordance with clause 8.4.

8.6 The Partners agree to appoint a Host Partner for the Pooled Fund for the purposes of Regulations 7(4) and 7(5). The Host Partner shall be the Council.

8.7 The Host Partner shall be the Partner responsible for:

8.7.1 holding all monies contributed to the Pooled Fund on behalf of itself and the other Partners;

8.7.2 providing the financial administrative systems for the Pooled Fund;

8.7.3 appointing the Pooled Fund Manager; and

8.7.4 ensuring that the Pooled Fund Manager complies with its obligations under this Agreement.

9 Pooled Fund Management

9.1 The Pooled Fund Manager shall have the following duties and responsibilities:

9.1.1 the day-to-day operation and management of the Pooled Fund;

9.1.2 ensuring that all expenditure from the Pooled Fund is in accordance with the provisions of this Agreement, Schedule 3 and the relevant Scheme Specification;

9.1.3 maintaining an overview of all joint financial issues affecting the Partners in relation to the Services and the Pooled Fund;

- 9.1.4 ensuring that full and proper records for accounting purposes are kept in respect of the Pooled Fund;
- 9.1.5 reporting to the **Integration Executive**;
- 9.1.6 ensuring action is taken to manage any projected under or overspends relating to the Pooled Fund in accordance with this Agreement and Schedule 3;
- 9.1.7 preparing and submitting to the **Integration Executive Quarterly Reports** (or more frequent reports if required by the **Integration Executive**) and an annual return about the income and expenditure from the Pooled Fund together with such other information as may be required by the Partners and the **Integration Executive** to monitor the effectiveness of the Pooled Fund and to enable the Partners to complete their own financial accounts and returns. The Partners agree to provide all necessary information to the Pooled Fund Manager in time for the reporting requirements to be met including (without limitation) comply with any reporting requirements as may be required by relevant National Guidance;
- 9.1.8 preparing and submitting reports to the Health and Wellbeing Board as may be required by it and any relevant National Guidance including (without limitation) supplying **Quarterly Reports** referred to in clause 9.1.7 above to the Health and Wellbeing Board.
- 9.2 In carrying out their responsibilities as provided under clause 9.1, the Pooled Fund Manager shall:
- 9.2.1 have regard to National Guidance and the recommendations of the **Integration Executive**; and
- 9.2.2 be accountable to the Partners for delivery of those responsibilities.
- 9.3 The **Integration Executive** may agree to the transfer of funds between Pooled Funds or amending the allocation of the Pooled Fund between Schemes.

10 Non-Pooled Fund

- 10.1 Any Financial Contributions agreed to be held within a Non-Pooled Fund will be notionally held in a fund established for the purpose of commissioning the relevant Services set out in the relevant Scheme Specification. A Non-Pooled Fund does not constitute a Pooled Fund for the purposes of Regulation 7 of the Regulations.
- 10.2 When introducing a Non-Pooled Fund the Partners shall agree:
- 10.2.1 which Partner (if any) shall host the Non-Pooled Fund; and
- 10.2.2 how and when Financial Contributions shall be made to such Non-Pooled Fund.

- 10.3 The Host Partner shall be responsible for establishing the financial and administrative support necessary to enable the effective and efficient management of the Non-Pooled Fund, meeting all required accounting and auditing obligations.
- 10.4 Both Partners shall ensure that any Services commissioned using a Non-Pooled Fund are commissioned solely in accordance with the relevant Scheme Specification.
- 10.5 Where there are Joint (Aligned) Commissioning arrangements, both Partners shall work in cooperation and shall endeavour to ensure that:
- 10.5.1 the NHS Functions funded from a Non-Pooled Fund are carried out within the ICB's Financial Contribution to the Non-Pooled Fund for the relevant Service in each Financial Year; and
 - 10.5.2 the Health-Related Functions funded from a Non-Pooled Fund are carried out within the Council's Financial Contribution to the Non-Pooled Fund for the relevant Service in each Financial Year.

11 Financial Contributions

- 11.1 The Financial Contributions of the ICB and the Council to any Pooled Fund or Non-Pooled Fund for the first Financial Year of operation of each Scheme shall be as set out in Schedule 3.
- 11.2 The Financial Contribution of the ICB and the Council to any Pooled Fund or Non-Pooled Fund for each subsequent Financial Year of operation shall be subject to review by the Partners and agreed by the Partners prior to the start of each Financial Year.
- 11.3 Financial Contributions will be paid as set out in Schedule 3.
- 11.4 With the exception of clause 9, no provision of this Agreement shall preclude the Partners from making additional contributions of Non-Recurrent Payments to a Pooled Fund from time to time by mutual agreement. Any such additional contributions of Non-Recurrent Payments shall be explicitly recorded in the **Integration Executive** minutes and recorded in the budget statement as a separate item.

12 Non-Financial Contributions

- 12.1 Unless set out in a Scheme Specification or otherwise agreed by the Partners, each Partner shall provide the non-financial contributions for any Services for which they are Lead Commissioner or as required in order to comply with its obligations under this Agreement in respect of the commissioning of a particular Service. These contributions shall be provided at no charge to the other Partners or to the Pooled Fund.
- 12.2 Each Scheme Specification shall set out non-financial contributions of each Partner including staff (including the Pooled Fund Manager), premises, IT support and other non-financial

resources necessary to perform its obligations pursuant to this Agreement (including, but not limited to, management of Services Contracts and the Pooled Fund).

13 Risk share arrangements, Overspends and Underspends

Risk share arrangements

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

Overspends in Pooled Fund

- 13.2 Subject to clause 13.2, the Host Partner shall manage expenditure from the Pooled Fund within the relevant Budget and shall use reasonable endeavours to ensure that the expenditure is limited to Permitted Expenditure.
- 13.3 The Host Partner shall not be in breach of its obligations under this Agreement if an Overspend occurs PROVIDED THAT it has used reasonable endeavours to ensure that the only expenditure from the Pooled Fund has been in accordance with Permitted Expenditure and it has informed the **Integration Executive** in accordance with clause 13.4.
- 13.4 In the event that the Pooled Fund Manager identifies an actual or projected Overspend the Pooled Fund Manager must ensure that the **Integration Executive** is informed as soon as reasonably practicable and the provisions of the relevant Scheme Specification and Schedule 3 shall apply.

Overspends in Non-Pooled Funds

- 13.5 In the case of Lead Commissioning arrangements, the Lead Commissioner is responsible for the management of the Non-Pooled Fund. The Lead Commissioner shall as soon as reasonably practicable inform the other Partner and the **Integration Executive** or any forecasted Overspend.
- 13.6 In the case of Joint (Aligned) Commissioning arrangements, where either Partner forecasts an Overspend in relation to a Partners' Financial Contribution to a Non-Pooled Fund that Partner shall as soon as reasonably practicable inform the other Partner and the **Integration Executive**.
- 13.7 The provisions of the relevant Scheme Specification and Schedule 3 shall apply.

Underspend

- 13.8 In the event that expenditure from the Pooled Fund or Non Pooled Fund in any Financial Year is less than the aggregate value of the Financial Contributions made for that Financial Year or where the expenditure in relation to a particular Scheme is less than the agreed allocation to

that particular Scheme, the Partners ~~197~~ agree how the surplus monies shall be used in accordance with Schedule 3. Such arrangements shall be subject to the Applicable Laws and the Standing Orders and Standing Financial Instructions (or equivalent) of the Partners.

14 Capital Expenditure

- 14.1 Except as provided in clause 14.2, neither Pooled Funds nor Non-Pooled Funds shall normally be applied towards any one-off expenditure on goods and/or services, which will provide continuing benefit and would historically have been funded from the capital budgets of one of the Partners. If a need for capital expenditure is identified this must be agreed by the Partners.
- 14.2 The Partners agree that capital expenditure may be made from Pooled Funds where this is in accordance with National Guidance.

15 VAT

The Partners shall agree the treatment of the Pooled Fund for VAT purposes in accordance with any relevant guidance from HM Revenue and Customs. [The applicable VAT position shall be set out in Schedule 3.]

16 Audits and Inspection

- 16.1 All Partners shall promote a culture of probity and sound financial discipline and control. The Host Partner shall arrange for the audit of the accounts of the relevant Pooled Fund and any Non-Pooled Fund and shall require the appropriate person or body appointed to exercise the functions of the Audit Commission to make arrangements to certify an annual return of those accounts.
- 16.2 All internal and external auditors and all other persons authorised by the Partners will be given the right of access by them to any document, information or explanation they require from any employee, member of the relevant Partner in order to carry out their duties. This right is not limited to financial information or accounting records and applies equally to premises or equipment used in connection with this Agreement. Access may be at any time without notice, provided there is good cause for access without notice.
- 16.3 The Partners shall comply with relevant NHS finance and accounting obligations as required by Applicable Laws and/or National Guidance.

17 Liabilities and Insurance and indemnity

- 17.1 Subject to clause 17.2, and 17.3, if a Partner (“**First Partner**”) incurs a Loss arising out of or in connection with this Agreement (including any Loss arising under any Scheme or Services Contract) as a consequence of any act or omission of the other Partner (“**Other Partner**”) which constitutes negligence, fraud or a breach of contract in relation to this Agreement or any

Services Contract then the Other Partner shall be liable to the First Partner for that Loss and shall indemnify the First Partner accordingly.

17.2 Clause 17.1 shall only apply to the extent that the acts or omissions of the Other Partner contributed to the relevant Loss. Further, it shall not apply if such act or omission occurred as a consequence of the Other Partner acting in accordance with the instructions or requests of the First Partner or the **Integration Executive**.

17.3 If any third party makes a claim or intimates an intention to make a claim against either Partner, which may reasonably be considered as likely to give rise to liability under this clause 17, the First Partner shall:

17.3.1 as soon as reasonably practicable give written notice of that matter to the Other Partner specifying in reasonable detail the nature of the relevant claim;

17.3.2 not make any admission of liability, agreement or compromise in relation to the relevant claim without the prior written consent of the Other Partner (such consent not to be unreasonably conditioned, withheld or delayed); and

17.3.3 give the Other Partner and its professional advisers reasonable access to its premises and personnel and to any relevant assets, accounts, documents and records within its power or control so as to enable the Other Partner and its professional advisers to examine such premises, assets, accounts, documents and records and to take copies at their own expense for the purpose of assessing the merits of, and if necessary defending, the relevant claim.

17.4 Each Partner shall ensure that they maintain policies of insurance (or equivalent arrangements through schemes operated by the National Health Service Litigation Authority) in respect of all potential liabilities arising from this Agreement and in the event of Losses shall seek to recover such Loss through the relevant policy of insurance (or equivalent arrangement).

17.5 Each Partner shall at all times take all reasonable steps to minimise and mitigate any Loss.

Conduct of Claims

17.6 In respect of the indemnities given in this clause 17:

17.6.1 the indemnified Partner shall give written notice to the indemnifying Partner as soon as is practicable of the details of any claim or proceedings brought or threatened against it in respect of which a claim will or may be made under the relevant indemnity;

17.6.2 the indemnifying Partner shall at its own expense have the exclusive right to defend conduct and/or settle all claims and proceedings to the extent that such claims or proceedings may be covered by the relevant indemnity provided that where there

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is an impact upon the indemnified Partner, the indemnifying Partner shall consult with the indemnified Partner about the conduct and/or settlement of such claims and proceedings and shall at all times keep the indemnified Partner informed of all material matters.

