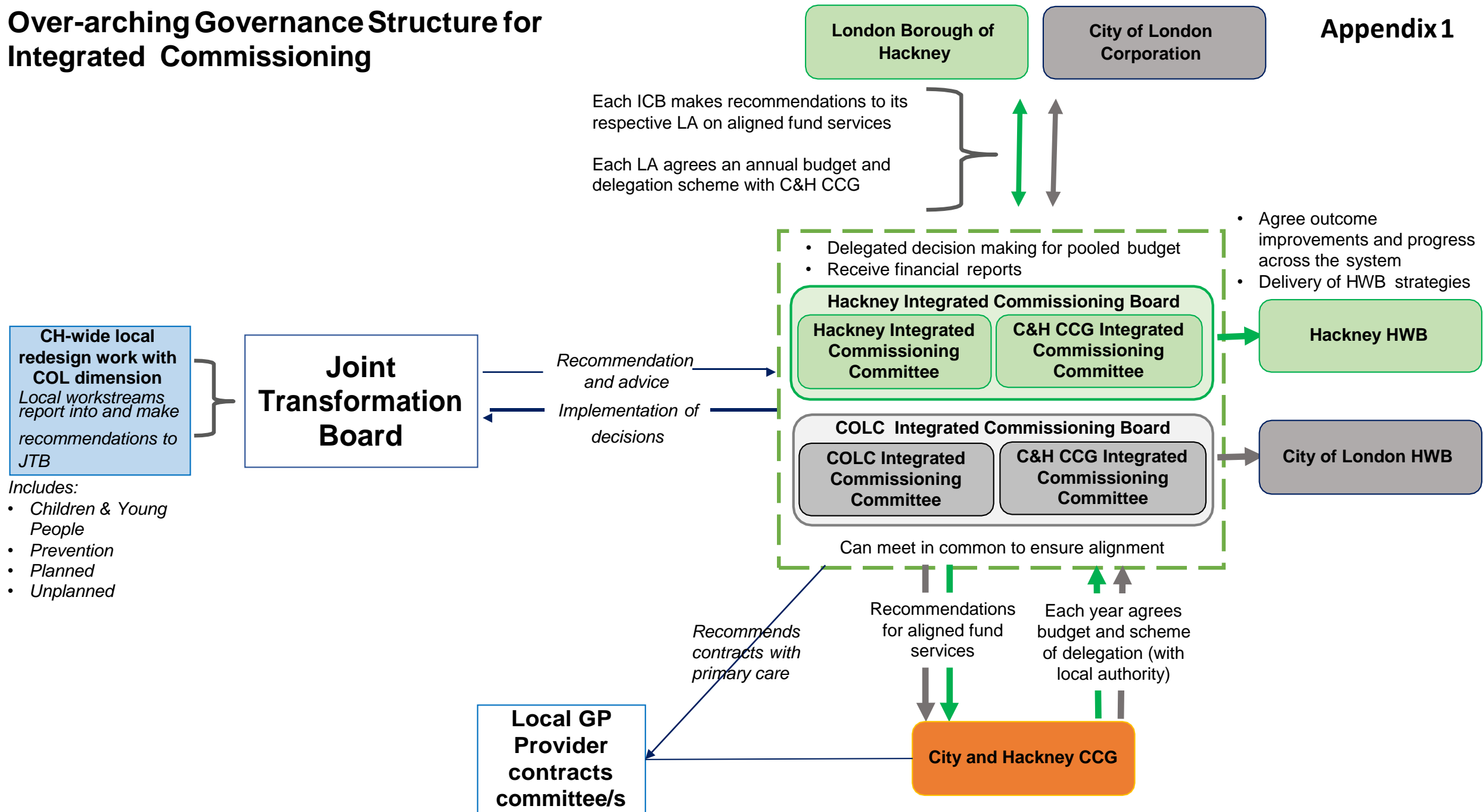


Over-arching Governance Structure for Integrated Commissioning



**NHS City & Hackney Clinical Commissioning Group, London Borough of Hackney and
City of London Corporation Integrated Commissioning Fund**

Transformation Board

Terms of Reference

Overview

The Transformation Board (the Board) is a working group of the Integrated Commissioning Boards (ICBs) established respectively by NHS City & Hackney Clinical Commissioning Group (the CCG) and London Borough of Hackney (LBH) and by the CCG and City of London Corporation (COLC).