17.6.3 the indemnifying and indemnified Partners shall each give to the other all such cooperation as may reasonably be required in connection with any threatened or actual claim or proceedings which are or may be covered by a relevant indemnity.

18 Standards of Conduct and Service

18.1 The Partners will at all times comply with the Applicable Law and ensure good corporate governance in respect of each Partner (including the Partners respective Standing Orders and Standing Financial Instructions).

18.2 The Council is subject to the Best Value Duty under the Local Government Act 1999. This Agreement and the operation of the Pooled Fund is therefore subject to the Council's obligations for Best Value Duty and the ICB will co-operate with all reasonable requests from the Council which the Council considers necessary in order to fulfil its Best Value Duty.

18.3 The ICB is subject to the ICB Statutory Duties, and these incorporate a duty of clinical governance, which is a framework through which they are accountable for continuously improving the quality of its services and safeguarding high standards of care by creating an environment in which excellence in clinical care will flourish. This Agreement and the operation of the Pooled Funds are therefore subject to ensuring compliance with the ICB Statutory Duties and clinical governance obligations.

18.4 The Partners are committed to an approach to equality and equal opportunities as represented in their respective policies. The Partners will maintain and develop these policies as applied to service provision, with the aim of developing a joint strategy for all elements of the service.

19 Conflicts of Interest

19.1 The Partners shall comply with the agreed policy for identifying and managing conflicts of interest as set out in Schedule 6.

20 Governance

20.1 Overall strategic oversight of the Partnership is vested in the Health and Well Being Board, with operational oversight being undertaken by the **Integration Executive**. The **Integration Executive** will report back to the Health and Wellbeing Board as required by its terms of reference set out in Schedule 2.

20.2 The Partners have established a **Integration Executive** whose remit and terms of reference are set out in Schedule 2.

- 20.3 The **Integration Executive** is based on a ~~joint~~²⁰⁰ working group structure. Each member of the **Integration Executive** shall be an officer of one of the Partners and will have individual delegated responsibility from the Partner employing them, to make decisions which enable the **Integration Executive** to carry out its objectives, roles, duties and functions as set out in this clause 20 and Schedule 2, subject always to the terms of the delegation granted by the relevant Partner.
- 20.4 Each Partner has secured internal reporting arrangements to ensure the standards of accountability and probity required by each Partner's own statutory duties and organisation are complied with.
- 20.5 The Health and Wellbeing Board shall be responsible for leading and directing work to improve the health and wellbeing of the population of Leicestershire through the development of improve and integrated health and social care services including the Better Care Fund Plan.
- 20.6 The **Integration Executive** shall be responsible for the overall approval of each Scheme and ensuring compliance with the Better Care Fund within the Financial Contributions agreed by the Partners and shall operate in accordance with Schedule 2. Each Scheme Specification shall confirm the governance arrangements in respect of the Scheme and how that Scheme is reported to the **Integration Executive** and Health and Wellbeing Board.

21 Review

- 21.1 The Partners shall attend regular review meetings to discuss the effectiveness of the Partnership. As part of the review meetings, the Partners shall:
- 21.1.1 review, assess, plan and implement strategies for achieving the Partnership Objectives;
 - 21.1.2 identify any issues or barriers to achieving the Partnership Objectives and determine strategies to seek to overcome these;
 - 21.1.3 review and assess the effectiveness of the commissioning arrangements for each Scheme; and
 - 21.1.4 discuss and review the Budgets, including any Overspend or Underspend of any Pooled Fund or Non-Pooled Fund.
- 21.2 The Partners shall produce a BCF **Quarterly Report** which shall be provided to the Health and Wellbeing Board in such form and setting out such information as required by National Guidance and any additional information required by the Health and Wellbeing Board or NHS England.
- 21.3 Unless the **Integration Executive** agrees otherwise, no later than three (3) months after the expiry of each Financial Year, the Partners shall, acting in good faith, undertake a review of

the operation and performance of this Agreement, any Pooled Fund, any Non Pooled Fund and the provision of the Services (“**Annual Review**”).

21.4 The Partners shall within twenty (20) Business Days of each Annual Review prepare an Annual Report documenting the matters referred to in this clause 21. A copy of this report shall be provided to the Health and Wellbeing Board and **Integration Executive**.

21.5 In the event that the Partners fail to meet the requirements of the Better Care Fund Plan, the Partners shall provide full co-operation with NHS England to agree a suitable recovery plan.

22 Complaints

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

22.1 Prior to dealing with or responding to any complaint received by any Partner in connection with this Agreement, the Partners shall comply with the following:

22.1.1 if a complaint wholly relates to any Health-Related Functions it shall be dealt with in accordance with the statutory complaints procedure of the Council;

22.1.2 if a complaint wholly relates to any NHS Functions, it shall be dealt with in accordance with the statutory complaints procedure of the ICB;

22.1.3 if a complaint relates to both NHS Functions and Health-Related Functions, the Partners shall review the complaint together and prepare a joint response to the complaint, in accordance with local joint protocol;

22.1.4 if a complaint cannot be handled in accordance with clauses 22.1.1 to 22.1.3, then the Partners shall inform the **Integration Executive** who will set up a complaints subgroup to examine the complaint and recommend remedies. All complaints shall be reported to the **Integration Executive**.

23 Termination

23.1 This Agreement may be terminated by any Partner giving not less than 3 months' notice in writing to terminate this Agreement provided that such termination shall not take effect prior to the termination or expiry of any Schemes.

23.2 Each Scheme may be terminated by the Partners in accordance with the terms set out in the relevant Scheme Specification provided that the Partners ensure that the Better Care Fund Requirements continue to be met.

23.3 If any Partner (“**Relevant Partner**”) fails to comply with any of its obligations under this Agreement, the other Partner may, by notice in writing to the Relevant Partner, require the

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Relevant Partner to remedy such failure within a reasonable timescale. Should the Relevant Partner fail to remedy such failure within such timescale, the matter shall be referred for Dispute Resolution in accordance with clause 24.

23.4 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect. Termination of this Agreement howsoever arising shall be without prejudice to any rights, remedies, obligations or liabilities of the Partners that have accrued up to the date of termination or expiry.

23.5 Upon termination of this Agreement for any reason whatsoever, the following shall apply:

23.5.1 the Partners shall work together and co-operate to ensure that the winding down and disaggregation of the Services is carried out smoothly and with as little disruption as possible to any Service Users, the Partners' employees or any other relevant third parties;

23.5.2 where either Partner has entered into a Service Contract which continues after the termination of this Agreement, both Partners shall continue to contribute to the Contract Price in accordance with the agreed contribution for that Service prior to termination and will enter into all appropriate legal documentation required in respect of this;

23.5.3 the Lead Commissioner of any Scheme, shall make reasonable endeavours to amend or terminate the relevant Service Contract(s) (which shall not include any act or omission that would place the Lead Commissioner in breach of such Service Contract) where the other Partner requests the same in writing PROVIDED that the Lead Commissioner shall not be required to make any payments to any Provider as a result of such amendment or termination, unless the Partners agree otherwise;

23.5.4 where a Service Contract held by a Lead Commissioner is in respect of Services which relate to the other Partner's Functions, then provided that the Service Contract allows, the other Partner may request that the Lead Commissioner assigns such Service Contract in whole or in part to the other Partner; and

23.5.5 the **Integration Executive** shall continue to operate until the expiry of all Schemes and Service Contracts.

23.6 In the event of termination in relation to a particular Scheme, the provisions of clause 23.5 shall apply to such termination (as though references to this Agreement were to that Scheme).

24 Dispute Resolution

24.1 In the event of a dispute between the Partners arising between the Partners, or out of or in connection with this Agreement ("**Dispute**"), either Partner may serve written notice of the

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Dispute on the other Partner, setting out the particulars of the Dispute and (to the extent applicable) the alleged provision that has been breached which has given rise to the Dispute ("**Disputes Notice**"), together with any supporting documents.

24.2 The Authorised Officers shall arrange a meeting to discuss the Dispute as soon as reasonably practicable and in any event within seven (7) days of the Disputes Notice being served pursuant to clause 24.1.

24.3 If the Authorised Officers are unable to resolve the Dispute at the meeting held in accordance with clause 24.2, then the Partners' respective Chief Executives nominees shall arrange a meeting to discuss the Dispute as soon as reasonably practicable and in any event within fourteen (14) days of the date of the Authorised Officers' meeting.

24.4 If the Chief Executives are unable to resolve the Dispute at the meeting held in accordance with clause 24.3, then the Partners shall attempt to settle such Dispute by mediation in accordance with this clause 24.4. The following provisions shall apply to any such mediation:

24.4.1 the Partners shall comply with the Model Mediation Procedure of the Centre of Dispute Resolution ("**CEDR**"), unless any other model mediation procedure is agreed by the Partners, in which case, the Partners shall follow the agreed mediation procedure.

24.4.2 to initiate a mediation, and to the extent not provided for by the relevant mediation procedure:

(i) either Partner shall serve on the other Partner written notice setting out, in summary form, the Dispute and calling on the other Partner to agree the appointment of a mediator ("**Mediation Notice**"); and

(ii) the mediation shall be conducted by a sole mediator (which shall not exclude the presence of a pupil mediator) agreed between the Partners or, in default of agreement, appointed by the relevant mediation organisation;

24.4.3 the Partners involved shall, immediately on such referral, comply with the timeframes of the relevant mediational model procedure and co-operate fully, promptly and in good faith with the mediator and shall do all such acts and sign all such documents as the mediator may reasonably require to give effect to such mediation; and

24.4.4 the Partners shall pay for the costs of mediation as determined by the mediator or in the absence of such determination such costs shall be shared equally by the Partners.

- 24.5 If and to the extent that the Partners do not resolve any Dispute or any issue in the course of any mediation, they may commence or continue court proceedings in respect of such unresolved Dispute or issue.
- 24.6 Nothing in this clause 24 shall in any way affect either Partner's right to terminate this Agreement in accordance with any of its terms or prevent either Partner from instigating legal proceedings.

25 Force Majeure

- 25.1 Neither Partner shall be in breach of this Agreement or otherwise liable for any failure or delay in the performance of its obligations under this Agreement, to the extent that such failure or delay results from a Force Majeure Event and it is prevented from carrying out its obligations by that Force Majeure Event.
- 25.2 On the occurrence of a Force Majeure Event, the Affected Partner shall notify the other Partner in writing of such Force Majeure Event as soon as reasonably practicable. Such notification shall include details of the Force Majeure Event, including evidence of its effect on the obligations of the Affected Partner and any action proposed to mitigate its effect.
- 25.3 As soon as practicable, following notification as detailed in clause 25.2, the Partners shall consult with each other in good faith and use reasonable endeavours to agree appropriate arrangements to mitigate the effects of the Force Majeure Event and, subject to clause 25.4, facilitate the continued performance of this Agreement.
- 25.4 If the Force Majeure Event continues for a period of more than sixty (60) days, either Partner shall have the right to terminate the Agreement by giving fourteen (14) days written notice of termination to the other Partner. No compensation shall be payable by either Partner as a direct consequence of this Agreement being terminated in accordance with this clause 25.

26 Confidentiality

- 26.1 Except to the extent that disclosure is expressly permitted in this clause 26 or elsewhere in this Agreement, each Partner shall:
- 26.1.1 treat the other Partner's Confidential Information as strictly confidential and safeguard it accordingly; and
 - 26.1.2 not disclose the other Partner's Confidential Information to any other person without the other Partner's prior written consent.
- 26.2 Nothing in this clause 26 shall:
- 26.2.1 prevent either Partner from using any general knowledge, experience or skills which were in its possession prior to the Commencement Date;

26.2.2 apply to any Confidential Information which:

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- (i) is in or enters the public domain other than by breach of this Agreement or other act or omission of the receiving Partner; or
- (ii) is obtained by a third party who is lawfully authorised to disclose such information.

26.2.3 prevent a receiving Partner from disclosing Confidential Information where it is required to do so in fulfilment of its statutory obligations, by a court of competent jurisdiction, or by any administrative, governmental or regulatory process or authority.

26.3 Each Partner may disclose the other Partner's Confidential Information to its employees, officers, representatives, subcontractors and professional advisors to the extent strictly necessary for such third parties to carry out its obligations under or in connection with this Agreement. Each Partner shall ensure that any such third parties to whom it discloses the other Partner's Confidential Information is made subject to a duty of confidentiality equivalent to that contained in this clause 26.

26.4 Neither Partner shall use the other Partner's Confidential Information for any other purpose than to exercise its rights and perform its obligations under or in connection with this Agreement.

26.5 Each Partner reserves all rights in its Confidential Information. No rights or obligations in respect of a Partner's Confidential Information other than those expressly stated in this Agreement are granted to the other Partner or shall be implied from this Agreement.

27 Freedom of Information and Environmental Information Regulations

27.1 The Partners agree that they will cooperate with each other to enable any Partner receiving a request for information under the 2000 Act or the 2004 Regulations ("**Request**") to respond to a Request promptly and within the statutory timescales. This cooperation shall include, but not be limited to, finding, retrieving and supplying information held by one Partner to the other Partner, notifying and forwarding any such Requests to a Partner, and providing any assistance that a Partner reasonably requests in respect of the Request.

27.2 Any and all agreements between the Partners as to confidentiality shall be subject to their respective duties under the 2000 Act and 2004 Regulations. No Partner shall be in breach of clause 27 (Confidentiality) if it makes disclosures of information in accordance with the 2000 Act and/or 2004 Regulations.

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

29 Information sharing

The Partners will follow the information governance protocol set out in Schedule 7, and in performing their obligations under this Agreement, the Partners shall comply with all Applicable Laws, and in particular the Data Protection Legislation.

30 Notices

30.1 Any notice given to a Partner under or in connection with this Agreement shall be in writing and shall be:

30.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service to the following addresses (or an address substituted in writing by the Partner to be served);

(i) Council: Leicestershire County Council

For the attention of: JOHN SINNOTT, CHIEF EXECUTIVE

Address: LEICESTERSHIRE COUNTY COUNCIL, COUNTY HALL,
GLENFIELD, LEICESTER, LE3 8RA.

(ii) ICB: Leicester, Leicestershire and Rutland ICB

For the attention of: RACHNA VYAS, CHIEF OPERATING OFFICER &
DEPUTY CHIEF EXECUTIVE.

(iii) Address: NHS LEICESTER, LEICESTERSHIRE AND RUTLAND
INTEGRATED CARE BOARD (ICB), ROOMG30, PEN LLOYD BUILDING,
COUNTY HALL, GLENFIELD, LEICESTER, LE3 8TB.

30.1.2 sent by email to the following email addresses (or an email address substituted in writing by the Partner to be served):

(i) Council: john.sinnott@leics.gov.uk ; or

(ii) ICB: rachna.vyas@nhs.net

30.2 Any notice shall be deemed to have been received:

30.2.1 if delivered by hand, at the time the notice is left at the proper address;

- 30.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- 30.2.3 if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- 30.3 In proving such service, it shall be sufficient to prove that personal delivery was made, or that the envelope containing such notice was properly addressed and delivered into the custody of the postal authority, or that the email was properly addressed and no message was received informing the sender that it had not been received by the recipient (as the case may be).
- 30.4 This clause does not apply to the service of any proceedings or other documents in any legal action (in which case the relevant rules of service associated with such legal proceedings shall apply).

31 Variation

- 31.1 No variations to this Agreement will be valid unless they are recorded in writing and signed for and on behalf of each of the Partners.

32 Compliance with Applicable Laws

- 32.1 In performing its obligations under this Agreement, each Partner shall ascertain, observe, perform and comply with all Applicable Laws from time to time in force.
- 32.2 Subject to clause 32.3, on the occurrence of any Change in Law, the Partners shall agree in good faith any amendment required to this Agreement as a result of such Change in Law.
- 32.3 The Partners shall use their reasonable endeavours to mitigate any adverse effects of any Change in Law and shall take all reasonable steps necessary to minimise any increase in costs arising from such Change in Law.
- 32.4 In the event that the Partners fail to agree suitable amendments to this Agreement following a Change in Law, the Partners shall comply with the procedure set out in clause 24 (Dispute Resolution).

33 Waiver

- 33.1 A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 33.2 No failure or delay by any Partner to exercise any right, power or remedy shall operate as a waiver of it or any other right, power or remedy, nor shall any partial exercise preclude any further exercise of the same or of any other right, power or remedy.

- 34.1 If any provision or part-provision of this Agreement, is or becomes invalid, illegal or unenforceable, it shall be deemed deleted but that shall not affect the validity and enforceability of the rest of this Agreement.
- 34.2 If any provision or part-provision of this Agreement is deemed deleted under clause 34.1, the Partners shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

35 **Assignment and Subcontracting**

- 35.1 Subject to clause 35.2, neither Partner shall subcontract, assign or transfer the whole or any part of this Agreement or deal in any other manner with any of their rights and obligations under this Agreement, without the prior written consent of the other Partner.
- 35.2 Either Partner may, after giving written notice to the other Partner, subcontract, assign, or transfer any or all of its rights and obligations under this Agreement to a statutory successor of all or part of a its statutory functions.

36 **Exclusion of Partnership and Agency**

- 36.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership under the Partnership Act 1890 or the Limited Partnership Act 1907, a joint venture between the Partners, or constitute either Partner, the employer of the other Partner, or render either Partner directly liable to any third party for the debts, liabilities or obligations of the other Partner.
- 36.2 Except as expressly provided otherwise in this Agreement or where any statutory provision otherwise requires, neither Partner will have the authority to, or to hold itself out as having authority to:
- 36.2.1 act as an agent of the other Partner;
 - 36.2.2 make any representations or give any warranties to third parties on behalf of or in respect of the other Partner; or
 - 36.2.3 make or enter into any commitments for or on behalf of the other Partner.

37 **Third Party Rights**

Unless it expressly states otherwise, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

- 38.1 This Agreement constitutes the entire agreement between the Partners and supersedes and extinguishes all previous communications, agreements, representations, promises, assurances, warranties and understandings between them, whether written or oral, relating to its subject matter .
- 38.2 Each Partner acknowledges that in entering into this Agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Further, each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

39 **Counterparts**

This Agreement may be executed in writing or by electronic signature (whatever form the electronic signature takes) and in any number of counterparts, each of which when executed and delivered shall constitute an original, but all the counterparts shall together constitute the one Agreement.

40 **Governing Law and Jurisdiction**

- 40.1 This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England.
- 40.2 Subject to clause 24 (Dispute Resolution), the Partners irrevocably agree that the courts of England shall have exclusive jurisdiction to hear and settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement, its subject matter or formation.

This Agreement has been executed by the Partners on the date of this Agreement.

SCHEME SPECIFICATION

PART 1 - TEMPLATE SCHEME SPECIFICATION

TEMPLATE SCHEME SPECIFICATION

Unless the context otherwise requires, the defined terms used in this Scheme Specification shall have the meanings set out in the Agreement.

1 Overview of Scheme

DEFINED TERMS

[DN: Insert details including:]

- 1.1 Name of the Scheme
- 1.2 Relevant context and background information

2 Aims and Outcomes

[DN: Insert agreed aims of the Scheme]

3 Functions

[DN: Set out the Council's Functions and the ICB's Functions which are the subject of the particular Scheme including where appropriate the delegation of such Functions for the commissioning of the relevant Service.

Consider whether there are any exclusions from the standard Functions included (see definition of NHS Functions and Health-Related Functions).]

4 Services

[DN: What Services are going to be provided within this Scheme. Are there contracts already in place?

Are there any plans or agreed actions to change the Services?

Who are the beneficiaries of the Services?]

5 Commissioning, Contracting, Access

Commissioning Arrangements

[DN: Set out what arrangements will be in place in relation to Lead Commissioning/Joint (Aligned) Commissioning/Integrated Commissioning. How will these arrangements work?]

Contracting Arrangements

[DN: Insert the following information about the Scheme:

- 5.1 relevant contracts
- 5.2 arrangements for contracting:
 - 5.2.1 Will terms be agreed by both partners or will the Lead Commissioner have authority to agree terms
 - 5.2.2 what contract management arrangements have been agreed?
 - 5.2.3 What happens if the Agreement terminates? Can the Partner terminate the Contract in full/part?
 - 5.2.4 Can the Contract be assigned in full/part to the other Partner?

Access

[DN: Set out details of the Service Users to whom the Scheme relates. How will individuals be assessed as eligible.]

6 Governance Arrangements

[DN: Is there a Scheme Lead

Will there be a relevant Committee/Board/Group that reviews this Scheme?

Who does that group report to?

Who will report to that Group?]

7 Non-Financial Resources

Council contribution

	Details	Charging arrangements	Comments
Premises			
Assets and equipment			
Contracts			
Central support services			

ICB Contribution

	Details	212 Charging arrangements	Comments
Premises			
Assets and equipment			
Contracts			
Central support services			

8 Staff

TN: Consider:

- 8.1 Who will employ the staff in the partnership?
- 8.2 Is a TUPE transfer secondment required?
- 8.3 How will staff increments be managed?
- 8.4 Have pension arrangements been considered?

Council staff to be made available to the arrangements

Please make it clear if these are staff that are transferring under TUPE to the ICB.

If the staff are being seconded to the ICB this should be made clear

ICB staff to be made available to the arrangements

Please make it clear if these are staff that are transferring under TUPE to the Council.

If the staff are being seconded to the Council this should be made clear.]

9 Assurance And Monitoring

[DN: Set out the assurance framework in relation to the Scheme. What are the arrangements for the management of performance? Will this be through the agreed performance measures in relation to the Scheme.

In relation to the Better Care Fund you will need to include the relevant performance outcomes.

Consider the following:

- 9.1 What is the overarching assurance framework in relation to the Scheme?
- 9.2 Has a risk management strategy been drawn up?
- 9.3 Have performance measures been set up?
- 9.4 Who will monitor performance?
- 9.5 Have the form and frequency of monitoring information been agreed?

9.6 Who will provide the monitoring information? Who will receive it?]

10 Lead Officers

Partner	Name of Lead Officer	Address	Telephone Number	Email Address

11 Internal Approvals

DN: Consider the levels of authority from the Council's Constitution and the ICB's standing orders, scheme of delegation and standing financial instructions in relation to the Scheme;

Consider the scope of authority of the Pooled Fund Manager and the Lead Officers

Has an agreement been approved by cabinet bodies and signed?