The Board is a forum for discussion of service requirements and commissioning plans in the LBH and COLC areas, with the aim of making separate recommendations to each ICB reflecting the needs of each area unless it is more appropriate to make combined recommendations. The Board has no delegated authority so will take no decisions other than to agree recommendations to the ICBs. As the Board has no delegated authority, recommendations made by the Board shall in fact simply be a shared view of the individual members, each of whom shall individually be authorised to do so by his or her respective appointing organisation.

The Board will link to, and receive commissioning and service inputs from the CCG's consortia, Healthwatch within LBH and COLC, patient and public involvement groups, and other partners across the area to inform its plans.

It will:

- provide advice and recommendations to each ICB in a timely manner as appropriate reflecting the needs of each, to ensure that the local health and social care economy achieves performance requirements and remains in financial balance;
- make recommendations on plans required to improve health and social care outcomes for local people and achieve the locality plan;
- Take responsibility for the redesign, transformation and integration of services, overseeing and coordinating the system workstreams
- make recommendations on changes to contractual arrangements to achieve the plans and deliver integrated service provision; and
- ensure that plans achieve the Health and Wellbeing strategies of LBH and COLC, meet the statutory responsibilities of the commissioners, deliver the local contribution to the North East London Sustainability and Transformation Plan (NEL STP) and in doing so have regard to the need to reduce inequalities and improve outcomes.

Accountability and Reporting

The Board is accountable to the ICBs and it will submit recommendations to them for debate and approval.

Scope

The Board's remit is in respect of services that are within the Integrated Commissioning Fund (ICF), i.e. pooled fund services, and others, and i.e. aligned fund services that are excluded from the ICF. The CCG, LBH and COLC shall determine the funds, and therefore the services, that are to be pooled

and aligned at any time. Once defined, the remit will be stated in these Terms of Reference or in another appropriate document that is provided to the Board.

The Board shall make no decisions on any matter other than to make recommendations to the ICBs in respect of all services within its remit. For pooled funds the ICBs shall have delegated authority to make the necessary commissioning and procurement decisions. For aligned funds, or funds that are otherwise excluded from the pooled fund, the ICBs shall make recommendations to the CCG, LBH and COLC as appropriate.

The Board shall make recommendations to the ICBs in respect of primary care or local GP providers; where these cover core primary care, the authority to make decisions rests with the CCG's Local GP Provider Contracts Committee. Where these relate to other services to be commissioned from primary care providers the ICBs will seek independent advice and scrutiny on the Board's proposals from the CCG Local GP Provider Contracts Committee.

The Board is responsible for ensuring that there are robust delivery arrangements in place which fully integrate and align services to achieve improved outcomes and achieve financial balance.

The Board has agreed 4 key work-streams to organise our work – prevention, unplanned care, children and young people, and planned care – and a number of enabler work-streams to ensure that the infrastructure is in place to achieve our local delivery arrangements. All of these work-streams and groups report to the Board and operate under the direction of the Board.

The Board also has a responsibility to recommend to the ICBs the amount of the ICF that should be spent on commissioning management and administrative support, ensuring that this represents value for money when assessed against resident-facing services.