12 Risk and Benefit Share Arrangements

Has a risk management strategy been drawn up?

Set out arrangements, if any, for the sharing of risk and benefit in relation to the Scheme (if applicable). Otherwise, Schedule 3 applies

13 Regulatory Requirements

Are there any regulatory requirements that should be noted in respect of this particular Scheme?

14 Information Sharing and Communication

What are the information/data sharing arrangements?

How will charges be managed (which should be referred to in Part 2 above)

What data systems will be used?

Consultation – staff, people supported by the Partners, unions, providers, public, other agency

Printed stationary

15 Duration and Exit Strategy

What are the arrangements for the variation or termination of the Scheme.

Can part/all of the Scheme be terminated on notice by a Partner? Can part/all of the Scheme be terminated as a result of breach by either Partner?

What is the duration of these arrangements?

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Set out what arrangements will apply upon termination of the Service, including without limitation the following matters addressed in the main body of the Agreement

- 15.1 maintaining continuity of Services;
- 15.2 allocation and/or disposal of any equipment relating to the Scheme;
- 15.3 responsibility for debts and on-going contracts;
- 15.4 responsibility for the continuance of contract arrangements with Service Providers (subject to the agreement of any Partner to continue contributing to the costs of the contract arrangements);
- 15.5 where appropriate, the responsibility for the sharing of the liabilities incurred by the Partners with the responsibility for commissioning the Services and/or the Host Partners.

Consider also arrangements for dealing with premises, records, information sharing (and the connection with staffing provisions set out in the Agreement.

16 **Other Provisions**

[DN: Consider, for example:

- 16.1 Any variations to the provisions of the Agreement
- 16.2 Bespoke arrangements for the treatment of records
- 16.3 Safeguarding arrangements]

SCHEME SPECIFICATION- HART SERVICES**OVERVIEWS OF HART SERVICE**

HART is a Homecare Assessment and Reablement Team Service which is provided on an in-house basis by the Council. The Council will provide the HART Services to the LLR ICBs in accordance with this Scheme Specification and as such is referred to as the “provider” of those services.

DEFINED TERMS

The following definitions apply in this Scheme Specification:

Assigned IPRs: all Intellectual Property Rights (being Intellectual Property Rights other than Retained IPRs) developed by or on behalf of the Council in the provision of the Services.

Business Day: a day other than a Saturday, Sunday, or public holiday in England when banks in London are open for business.

Health Case Manager: means a person authorised by the LLR ICBs to act as a Referrer and Assessor of Service Users on Pathway 2 to the HART Services as further defined in the HART Service Specification.

Charges: the payments made from the Permitted Budget for the HART Services which shall be calculated in accordance with the provisions of the Finance Protocol (set out in Schedule 3 of this Agreement).

HART Reablement Screening Tool: means the screening tool to be completed by the Health Case Manager or other health professional which will inform whether it is appropriate to Refer a patient to the HART team for receipt of the Services. The screening tool may be replaced by another tool developed by the Partners from time to time, provided that the replacement of the tool and the details thereof have been agreed by the Partners in writing and signed by the Authorised Officers on behalf of the Partners to record their agreement.

HART Staff: all persons employed or engaged by the Council or any of its Sub-contractors (included volunteers, agency workers, locums, casual or seconded staff) in the provision of the HART Services or any activity related to or connected with the provision of the HART Services.

Framework for Integrated Personalised Care (FIPC): means the Leicester, Leicestershire and Rutland FIPC (2022) superseded Health and Social Care Protocol (2014) October 2022

HART Services: short term intensive reablement support in Service Users' homes delivered by the Council HART Staff and as more particularly described in this Scheme Specification and which are the subject of an Order placed by the LLR ICBs with the Council.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or getup, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether

registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Local Healthwatch: an organization established under section 222 of the Local Government and Public Involvement in Health Act 2007.

NHS: the National Health Service in England.

NICE Technology Appraisals: technology appraisals conducted by NICE in order to make recommendations on the use of drugs and other health technologies within the NHS.

Ordinary Residence: has the meaning given to it in the Care Act 2014 and associated guidance and “Ordinarily Resident” or “Ordinarily Resident” shall be construed accordingly.

Permitted Budget means the Financial Contributions to the HART Services as set out in the Finance Protocol (at Schedule 3 of this Agreement).

Reablement Plan means the reablement Support Plan agreed

Referral Process: means the process by which Service Users are referred by each of the LLR ICBs to the Council’s HART Staff pursuant to a Reablement Plan and Referred and Referral shall be construed accordingly. The Referral Process is more particularly set out in the service specification embedded at paragraph 5 below.

Regulatory or Supervisory Body: any statutory or other body having authority to issue guidance, standards, or recommendations with which the parties or any of them must comply or to which they must or should have regard, including as applicable:

The Care Quality Commission.

the corporate body known as Monitor provided by section 61 of the Health and Social Care Act 2012.

the Special Health Authority known as the National Health Service Trust Development Authority established under the NHS Trust Development Authority (Establishment and Constitution) Order 2012 (NHSTDA).

The National Health Service Commissioning Board established by section 1H of the National Health Service Act 2006, also known as NHS England.

the Department of Health and Social Care or such other body superseding or replacing it.

the National Institute for Health and Care Excellence (NICE).

Healthwatch England.

Retained IPRs: all Intellectual Property Rights either owned by the Council or its third-party licensors before the commencement of the provision of the HART Services by the Council or subsequently developed by or on behalf of the Council after the commencement of the provision of the HART Services by the Council other than in the provision of the Services except that such Intellectual Property Rights shall be Assigned IPRs were used by the Council in the provision of the HART Services.

Service User: A person resident in the administrative area of the county of Leicestershire who has been Referred to the Council by the LLR ICBs. registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Local Healthwatch: an organization established under section 222 of the Local Government and Public Involvement in Health Act 2007.

NHS: the National Health Service in England. **21.7**

NICE Technology Appraisals: technology appraisals conducted by NICE in order to make recommendations on the use of drugs and other health technologies within the NHS.

Ordinary Residence: has the meaning given to it in the Care Act 2014 and associated guidance and “Ordinarily Resident” or “Ordinarily Resident” shall be construed accordingly.

Permitted Budget means the Financial Contributions to the HART Services as set out in the Finance Protocol (at Schedule 3 of this Agreement).

Reablement Plan means the reablement Support Plan agreed

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The Care Quality Commission.

the corporate body known as Monitor provided by section 61 of the Health and Social Care Act 2012.

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The National Health Service Commissioning Board established by section 1H of the National Health Service Act 2006, also known as NHS England.

the Department of Health and Social Care or such other body superseding or replacing it.

the National Institute for Health and Care Excellence (NICE).

Healthwatch England.

Retained IPRs: all Intellectual Property Rights either owned by the Council or its third-party licensors before the commencement of the provision of the HART Services by the Council or subsequently developed by or on behalf of the Council after the commencement of the provision of the HART Services by the Council other than in the provision of the Services except that such Intellectual Property Rights shall be Assigned IPRs were used by the Council in the provision of the HART Services.

Service User: A person resident in the administrative area of the county of Leicestershire who has been Referred to the Council by the LLR ICBs

Support Plan: means the support plan prepared by the LLR ICBs which specifies the Services required for a Service User as it may from time to time be reviewed and revised to reflect changes to the Service User's needs.

31 AIMS AND OUTCOMES

The Aims and Outcomes for the HART Services are set out on page 3 of the service specification embedded at paragraph 5 below.

32 THE ARRANGEMENTS

The Council shall act as provider of the HART Services which are commissioned by the LLR ICB in exercise of NHS Functions related to continuing health care in a domiciliary setting.

33 FUNCTIONS

The HART Services are commissioned in exercise of the NHS Functions set out in Regulation 5 of the Regulations. There is no delegation of Functions from the LLR ICBs to the Council.

34 SERVICES

In addition to the obligations set out at Clause 17 of the Agreement in respect of Standards of Conduct and Service, the Partners agree, in view that the Council is the in-house provider of the HART Services, that the Council shall comply with the following provisions:

5.1 Council Obligations

5.1.1 In supplying the HART Services, the Council shall (and in accordance with the embedded service specification in this paragraph 5):

- (a) Ensure that the provision of the HART Services is consistent with the Service User's needs as identified in the Referral Process.
- (b) perform the HART Services with the highest level of care, skill, and diligence in accordance with best practice and appropriate clinical standards.
- (c) co-operate with the LLR ICBs in all matters relating to the HART Services and comply with all reasonable instructions of the LLR ICBs.
- (d) use personnel who are suitably and appropriately registered, qualified, skilled, competent, experienced and appropriately trained in the application to the Service of the Health & Social Care Protocol and where revalidation is required by the appropriate professional regulatory body this is completed to perform tasks assigned to them, and in sufficient number to ensure that the Council's obligations are fulfilled and are covered by the Council's (and/or any subcontractor that is approved by the LLR ICBs) indemnity arrangements for the provision of the HART Services;
- (e) ensure that it obtains, and maintains all consents, licenses, and permissions (statutory, regulatory, contractual, or otherwise) it may require, and which are necessary to enable it to comply with its obligations.

- (f) comply where applicable with the registration and regulatory compliance guidance of any relevant Regulatory or Supervisory Body and any standards and recommendations issued from time to time by any such Body.
- (g) comply with the standards and recommendations issued from time to time by any relevant professional body and agreed in writing between the LLR ICBs and the Council.
- (h) comply, where applicable, with the recommendations contained in the NICE Technology Appraisals and have regard to other guidance issued by NICE from time to time.
- (i) respond to any reports and recommendations made by Local Healthwatch.
- (j) ensure that the HART Services conform with all descriptions and specifications set out in this Scheme Specification.
- (k) ensure that the Services are carried out so as to meet the Service User's outcomes as identified in the Service User's Reablement Plan.
- (l) provide all equipment, tools, vehicles, and other items required to provide the Services.
- (m) ensure that all staff using equipment in the delivery of the HART Services and all Service Users and cares using equipment independently as part of the Service User's care or treatment have received appropriate and adequate training and have been assessed as competent in the use of that equipment.
- (n) ensure that all goods, materials, standards, and techniques used in providing the HART Services are of an acceptable standard.
- (o) observe all health and safety rules and regulations and any other reasonable security requirements that apply in respect of the HART Services.
- (p) not knowingly do or omit to do anything which may cause the LLR ICBs to lose any license, authority, consent, or permission on which they rely for the purposes of conducting their business.
- (q) not knowingly do or omit to do anything which may constitute, cause, or contribute to any breach by the LLR ICBs of any license or contract binding on the LLR ICBs; and
- (r) comply with the LLR ICBs' policies on the use of their logo and branding and where applicable comply with the applicable NHS Branding Guidance which is available at www.nhsidentity.nhs.uk.

5.1.2 The Council shall comply with such of the LLR ICBs' policies and procedures as are relevant and are specifically brought to the attention of the Council in the provision of the HART Services and with any relevant statute, regulations, circulars, or guidance made under any relevant statute. In particular, the Council shall:

- (s) comply with the Health and Safety at Work Act 1974 and of any other Acts Regulations or Orders pertaining to the health and safety of employees.
- (t) comply with the Environmental Protection Act 1990 and the Water Resources Act 1991 and other environmental legislation.