Objectives

To support the ICBs by discussing issues and making recommendations to enable the ICBs to:

Commissioning strategies and plans

- Lead the commissioning agenda of the locality, including inputs from, and relationships with, all partners
- Ensure financial sustainability and drive local transformation programmes and initiatives
- Determine and advise on the local impacts of commissioning recommendations and decisions taken at a NEL level
- Ensure that the Locality plan is delivering the local contribution to the ambitions of the NEL STP
- Lead the development and scrutiny of annual commissioning intentions including the monitoring, review, commissioning and decommissioning of activities and making recommendations on these to the ICBs
- Provide advice to the ICBs in respect of primary care to enable the ICBs to make recommendations, where necessary, to the CCG's Local GP Provider Contracts Committee

- Ensure that the locality plan delivers constitutional requirements, financial balance, and supports the improvement in performance and outcomes established by the Health and Wellbeing Boards
- Promote health and wellbeing, reduce health inequalities, and address the public health and health improvement agendas in making commissioning recommendations
- Ensure commissioning decisions are made by the ICBs in a timely manner that address financial challenges of both the in-year and longer term plans
- Ensure that local plans can demonstrate their impact on City and Hackney residents and where appropriate City workers, are suitably tailored to meet the different needs of the 2 geographical areas.

Service re-design

- Review and recommend for approval all clinical and social care guidelines, pathways, service specifications, and new models of care. This will include new or revised pathways which support the movement of services into the community, contain demand and achieve service integration. In providing this support to the ICBs the Board will identify where there are material changes to existing arrangements, and therefore will advise on all contractual and financial enhancements or amendments as well as ensuring delivery and implementation
- Ensure all local guidelines, service specifications and pathways are developed in line with NICE and other national evidence, best practice and benchmarked performance
- Drive continuous improvement in all areas of commissioning, pathway and service redesign delivering increased quality performance and improved outcomes
- Ensure that services are designed and delivered, using “design lab” principles – i.e. co-developed by residents and practitioners working together.

Contracting and performance

- Oversee the annual contracting and planning processes and ensuring that contractual arrangements are supporting the ambitions of the CCG, LBH and COLC to transform services, ensure integrated delivery and improve outcomes
- Oversee local financial and operational performance and decisions in respect of investment and disinvestment plans
- Oversee generally the implementation of the ICBs' decisions in respect of commissioning and procurement of services to ensure that objectives are achieved.

Stakeholder engagement

- Ensure adequate structures are in place to support patient, public, service user, and carer involvement at all levels and that the equalities agenda is delivered,
- Ensure that arrangements are in place to support collaboration with other localities when it has been identified that such collaborative arrangements would be in the best interests of local patients, public, service users, and carers
- Ensure and monitor on-going discussion between the ICBs and provider organisations about long-term strategy and plans.

Programme management

- Oversee the work of the work-streams and enabler groups, including agreeing Terms of Reference and workplans, reviewing progress against action plans and ensuring system wide implications are considered
- Ensure that risks associated with integrated commissioning are identified and managed, including to the extent necessary through risk management arrangements established by the CCG, LBH and CoLC.

Integrated Commissioning Arrangements

An annual review will be undertaken of the integrated commissioning arrangements, including the operation of the s75 agreements, the Integrated Commissioning Fund and shall make recommendations to the ICBs.

Membership

The membership of the Board is as follows:-.

- Chief Executive of LBH
- Chief Executive Officer and Medical Director of
 - Homerton University Hospital NHS Foundation Trust
 - East London NHS Foundation Trust
 - City & Hackney GP Confederation
 - CHUHSE
- Chair and Chief Officer of the CCG
- Director of Public Health for LBH and COLC
- Director of Adult Services- London Borough of Hackney
- Assistant Director Commissioning & Partnerships - City of London Corporation
- Assistant Director People –City of London Corporation
- Group Director of Neighbourhoods and Housing- London Borough of Hackney
- Head of Early Years- London Borough of Hackney
- City of London Healthwatch
- Hackney Healthwatch
- Representative nominated by Hackney Community and Voluntary sector
- A person nominated by the Chief Financial Officers of the CCG, LBH and COLC
- CCG Lay member for PPI
- Local Pharmaceutical Committee Chair

The Chair will be the Chief Executive of LBH. The vice chair will be a local authority director/CCG Chief Officer. The vice chair will be elected by members of the Board on an annual basis.

The membership will be kept under review as the provider landscape develops and the Board can decide to include other significant local providers in its membership by agreement of the ICBs.

The members are expected to represent the area of responsibility for which they are a member of the Board. It is the responsibility of all those present to uphold the Nolan Principles and to comply with all other relevant requirements.

Attendees

The following individuals may attend the Board's meetings and are expected to contribute to discussions but shall not participate in decisions (to make recommendations):

- Work-stream leads
- CCG GP Consortia leads and CCG Programme Board leads as required

Conflicts of interests

The partner organisations represented in the Board are committed to conducting business and delivering services in a fair, transparent, accountable and impartial manner. Nevertheless, partners recognise the potential for conflicts of interest to arise, in particular for providers where there are discussions about service delivery and contractual arrangements.

Board members will comply with the Conflicts of Interest policy statement developed for integrated commissioning as well as the arrangements established by the organisations that they represent. A declaration of interest will be completed by all members and attendees of the Board and will be kept up to date in line with the policy. Before each meeting the each member or attendee will examine the agenda to identify any matters in which he/she has (or may be perceived to have) an interest. Such interests may be in addition to those declared previously. Any such conflicts should be raised with the chair and the secretariat at the earliest possible time.

The chair will acknowledge the register of interests at the start of the meeting as an item of business. There will be the opportunity for any potential conflicts of interests to be debated and the chair (on the basis of advice where necessary) shall determine whether any conflicts of interests exist and, if so, the arrangements through which they shall be addressed.

Particular account will be taken of the statutory duty which the executive directors of the NHS Foundation Trusts have to avoid a situation in which they have, or can have, an interest which conflicts or possibly may conflict with the interests of the NHS Foundation Trusts that they represent. In some cases it may be possible for a person with a conflict of interests to participate in a discussion but not the decision that results from it. In other cases it may be necessary for a person to withdraw from the meeting for the duration of the discussion and decision.

When the chair has a conflict of interests relating to an agenda item which obliges them to withdraw, the members of the board will select from among their number a chair for the whole or part of the meeting.

All declarations and discussions relating to them will be minuted. The register of interests will be published on the CCG and Local Authority websites.

Quoracy

The meeting shall be quorate where there are at least eight of the members present. Of the 8 at least 4 must be clinicians, 1 of the local authority Directors, a representative from both LBH and CoLC, 1 of the CCG, and 1 of Healthwatch/CCG PPI lay member must be present.

Meetings

The Board's Members will be given no less than five clear working days' notice of its meetings. This will be accompanied by an agenda and supporting papers and sent to each member no later than five clear days before the date of the meeting.

It is anticipated that the Board will routinely meet monthly. When the Chair of the Board deems it necessary in light of urgent circumstances to call a meeting at short notice this notice period shall be such as s/he shall specify.

Whilst the Board will not meet in public, minutes of each meeting will be submitted to the Integrated Commissioning Boards (which will meet in public). The Board recognises, however, that all information associated with it is subject to the Freedom of Information Act.

Any member of the Board may participate in its meetings by telephone or video conference, provided that all members are able to hear each other such that they can contribute to discussions and decisions.

Where it is necessary to deal with urgent business and it is not possible for the Board to meet, it may take decisions by written resolution with the prior agreement of the Chair. Any decisions taken by such means must be recorded in the minutes of the next scheduled meeting of the Board.

Minutes shall be taken of all of the Board's meetings by the secretariat support and they shall be presented to the ICBs.

Decision making

The Board shall only take a decision on any matter (which shall be limited to decisions in respect of recommendations to the ICBs) where a consensus exists among its members.

The Board shall not vote on any matter.

No organisation that is represented on the Board shall be bound by any decision of the Board (so no organisation that votes against a proposal to make a recommendation to the ICBs shall be bound to accept it or to have its name associated with it). Any decision by a provider organisation not to accept a decision to make a recommendation to the ICBs shall not prevent that organisation from agreeing subsequently to provide any services that are commissioned by the ICBs on the basis of the recommendation from the Board.

Review of Terms of Reference

These terms of reference will apply for the year from 1 April 2017 to 31 March 2018, subject to their agreement by the CCG, LBH and COLC.

The terms of reference will be reviewed not later than six months from initial approval and then annually thereafter, such annual reviews to coincide with reviews of the s75 agreements.