- (u) use reasonable endeavors to reduce the environmental impact of the HART Services and will implement and maintain systems designed to ensure good environmental practice including compliance with any relevant British Standards or European equivalents.
- (v) have regard at all times to the welfare of children and vulnerable members of society.
- (w) comply with the Council's policies relating to the protection of children and vulnerable members of society.
- (x) comply with relevant provisions of the Mental Capacity Act 2005 and the Health & Social Care Act 2008 (including but not limited to the duty of candor).
- (y) have regard to and do all that is reasonable to prevent crime and disorder in the community.
- (z) comply with the Public Interest Disclosure Act 1998 and develop a whistle blowing policy for its staff to encourage them to report any incidents of malpractice within the Service; and
- (aa) comply with relevant legislation concerning the use of vehicles on the public highway.

5.1.3 The Council shall develop and continuously review Business Continuity Plans to minimize the impact of unforeseen events in connection with the HART Services including in respect of:

- (bb) damage by fire.
- (cc) the effects of extreme weather conditions.
- (dd) the effects of pandemic illness on staff or Service Users.
- (ee) other failures affecting buildings, utilities, or equipment (including ICT equipment).

5.1.4 Where the provision of the HART Services requires the operation of vehicles the Council shall ensure that it complies with all relevant legislation. It shall also ensure that all vehicles used in the provision of the Services (whether or not they are owned by the Council) are adequately serviced and maintained and that management, monitoring and risk management procedures are in place in order to guarantee safe working practices.

5.1.5 The Council shall ensure that all staff and volunteers providing the HART Services are aware of the provisions of the Human Rights Act 1998(as amended) and shall take all reasonable steps and precautions to ensure that it does not infringe the human rights of any person (including Service Users) in the provision of the Services.

5.1.6 The Council shall co-operate fully with the authorised representative of the relevant Healthwatch who from time to time may wish to visit the Council in the exercise of its powers under the Local Government and Public Involvement in Health Act 2007 as amended and the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013

The LLR ICBs agree that they shall comply with the following provisions in order to assist the Council with the delivery of the HART Services:

5.5. The LLR ICBs' Obligations

- 5.5.1 The LLR ICBs shall cooperate with the Council and provide such information and assistance to the Council's Staff as the Council may reasonably request in order to facilitate the smooth implementation of Reablement Plans.
- 5.5.2 The LLR ICBs shall provide such access to their data, and other facilities as may reasonably be requested by the Council and agreed with the LLR ICBs in writing in advance, for the purposes of the Services.
- 5.5.3 The LLR ICBs shall inform the Council of all health and safety rules and regulations and any other reasonable security requirements that apply in respect of any Referral.
- 5.5.4 The LLR ICBs shall ensure that any person making a Referral is trained to use the HART Reablement Screening Tool and uses it appropriately as part of the Referral process.
- 5.5.5 The LLR ICBs shall ensure that each Service User to be Referred is assigned a named Health Case Manager who is responsible for liaising with HART Staff and who is authorised to take responsibility for clinical matters.
- 5.5.6 The LLR ICBs shall monitor the number of hours of care Referred to ensure that the cost of Referrals does not exceed the Financial Contributions of LLR ICB.

35 COMMISSIONING, CONTRACTING, ACCESS

The LLR ICBs will commission the HART Services from the Council who shall act as in house provider of the HART Services in accordance with the terms of this Scheme Specification. Further details of access for the HART Services are set out in the specification embedded at paragraph 5 above.

LLR ICB will act as coordinating commissioner in respect of the HART Services. **Access**

A Referrals Process has been agreed and signed by the Authorised Officers on behalf of the Partners to record their agreement to them

The following provisions will apply in respect of Service Users who are not already resident in the administrative area of Leicestershire:

The LLR ICBs may from time to time seek to Refer a Service User who is not Ordinarily Resident in the administrative area of Leicestershire. In those circumstances, the provisions relating to 'population' set out in paragraph 5 of the HART Service Specification (embedded at paragraph 5 above) shall apply and the Council may accept or decline such Referral provided that in determining whether to accept the Referral the Council will have regard to the following principles:

- (ff) All Service Users who are Ordinarily Resident in the administrative areas of Leicestershire, Leicester City or Rutland (LLR) who require the Services should receive an effective and timely response
- (gg) The Council and the LLR ICBs should work together to ensure that Service Users' health and social care needs are addressed during the period of reablement.

- (hh) Arrangements for accessing reablement should be broadly consistent across LLR
- (ii) Responsibilities for which organization commissions reablement services should be clear and straightforward, so that hospital staff know who should be referred, when they should be referred and where referrals should be made.
- (jj) No Service User should be denied a service because of disputes about which local authority or LLR ICB is responsible for paying for care.

36 FINANCIAL CONTRIBUTIONS

Please refer to the Finance Protocol at Schedule 3 of the Agreement in respect of the HART Services.

Costs where LLR ICB Financial Contributions exceeded:

If the cost of Referrals (as defined in the specification embedded at paragraph 5 above) referable to LLR ICB in any Financial Year exceeds that LLR ICB's Financial Contribution, the Council will take immediate action to discuss with LLR ICB prior to any actions being considered or enacted in any rejections of Referrals in that Financial Year of Service Users for whom the overspent LLR ICB is responsible.

37 FINANCIAL GOVERNANCE ARRANGEMENTS

Please refer to the Finance Protocol at Schedule 3 of the Agreement in respect of the HART Services.

38 VAT

All amounts payable by the LLR ICBs to the Council in respect of HART Services are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under an order by the Council to the LLR ICBs, the LLR ICBs shall, on receipt of a valid VAT invoice from the Council, pay to the Council such additional amounts in respect of VAT as are chargeable on the supply of the HART Services at the same time as payment is due for the supply of the HART Services

39 GOVERNANCE ARRANGEMENTS

The terms of reference in [Schedule 2] shall apply to the HART Services

40 NON-FINANCIAL RESOURCES

Details of Non-Financial Resources to be committed to the HART Services are set out in the service specification embedded at paragraph 5 above.

41 STAFF

12.1 The Council shall operate policies on personnel matters for both staff and volunteers. These shall include appropriate arrangements for recruitment, checks for suitability, levels of qualification and/or experience for specific posts, registration requirements, appraisals, training, and development, and supervisory (managerially and professionally), disciplinary and grievance procedures, having regard to the nature of the Services, copies of which must be provided to the LLR ICBs on request. The Council shall ensure itself and its Staff and any subcontractors meet the obligations as detailed in these policies.

12.2 Before the Council engages or employs any person in the provision of the Services, or in any activity related to, or connected with, the provision of the Services, the Council must without limitation, complete:

(kk) **the Employment Checks; and**

(ll) **such other checks as required by the DBS.**

12.3 The Council must have policies and procedures which acknowledge and provide for ongoing monitoring of Staff DBS status.

12.4 The Council shall comply with the Public Interest Disclosure Act 1998 (as if such Act applied to the Council) and shall establish and where necessary update from time to time a procedure for its personnel encouraging personnel to report to the Council any incidents of malpractice within the Council or the LLR ICBs. In this context "malpractice" shall include any fraud or financial irregularity, corruption, criminal offences, failure to comply with any legal or regulatory obligation, endangering the health or safety of any individual, endangering the environment, serious misconduct, or serious financial maladministration.

42 ASSURANCE AND MONITORING

Details of the assurance and monitoring for the HART Services are set out in the specification embedded at paragraph 5 above.

43 LEAD OFFICERS

Partner	Name of Lead Officer	Address	Telephone Number	Email Address
Leicestershire County Council	Claire Jones	County Hall	0116 305773	Claire.Jones@leics.gov.uk
LLR ICB	Fay Bayliss Deputy Chief Operating Officer: Integration and Transformation	G30, Pen Lloyd, County Council, Glenfield	07717 346584	Fay.Bayliss@nhs.net

44 INTERNAL APPROVALS

This Individual Scheme has been approved in accordance with the lines of accountability described in the Agreement and in accordance with the Governance Arrangements.

45 RISK AND BENEFIT SHARE ARRANGEMENTS

[The Schedule 3] Financial Protocol shall apply to the HART Services.

46 REGULATORY REQUIREMENTS

Regulatory Requirements are set out in the specification embedded at paragraph 5 above.

47 INFORMATION SHARING AND COMMUNICATION

[The Protocol at Schedule 8] of this Agreement will apply to the HART Services. The Parties will comply with the requirements of the Information Sharing Agreement (and the requirement to have an Information Sharing Agreement in place), in respect of the HART Services.

48 DURATION AND EXIT STRATEGY

The provisions at [Clause 22] of the agreement will apply to the HART services.

In the event of the termination of the HART Services, howsoever arising (including expiry), the Council shall be required to agree a Succession Plan with the LLR ICBs.

In addition to the obligations set out at [Clause 22.6] of the Agreement, the Partners agree that 6 months' notice shall be given by the Council or the LLR ICBs in the event that they wish or require to terminate the provision/commissioning (as appropriate) of the HART Services (except in the case of Force Majeure).

49 OTHER PROVISIONS

49.1 The Council shall not be permitted to subcontract its obligations to deliver the HART Services without the express written agreement of the LLR ICBs.

49.2 Unless otherwise specified, the Council shall retain ownership of all Retained IPRs and the LLR ICBs shall own all Assigned IPRs (and the LLR ICBs shall determine between themselves whether the title, rights and interests in the Assigned IPRs shall continue to be held by them jointly or shall be allocated between them, and shall determine any such allocation of the title, rights and interests between themselves) and shall grant to the Council an irrevocable, unrestricted royalty-free license to use the Assigned IPRs.

**SCHEME SPECIFICATION Gynaecology Section 75 Schedule SCHEME
SPECIFICATION INTRAUTERINE SYSTEMS (IUS) FOR NON- CONTRACEPTIVE
PURPOSES**

Part 1A – Template Services Schedule

TEMPLATE SERVICE SCHEDULE

Unless the context otherwise requires, the defined terms used in this Scheme Specification shall have the meanings set out in the Agreement.

1. OVERVIEW OF INDIVIDUAL SERVICE

This schedule refers to the provision of LNG-IUS for non-contraceptive purposes by the Integrated Sexual Health Service and by Community based provision in General Practices for women who are resident in, Leicestershire or Rutland, which the local authority commissions behalf of the Integrated Care System - LEICESTER, LEICESTERSHIRE AND RUTLAND INTEGRATED CARE SYSTEM (LLRICS).

- a) Provision, review and subsequent removal, of Levonorgestrel Intrauterine System (LNG-IUS) for gynaecological (non-contraceptive) purposes including management of menorrhagia and hormone replacement therapy (HRT)
- b) Local authority commissions provision of LNG-IUS fitting, review, and removal on behalf of the Integrated Care Board (ICB).

The Section 75 service has zero value pooled budget, the ICB will pay on a cost per case basis for each IUS fitted, reviewed, or removed following a quarterly invoice from the local authority.

2. AIMS AND OUTCOMES

This agreement aims to provide the fitting and removal element of LNG-IUS for women requiring Levonorgestrel intrauterine system LNG-IUS fitting as management of menorrhagia or other gynecological purpose such as HRT, endometriosis etc. where clinically relevant, thus reducing the requirement for hysterectomy.

BACKGROUND

The (LNG-IUS) is an intrauterine, long-term progestogen-only method of contraception licensed for 5 years of use. The effects of the LNG-IUS are local and hormonal, including prevention of endometrial proliferation and thickening of cervical mucus and suppression of ovulation in a small minority of women. The system must be fitted and removed by a qualified practitioner. As well as being licensed as a contraceptive device, the LNG-IUS is also licensed

for the management of idiopathic menorrhagia.

Menorrhagia / Heavy menstrual bleeding is defined as excessive menstrual blood loss which interferes with the woman's physical, emotional, social and material quality of life, and which can occur alone or in combination with other symptoms. Any intervention should aim to improve quality of life measures. The Levonorgestrel-releasing intrauterine system (LNG-IUS) is recommended as first line treatment for women with heavy menstrual bleeding and no underlying pathology (dysfunctional uterine bleeding) and in some women with heavy menstrual bleeding and identified benign pathology such as small fibroids (less than 3 cm in diameter which are causing no distortion of the uterine cavity) provided that long-term use is anticipated (at least 12 months). The LNG-IUS may also be recommended, following gynaecological investigation, for the management of conditions such as endometriosis.¹

Evidence from two systematic reviews and one subsequent publication shows that LNG-IUS produces a clinically relevant reduction in menstrual blood loss in women complaining of heavy menstrual bleeding.²

Local defined outcomes

- Reduction in secondary care referrals to gynecology (in particular for menorrhagia)
- Reduction in number of hysterectomies
- Improved uptake of long-acting reversible contraception (LARC)
- Reduction in unplanned pregnancies
- Improved quality of life for women receiving the LNG-IUS
- Locally convenient service with improved access to care and reduced waiting times for LNG-IUS fitting
- Improved quality of care

3. THE ARRANGEMENTS

Leicestershire County Council will provide a lead commissioning arrangement for the LEICESTER, LEICESTERSHIRE AND RUTLAND INTEGRATED CARE BOARD (LLRICB), ensuring access to the service within the integrated sexual health service and community-based contracts.

4. FUNCTIONS

The 2012 Health and Social Care Act created fragmentation across the sexual health commissioning system. Local Authorities are responsible for commissioning coils (intrauterine devices (IUDs) and intrauterine systems (IUSs) for contraceptive purposes and ICBs are responsible for commissioning IUS for non-contraceptive/gynaecological purposes such as for menorrhagia.

The fitting of IUSs for either purpose must be delivered within the same clinical guidelines, quality and service standards, including insertion by appropriately trained/qualified

¹ Heavy menstrual bleeding: assessment and management. Clinical guideline. National Institute for Health and Care Excellence. 2018. Last updated May 2021.

² <https://www.nice.org.uk/guidance/ng88/evidence/full-guideline-pdf-4782291810>
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practitioners. Therefore, the ICB will delegate the function for IUS fitting, review, and removal for gynaecological, non-contraceptive purposes to Local Authorities to deliver as combined contraceptive and non-contraceptive services. This enables better use of resources and improved access for women.

Contract management and clinical governance arrangements will be led by the local authority as part of their existing contracts. Performance and financial monitoring of this schedule will be undertaken through the quarterly Integrated Finance and Performance meetings which are part of the Integration Executive's governance arrangements. The ICB will be provided with quarterly performance reports, results of the annual LARC audits and informed of any clinical governance issues/risks relating to the service as required. The ICB will be required to pay for the reconciled quarterly activity on a cost per case basis within 30 days of receiving the invoice.

The LLRICB will pay on a cost per case basis for each IUS fitted, reviewed, or removed non contraceptive purposes including Menorrhagia following a quarterly invoice from the local authority.

5. SERVICES

Delivery of this delegated service is outlined within the current contracts allowing the Local Authority commissioned integrated sexual health service and community-based services for IUS to include provision of IUS for non-contraceptive purposes upon referral from the patient's own GP.

The Service(s) will be required to:

- **Ensure all clinicians delivering the service are fully qualified** including having up to date Letter of Competencies in IUD/S fitting.
- **Fit, review and remove LNG-IUS as appropriate** for the management of menorrhagia or other gynecological purposes. This includes confirming the woman is not pregnant at time of IUS fitting.
- **Maintain an up-to-date register of patients fitted with an LNG-IUS.** This will include the name of the clinician and details of the device fitted. This is to be used for the annual audit purposes as well as call and recall.
- **Provide adequate equipment.** Certain special equipment is required for fitting and removal. This includes an appropriate treatment room fitted with a couch and with adequate space, emergency equipment and drugs for resuscitation. For LNG-IUS fittings, a variety of vaginal specula, (and if skills allow cervical dilators, and equipment for cervical anaesthesia) need to be available and meet sterilisation requirements. Women should be informed about the availability of local anaesthesia and offered where possible. An appropriately trained assistant also needs to be present in the building to support the patient and assist the doctor during LNG-IUS procedures if required.
- **Undertake a risk assessment.** To assess the need for sexually transmitted infection (STI) or HIV testing and advice.
- **Assessment and follow up** in accordance with national clinical guidelines.

- **Wait times.** Patients will be seen within 6 weeks of referral. Patients seen outside of this timescale to be reported to the contract manager by exception. GPs of patients who cannot be seen within the 6-week period should be notified.

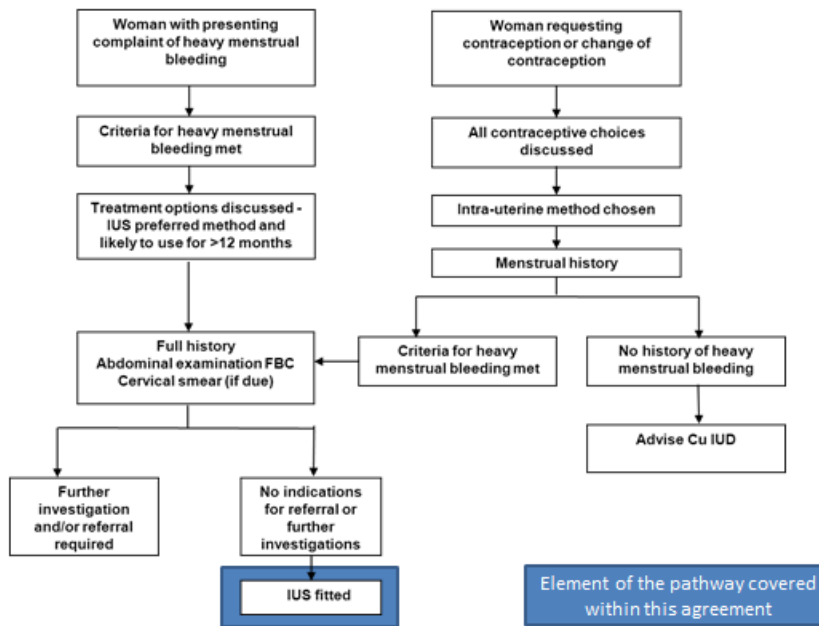
Follow-up arrangements:

Patient information and follow-up arrangements include:

- Appropriate verbal and written information, about the effectiveness, duration of use and side effects of all options for the management of menorrhagia, should be provided at the time of counselling and reinforced at fitting with information on follow up, effectiveness, duration of use, side effects and those symptoms that require urgent assessment.
- All women should be advised to seek immediate medical advice if they develop symptoms of fever, pelvic pain, irregular bleeding or vaginal discharge which might indicate infection. Arrangements should be in place to review patients experiencing problems in a timely fashion and to provide information and treatment.
- All women should be advised to seek medical advice if threads are not palpable or they can feel the stem of the IUS.
- A routine follow-up visit can be advised after the first menses following insertion of LNG-IUS, or 3-6 weeks later. However, this is not essential, and it is more important to advise women as to signs and symptoms of infection, perforation, and expulsion, returning if they have any problems relating specifically to the intrauterine method.
- Follow up that does not relate specifically to the insertion of the LNG-IUS i.e., related to the overall gynecological condition is not included in this agreement. This remains part of the general GMS/PMS contract.

All the above should be recorded in the patient record.

Algorithm for use of LNG-IUS for management of gynaecological conditions such as menorrhagia



Applicable national standards

- NICE clinical guideline 44 (March 2018. Last updated May 2021) *Heavy Menstrual Bleeding: assessment and management.*
- Referral guidelines for suspected cancer – gynecological cancers (Implemented Oct 2000 DOH)
- NICE (2005a) *Referral guidelines for suspected cancer: quick reference guide.* Clinical guideline 27. National Institute for Health and Clinical Excellence.
- NICE (2005b. Last updated July 2019) *Long-acting reversible contraception NICE guidance.* National Institute for Health and Clinical Excellence.
- NICE (2007a) *Heavy menstrual bleeding: understanding NICE guidance.* National Institute for Health and Clinical Excellence.
- RCOG (1998) *The initial management of menorrhagia.* Evidence-based clinical guidelines no.1. Royal College of Obstetricians and Gynecologists.
- FSRH Uk Medical Eligibility Criteria for Contraceptive Use | UKMEC 2016(Amended September 2019) NICE *support for commissioning for heavy menstrual bleeding.* (September 2013) Last updated: 16 October 2020
- FSRH CEU Clinical Guidance *Intrauterine Contraception.* (2015) (Amended September 2019)

Applicable local standards

The Provider shall demonstrate compliance with the following standards:

- Healthcare professions providing the service must hold membership of an approved professional body and be approved and eligible to practice in a setting that is appropriate to deliver this service as detailed in the specification, including DBS check.

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- Device shall be inserted by appropriately trained/qualified practitioner as detailed in flowchart below.
- Standards relevant to premises requirements including:
 - Appropriate CQC registrations must be in place
 - A procedure for cleaning of the environment must be in place based on national guidance and audited
 - Hand hygiene training of staff involved
 - Equipment cleaning protocol based on national guidance must be in place
- The Provider shall cooperate in any announced and unannounced quality visits by the Commissioner.
- Provider must meet all standards of overarching existing contracts.

Quality and Monitoring Requirements of providers:

Quarterly reporting (in arrears) of:

- Number IUS inserted for
 - contraceptive purpose
 - gynecological purposes
 - joint contraception/gynecological purposes

Annual reporting of:

- Numbers of complex patients further referred from community-based service providers onto gynaecology or integrated sexual health service. (based on audit returns)
- Numbers of serious complications in community-based services: e.g., perforations at time of insertion (based on audit returns)
- Patient satisfaction surveys (Generic information in relation to the integrated sexual health service)
- LARC audit for community-based services practitioner providers.

Beneficiaries:

Beneficiaries are women residing or registered in Leicestershire and Rutland that require IUS insertion for gynaecological, non-contraceptive purposes such as menorrhagia.

6. COMMISSIONING, CONTRACTING, ACCESS

Commissioning Arrangements

Leicestershire County Council will provide a lead commissioning arrangement for the LLRICB, ensuring access to the service within the integrated sexual health service and community-based contracts for Leicestershire and Rutland residents.

Contracting Arrangements

Leicestershire County Council and Rutland County Council already commission IUD/S provision for contraceptive purposes from:

- a) General practices in their respective localities via community-based contracts, including opportunity to deliver at Federation and Primary Care Network level
- b) The Integrated Sexual Health Service, the service specification includes IUS.