[Insert dates of approval of these TOR at each relevant forum within the CCG, LBH and COLC.] – To be added

16 February 2017

**SCHEME OF RESERVATION AND DELEGATION FOR THE NHS CITY & HACKNEY CLINICAL COMMISSIONING GROUP
AND LONDON BOROUGH OF HACKNEY COMMITTEES IN COMMON**

Introduction

This document defines the authority reserved and delegated within the governance arrangements for the Integrated Commissioning Fund established by NHS City and Hackney Clinical Commissioning Group (the CCG) and London Borough of Hackney (LBH). The authority defined in this document is consistent with (and is referenced to) the Financial Framework (FF).

LBH has established an Integrated Commissioning Committee and the CCG has also established an Integrated Commissioning Committee. Those two committees shall meet in common and shall be known together as the Integrated Commissioning Board ("the Board").

LBH's Integrated Commissioning Committee has authority to make decisions on behalf of LBH, which shall be binding on the authority, in accordance with its terms of reference and this scheme of delegation and reservation. The CCG's Integrated Commissioning Committee has authority to make decisions on behalf of the CCG, which shall be binding on the authority, in accordance with its terms of reference and this scheme of delegation and reservation.

The authority of the LBH Integrated Commissioning Committee is subject to call-in arrangements (as set out in the terms of reference for the Board). The CCG's Integrated Commissioning Committee is subject to oversight from the CCG's Governing Body and Members such that they are assured that the Board does not breach any requirements.

The integrated commissioning governance arrangements include the Transformation Board (TB). The purpose of the TB is to discuss issues among its members and to support the ICB in its role. No authority is delegated to the TB so it does not appear below; its role is limited to making recommendations to the ICB.

This document distinguishes between "core primary care services", which are services commissioned by the CCG under authority delegated from NHS England, and "other primary care services" (such as enhanced services), have been and will continue to be commissioned directly by the CCG. Authority (for commissioning, procurement and other matters) in respect of core primary care services is reserved to the CCG's Primary Care Commissioning Committee; authority in respect of all other primary care services is delegated to the ICB.

No.	Description of authority reserved or delegated	CCG Governing Body	CCG Local GP Provider Contracts Committee		CCG officers	LBH Mayor and Cabinet (unless otherwise expressly delegated)	LBH Integrated Commissioning Committee	CCG Integrated Commissioning Committee
	Pooled Budgets and Services							
1.	Determine the budgets (and therefore services) that are pooled (to include Better Care Fund) at any time	Authority to approve				Authority to approve		
2.	Determine the amount of the Integrated Commissioning Fund that is allocated to commissioning management and administration support.	Authority to approve				Authority to approve		
3.	Approve the Integrated Commissioning Strategy (ICS) for services within the pooled budget						Authority to approve	Authority to approve
4.	Approve a commissioning strategy or plan for each service or pathway identified in the ICS and included in the pooled budget						Authority to approve	Authority to approve
5.	Approve the design of services identified in the ICS and included in the pooled budget, including pathways, specifications and models of care.						Authority to approve (Refer to FF 34)	Authority to approve (Refer to FF 34)

No.	Description of authority reserved or delegated	CCG Governing Body	CCG Local GP Provider Contracts Committee		CCG officers	LBH Mayor and Cabinet (unless otherwise expressly delegated)	LBH Integrated Commissioning Committee	CCG Integrated Commissioning Committee
6.	Approve expenditure from the pooled budget, including Better Care Fund budgets.						Authority to approve (Refer to FF 38.3)	Authority to approve (Refer to FF 38.3)
7.	Approve the procurement process to select providers to deliver services identified in the ICS and within the pooled budget						Authority to approve	Authority to approve
8.	Approve the appointment of providers to deliver services identified in the ICS and within the pooled budget						Authority to approve for	Authority to approve for
9.	Approve contracts with providers selected to deliver services identified in the ICS and within the pooled budget				Authority to approve. (Refer to FF 38.3)	Authority to approve (Refer to FF 38.3)		
10.	Approve action to address any variance from targets in respect of the performance of providers.						Authority to approve	Authority to approve