Contract management and clinical governance arrangements will be led by the local authority as part of their existing contracts. Performance and financial monitoring of this schedule will be undertaken through the quarterly Integrated Finance and Performance meetings which are part of the Integration Executive's governance arrangements. The ICB will be provided with quarterly performance reports, results of the annual LARC audits and informed of any clinical governance issues/ risks relating to the service as required. The ICB will be required to pay for the reconciled quarterly activity on a cost per case basis within 30 days of receiving the invoice.

Either party can terminate the contract in full by providing 12 months formal written notice to the other party. All activity relating to this notice period would be invoiced by the local authority and need to be paid by the ICB. Local Authorities would need to implement contract variations with the relevant providers within 10 working days of receiving the notice.

Access

Referral will be via General Practice in order to ensure assessment and ongoing management of gynaecological issues which will not be included in this agreement.

7. FINANCIAL CONTRIBUTIONS

This schedule of the Section 75 has zero (£0) value, instead the ICB will pay on a cost per case basis for each IUS fitted, reviewed, or removed following a quarterly invoice (in arrears) from the local authority. No pooled budget will be established between the ICB and local authority.

The ICB will reimburse the local authority for IUS services for gynaecological purposes such as menorrhagia with costs split as follows:

- IUS fitted for gynaecological purposes (such as menorrhagia) only are funded by Leicester Leicestershire and Rutland ICB for patients registered /residing in their locality.
- IUD/S fitted for contraception only are funded by Leicestershire County Council (for patients' resident in Leicestershire) and Rutland County Council (for patients resident in Rutland).
- IUS fitted for joint gynaecological purposes (such as menorrhagia) and contraception purposes are funded on a 50/50 split between the LLR ICB and Leicestershire County Council (for Leicestershire residents) and Rutland County Council (for patients resident in Rutland).

The cost of each IUS fitting will be aligned with the local authority existing payment structures for the integrated sexual health service and community-based service. The ICB will be informed of these on an annual basis. Current costs for 2024/25 are:	Community Based Service (CBS) Contract	Specialist Sexual Health Service Contract from 1st January 2019
IUS Fit	£90.00	£143.66
IUS post-fitting review (if required in accordance with FSRH guidance)	Included in CBS IUS Fit payment.	£65.69
Device cost (LNG-IUS)	Cost reimbursed by practice prescribing route.	Included in unit price of fit
IUS Removal	£20.00	Part of SRH standard tariff
Complex fit/removal. (SRH Complex Tariff)	N/A	£216.25

The local authority will not charge the ICB for existing contract management, new quarterly performance reports and invoices. If additional work is needed this would need specific negotiation between the two parties.

Activity to date suggests that the estimated cost to the ICB would not exceed £61,000 per annum.

Financial resources in subsequent years to be determined in accordance with the Agreement

8. FINANCIAL GOVERNANCE ARRANGEMENTS

There will be a zero-based pooled fund for this schedule. The ICB will be charged on a cost per case basis on a quarterly basis in arrears following completion of the activity.

Audit Arrangements

The Public Health department within the local authority will provide:

- Quarterly performance report detailing the number of IUS fits, reviews and removals by individual provider, the split of the cost (i.e. 100% or 50% ICB depending if also for contraception)
- Quarterly invoice for the activity in the previous quarter

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- Annual LARC audit summary report for CBS service providers detailing the number of LARC fitters, their qualifications, complication rates and action taken. (Dependent on timely submission of completed audits from CBS providers)

These will be reported quarterly via the Integrated Finance and Performance meetings which are part of the Joint Commissioning Group meeting.

9. VAT

The local authority VAT regime will apply.

10. GOVERNANCE ARRANGEMENTS

The schedule will be managed through the quarterly Integrated Finance and Performance meetings which are part of the Integration Executive's governance arrangements. Lead officers are named in Section 14.

11. NON-FINANCIAL RESOURCES

Support is required from the CCG to develop the section 75, monitor progress and ensure timely reimbursement

12. STAFF

No staff will be transferring from either organisation. Representatives from each organisation are required to develop and maintain the performance monitoring arrangements of this schedule.

13. ASSURANCE AND MONITORING

Contract and assurance monitoring will be extended to include IUS fitting for menorrhagia/gynaecological purposes within the existing processes for the Public Health Community Based Contract and Specialist Integrated Sexual Health Service contracts.

14. LEAD OFFICERS

Partner	Name of Lead Officer	Address	Telephone Number	Email Address
Council	Mike Sandys	Leicestershire County Council, County Hall, Glenfield, LE3 8TB	0116 305 4329	mike.sandys@leics.gov.uk
LLRICB				

15. INTERNAL APPROVALS

Developing a more coordinated approach to sexual health commissioning has been approved at Leicestershire County Cabinet as part of the Leicestershire Sexual Health Strategy (2020-2023) – 23 June 2020 Papers available at <https://bit.ly/3VFp3sp>

16. RISK AND BENEFIT SHARE ARRANGEMENTS

Majority of the risks are managed as part of the existing local authority core public health business, due to the statutory responsibility to provide an open access sexual health service. The key risk to the ICB is if activity levels are higher than predicted. This will be monitored on a quarterly basis and the ICB has the ability to provide the local authority 12 months' notice if they wish to cease the arrangement.

17. REGULATORY REQUIREMENTS

All clinician's providing the service must have an up to date letter of competency in IUS/D fitting, as per the contract specification This is managed as part of existing public health contract management.

18. INFORMATION SHARING AND COMMUNICATION

Data reports will be developed using the existing provider structures (Pathway analytics for the integrated sexual health service and the community-based service portal for primary care.)

No patient specific information will be shared as part of this agreement. High level data only will be shared (numbers of patients in order to recharge).

19. DURATION AND EXIT STRATEGY

Either party can terminate the contract in full by providing 12 months formal written notice to the other party. All activity relating to this notice period would be invoiced by the local authority and need to be paid by the ICB. Local Authorities would need to implement contract variations with the relevant providers within 10 working days of receiving the notice. The schedule will be reviewed on an annual basis.

PART 2– agreed scheme specifications

INSERT BETTER CARE FUND DRAFT 2024-25



Leicestershire HWB -
BCF 2024-25 Plannin

GOVERNANCE

1 Integration Executive

1.1 The membership of the Integration Executive will be as follows:

1.1.1 ICB: Leicester, Leicestershire and Rutland ICB

or a deputy to be notified to the other members in advance of any meeting;

1.1.2 the Council: Leicestershire County Council

or a deputy to be notified in writing to Chair in advance of any meeting;

2 Role of the Integration Executive

The Integration Executive shall:

2.1 Provide strategic direction on the Schemes

2.2 receive the financial and activity information;

2.3 review the operation of this Agreement and performance manage the individual Services;

2.4 agree such variations to this Agreement from time to time as it thinks fit;

2.5 review and agree annually a risk assessment;

2.6 review and agree annually revised Schedules as necessary;

2.7 request such protocols and guidance as it may consider necessary in order to enable teach Pooled Fund Manager to approve expenditure from a Pooled Fund;

2.8 cooperate with the Pooled Fund Manager in meeting reporting requirements in accordance with relevant National Guidance; and

2.9 report directly to the Health and Wellbeing Board on a Quarterly basis in accordance with relevant National Guidance.

3 Integration Executive Support

The Integration Executive will be supported by officers from the Partners from time to time.

- 4.1 The Integration Executive will meet Quarterly at a time to be agreed following receipt of each Quarterly report of the Pooled Fund Manager.
- 4.2 The quorum for meetings of the Integration Executive shall be a minimum of [one representative from each of the Partner organisations].
- 4.3 Decisions of the Integration Executive shall be made unanimously. Where unanimity is not reached then the item in question will in the first instance be referred to the next meeting of the Integration Executive. If no unanimity is reached on the second occasion it is discussed then the matter shall be dealt with in accordance with the dispute resolution procedure set out in the Agreement.
- 4.4 Where a Partner is not present and has not given prior written notification of its intended position on a matter to be discussed, then those present may not make or record commitments on behalf of that Partner in any way.
- 4.5 Minutes of all decisions shall be kept and copied to the Authorised Officers within [one (1) week] of each meeting.

5 Delegated Authority

- 5.1 The Integration Executive is authorised within the limited of delegated authority for its members (which is received through their respective organisation's own financial scheme of delegation) to:
- 5.1.1 to authorise commitments which exceed or are reasonably likely to lead to exceeding the contributions of the Partners to the aggregate contributions of the Partners to any Pooled Fund; and
- 5.1.2 to authorise a Lead Commissioner to enter into any Service Contract necessary for the provision of Services under a particular Scheme.

6 Information and Reports

Each Pooled Fund Manager shall supply to the Integration Executive on a Quarterly basis the financial and activity information as required under the Agreement.

The Integration Executive shall continue to operate in accordance with this Schedule following any termination of this Agreement but shall endeavour to ensure that the benefits of any contracts are received by the Partners in the same proportions as their respective contributions at that time.

FINANCIAL ARRANGEMENTS

- 1 Unless the context otherwise requires, the defined terms used in this Schedule shall have the same meanings as set out in clause 1 of the main body of Agreement.
- 2 Subject to any contrary provision in the relevant Scheme Specification, the Partners agree that Overspends or Underspends shall be managed in accordance with this Schedule 3.

3 Financial Contributions:

<u>BCF Plan</u>	<u>LLR ICB</u>	<u>LCC/DC</u>	<u>Total</u>
ICB Minimum Contributions	51,507		51,507
Disabled Facilities Grants (DFG)		4,851	4,851
Improved Better Care Fund (iBCF)		17,691	17,691
Discharge Fund	4,356	4,134	8,490
Total Funding	55,863	26,676	82,539

Financial Year 2024/2025

	ICB Contribution	Council Contribution
Pooled Fund		
Non-Pooled Fund		

Financial resources in subsequent years to be determined in accordance with the Agreement.

4 VAT:

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

Subject to Clause 14.1, Services commissioned by the Council will be subject the VAT regime of the Council and Services commissioned by the LLR ICBs will be subject to the VAT regime of the National Health Service.

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

Subject to Clause 12.3, the Host Partner for of the relevant Pooled Fund shall manage its expenditure on the Individual Schemes within the Financial Contributions allocated to them and shall ensure that the expenditure is limited to Permitted Expenditure. The Host Partner shall report its expenditure of Financial Contributions to the Pooled Fund Manager and shall notify the Pooled Fund Manager of potential and actual Overspends and Underspends.

The Pooled Fund Manager shall not be in breach of its obligations under this Agreement if an Overspend occurs PROVIDED THAT it has used reasonable endeavors to ensure that the only expenditure from a Pooled Fund has been in accordance with Permitted Expenditure and it has informed the Partnership Board in accordance with Clause 12.4

In the event that the Pooled Fund Manager identifies or is notified of an actual or projected Overspend in relation to any Individual Scheme or Service, the Pooled Fund Manager must ensure that the Partnership Board is informed as soon as reasonably possible, and the provisions of Schedule 3 shall apply.

6 Overspends – Pooled Fund

6.1 The **Integration Executive** shall consider what action to take in respect of any actual or potential Overspends.

6.2 The **Integration Executive shall**, acting reasonably having taken into consideration all relevant factors including, where appropriate the Better Care Fund Plan and any agreed outcomes and any other budgetary constraints, agree appropriate action in relation to Overspends which may include the following:

6.2.1 whether there is any action that can be taken in order to contain expenditure;

6.2.2 whether there are any underspends that can be transferred from any other fund maintained under this Agreement;

6.2.3 how any Overspend shall be apportioned between the Partners, such apportionment to be just and equitable taking into consideration all relevant factors.

6.3 The Partners agree to co-operate fully in order to establish an agreed position in relation to any Overspends. With the exception of the HART service overspends on each Individual Scheme included in the Better Care Fund Plan are the responsibility of the Partner responsible for commissioning that Individual Scheme and will not be funded from the Pooled Fund, unless agreed by all the Partners. Where Overspends on Individual Schemes have been agreed, these shall be funded from: Current Financial Year Underspend on other Individual Schemes funded through the Better Care Fund, or if there is no such Underspend.

6.4 2. Agreed additional partner contributions at the time individual scheme overspends are agreed by Partnership Board.

6.5 With the exception of the HART service underspends in respect of Individual Schemes from a Financial Year will:

6.6 Be used to offset Overspends in other Individual Schemes where all Partners agree (unless the underspend s as a result of a delay in the commencement of the provision of Services which will result in a financial commitment in the next Financial Year in respect of that Individual Scheme).

6.7 Be returned to partners in proportions as agreed by Partnership Board and in accordance with National Guidance.

7 Overspends – Non-Pooled Fund

Where is an Overspend in a Non-Pooled Fund at the end of the Financial Year or at termination of the Agreement such Overspend shall be met by the Partner whose financial contributions to the relevant Non-Pooled Fund were intended to meet the expenditure to which the Overspend relates save to the extent that such Overspend is not the fault of the other Partner.

8 Underspends - Pooled Fund

[Include what will happen if there is underspend in relation to

The Pooled Fund as a whole;

Any particular Scheme;

Will unspent monies go back to the Lead Commissioner for the Scheme that has underspent? If a Scheme does not get off the ground will the Lead Commissioner for that Scheme get to retain the money or get the choice of where it is invested or will it go back to the Integration Executive? What happens to unspent contingency?]

Part 2 - Financial Risk Management and Risk Sharing of the HART Service Overarching Principles

1. The following principles apply in relation to the management of the Pooled Fund for HART Services:

The HART Service will be paid for from the Pooled Fund. Payments will be calculated based on fixed percentages for each party of the actual costs.

The Council's Medium Term Financial Strategy and the LLR ICBs' QIPP efficiency savings will not operate under a risk sharing basis, each Partner will manage this risk individually.

Contributions to the Pooled Fund

1. Contributions to the Pooled Fund in 2024/25 will be as set out in table 1 below. Please note that the LCC budget is shown pre April 24 pay award. This figure will change once the Budget is uplifted for inflation.

	LLR ICB	LCC	Total
Budget	1,784,350	6,430,408	8,214,758
Funding Percentage	21.7	78.3	100
Forecast Spend	1,696,824	6,114,984	7,811,808

2. Partner's contributions into the Pooled Fund shall be reviewed and, where necessary, adjusted annually on 1st April or at a later date as agreed by the Partnership Board

In order to manage costs effectively, and to ensure that there are no inappropriate Referrals into the HART Services, the LLR ICBs will consistently apply the eligibility criteria (as set out in the Hospital Discharge Screening Tool) for the HART Services.

3. The hourly rates used in calculating costs will be the actual cost of the Services.

4. Financial monitoring will be undertaken by the Council throughout the financial year and will report to LLR ICBs details of:

- Actual expenditure.
- Forecast for the financial year based on trends.
- Any forecast overspends or underspend in the reablement pool.
- Outcomes of assessment following the reablement episode.

5. At the end of the financial year a reconciliation of expenditure in the Pooled Fund will be undertaken by the Council. Unless otherwise agreed by all Partners, any overspends, or underspends will be shared by Partners on the basis of their proportional contribution into the Pooled Fund as outlined in table 1.

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6. Each Partner will advise the other Partners at the earliest opportunity of any issues that will impact on the cost and/or volume of activity in the Pooled Fund.

Financial Governance

1. Financial aspects of the HART Services will be presented to and jointly assured by the Integration Finance and Performance Group

JOINT WORKING OBLIGATIONS

PART 1 - LEAD COMMISSIONER OBLIGATIONS

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

1 The Lead Commissioner shall notify the other Partner if it receives or serves:

- 1.1 a Change in Control Notice;
- 1.2 a Notice of an Event of Force Majeure;
- 1.3 a Contract Query;
- 1.4 Exception Reports,

and provide copies of the same.

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

- 2.1 CQUIN Performance Reports;
- 2.2 Monthly Activity Reports;
- 2.3 Review Records; and
- 2.4 Remedial Action Plans;
- 2.5 JI Reports;
- 2.6 Service Quality Performance Report;

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

- 3.1 an Activity Management Meeting;
- 3.2 Contract Management Meeting; or
- 3.3 Review Meeting,

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

- 4.1 permanently or temporarily withhold or retain monies pursuant to the Withholding and Retaining of Payment Provisions;
- 4.2 vary any Provider Plans (excluding Remedial Action Plans);
- 4.3 agree (or vary) the terms of a Joint Investigation or a Joint Action Plan;
- 4.4 give any approvals under the Service Contract;
- 4.5 agree to or propose any variation to the Service Contract (including any Schedule);
- 4.6 suspend all or part of the Services;
- 4.7 serve any notice to terminate the Service Contract (in whole or in part);
- 4.8 serve any notice;
- 4.9 agree (or vary) the terms of a Succession Plan;

without the prior approval of the other Partner (acting through the **Integration Executive**) such approval not to be unreasonably withheld or delayed.

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

PART 2 - – OBLIGATIONS OF THE OTHER PARTNER

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

- 1 Each Partner shall (at its own cost) provide such cooperation, assistance and support to the Lead Commissioner (including the provision of data and other information) as is reasonably necessary to enable the Lead Commissioner to:
 - 1.1 resolve disputes pursuant to a Service Contract;
 - 1.2 comply with its obligations pursuant to a Service Contract and this Agreement;
 - 1.3 ensure continuity and a smooth transfer of any Services that have been suspended, expired or terminated pursuant to the terms of the relevant Service Contract;
- 2 No Partner shall unreasonably withhold or delay consent requested by the Lead Commissioner.

- 3 Each Partner (other than the Lead Commissioner) shall:
- 3.1 comply with the requirements imposed on the Lead Commissioner pursuant to the relevant Service Contract in relation to any information disclosed to the other Partners;
 - 3.2 notify the Lead Commissioner of any matters that might prevent the Lead Commissioner from giving any of the warranties set out in a Services Contract or which might cause the Lead Commissioner to be in breach of warranty.

BETTER CARE FUND PLAN



Leicestershire HWB -
BCF 2024-25 Plannin

POLICY FOR THE MANAGEMENT OF CONFLICTS OF INTEREST

The Partners shall comply with the LLR ICB's policy for identifying and managing conflicts of interest which aligns with the guidance published by NHS England: <https://www.england.nhs.uk/long-read/managing-conflicts-of-interest-in-the-nhs/>

INFORMATION GOVERNANCE PROTOCOL

Context

This protocol defines the framework for the sharing of information by agencies operating within Leicester, Leicestershire, and Rutland. Partners in Leicestershire have supported an ISP since 2009. This review covers General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

This protocol seeks commitment to put in place the arrangements required to ensure secure and appropriate sharing of information and data, whilst maintaining the controls (largely through agreements) that give assurance and accountability and respects the right to privacy.

The information sharing framework has a number several tiers. Governance arrangements are indicated in brackets for each tier.

- National framework for sharing information – legislation and codes of practice (National Government / ICO)
- Commitments contained in this Information Sharing Protocol v 6.0 (Chief Officers, Partnership Boards)
- Guidance, training, tools (Strategic Information Management Group - SIMG, Organisational governance frameworks)
- Information sharing agreements (Managers, organisational governance frameworks)

Protocol

This Information Sharing Protocol provides a commitment by the signatories to ensure that a framework is in place that facilitates the sharing of information between partners and respects the individual's right to privacy. Information sharing is increasingly important in the provision of services to our communities.

To this end, the signatories commit to:

- Sharing information within a framework where it supports the provision of better services to our service users, patients, customers, and communities.
- Ensuring that a Data Protection Impact Assessment (DPIA) is undertaken for any proposed sharing arrangement
- Ensuring that in sharing information:
 - There is a legal basis for the proposed sharing
 - The sharing is fair and covered by an appropriate privacy/fair processing notice (Transparent)
 - There is a clearly defined and agreed purpose for the sharing
 - It accords with GDPR, and the Data Protection Act 2018 (DPA 2018)
 - Only appropriate information is shared,
- Ensuring that written information sharing agreements are developed and monitored for regular sharing of information and data.
- Working with partners to develop guidance / tools (technical and non-technical) to support good information sharing.
- Putting in place governance that ensures that managers and staff are aware of their responsibilities and recognize the need to work with partners.
- Training staff on information sharing and management.
- Communicating the importance of appropriate information sharing to staff.
- Ensuring early consideration of information issues in service developments. Privacy by Default and Design

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- Being transparent with service users about how their personal data is going to be used and respecting their privacy.
 - Ensuring adherence, where appropriate to:

The ICO's Data Sharing Code of Practice

Department of Health guidance on information sharing e.g., ‘Striking the Balance’

- The Caldicott Principles
- NHS guidance on information sharing

When sharing information, each signatory will commit to:

- a) Ensuring that when acting as the Data Controller for information they will apply the conditions set out in the Information Sharing Agreement (ISA) and assume responsibility under the DPA.
- b) Ensuring any new ISA will set out the purpose, use and scope of the data to be shared, the point at which responsibility moves from one Data Controller to another or the circumstances where the role of Data Controller is exercised together and the responsibilities of each agency signing this ISA
- c) Ensuring that any new ISA will be specific and clearly identify only the data that needs to be shared.

Information security is important, both for the interests and privacy of individuals, and also for the reputation of our organisations. Signatories will drive the development of a culture in which their organisations work together to investigate incidents and put in place measures to reduce the risk of repetition. This partnership culture is central to facilitating information sharing.

The Strategic Information Management Group will support the delivery of the partnership aspects of these commitments. Signatories will commit to supporting the work of SIMG as it relates to this protocol. The partnership aspects include (for example):

- Aligned policy across partners, where relevant
- Shared guidance
- Shared training
- A coordinated register of information sharing agreements
- Shared operational arrangements such as information security incident handling
- Aligned communications

Developing these partnership aspects requires signatories to ensure that appropriate resources are made available from within their organisations.

Agreement: We the undersigned do hereby agree to implement the terms and conditions of this Protocol.

Name.....

Title

Signature

Organisation.....

Date

Signed by **John Sinnott** for and on behalf of **LEICESTERSHIRE COUNTY COUNCIL**

.....

Authorised Signatory

Signed by **Rachna Vyas** for and on behalf of **the NHS LEICESTER, LEICESTERSHIRE AND RUTLAND INTEGRATED CARE BOARD**

.....

Authorised Signatory