No.	Description of authority reserved or delegated	CCG Governing Body	CCG Local GP Provider Contracts Committee		CCG officers	LBH Mayor and Cabinet (unless otherwise expressly delegated)	LBH Integrated Commissioning Committee	CCG Integrated Commissioning Committee
11.	Approve the arrangements for the CCG and LBH to work together, including the role of the Transformation Board and any supporting committees or work programmes.						Authority to approve	Authority to approve
12.	Approve strategies and plans to secure the engagement of patients, the public and other stakeholders.						Authority to approve	Authority to approve
Aligned Budgets and Services								
13.	Approve the commissioning strategy for aligned budgets and services.	Authority to approve				Authority to approve		
14.	Approve a commissioning strategy or plan for each aligned service or pathway.	Authority to approve				Authority to approve		
15.	Approve the design of aligned budget services, including pathways, specifications and models of care.	Authority to approve				Authority to approve		

No.	Description of authority reserved or delegated	CCG Governing Body	CCG Local GP Provider Contracts Committee		CCG officers	LBH Mayor and Cabinet (unless otherwise expressly delegated)	LBH Integrated Commissioning Committee	CCG Integrated Commissioning Committee
16.	Approve the procurement process to select providers to deliver aligned budget services.	Authority to approve				Authority to approve		
17.	Approve the appointment of providers to deliver aligned budget services.	Authority to approve				Authority to approve		
18.	Approve contracts with providers selected to deliver aligned budget services.				Authority to approve. (Refer to FF 38.3)	Authority to approve (Refer to FF 38.3)		
	Core Primary Care Services							
19.	Approve the commissioning strategy		Authority to approve					
20.	Approve a commissioning strategy or plan for each service		Authority to approve					
21.	Approve the design of services, including pathways, specifications and models of care		Authority to approve					
22.	Approve the procurement process to select providers to deliver services		Authority to approve					

No.	Description of authority reserved or delegated	CCG Governing Body	CCG Local GP Provider Contracts Committee		CCG officers	LBH Mayor and Cabinet (unless otherwise expressly delegated)	LBH Integrated Commissioning Committee	CCG Integrated Commissioning Committee
23.	Approve the appointment of providers to deliver services		Authority to approve					
24.	Approve contracts with providers selected to deliver services		Authority to approve					
25.	Approve the establishment or merger of GP practices		Authority to approve					
26.	Approve discretionary payments		Authority to approve					
27.	Approve the design of local incentive schemes		Authority to approve					
	Other Primary Care Services							
28.	Approve the commissioning strategy						Authority to approve	Authority to approve
29.	Approve a commissioning strategy or plan for each service						Authority to approve	Authority to approve
30.	Approve the design of services, including pathways, specifications and models of care						Authority to approve	Authority to approve
31.	Approve the procurement process to select providers to deliver services						Authority to approve	Authority to approve

No.	Description of authority reserved or delegated	CCG Governing Body	CCG Local GP Provider Contracts Committee		CCG officers	LBH Mayor and Cabinet (unless otherwise expressly delegated)	LBH Integrated Commissioning Committee	CCG Integrated Commissioning Committee
32.	Approve the appointment of providers to deliver services						Authority to approve	Authority to approve
33.	Approve contracts with providers selected to deliver services						Authority to approve	Authority to approve

[Insert dates of approval by the CCG's Governing Body and the relevant committee or officer in LBH]

DAC Beachcroft LLP

3 February 2017

**NHS CITY & HACKNEY CLINICAL COMMISSIONING GROUP AND
THE LONDON BOROUGH OF HACKNEY**

**Terms of Reference of the
London Borough of Hackney Integrated Commissioning Committee
and the NHS City & Hackney Clinical Commissioning Group
Integrated Commissioning Committee ("known collectively as the Integrated Commissioning
Board")**

The London Borough of Hackney (LBH) has established an Integrated Commissioning Committee and NHS City & Hackney Clinical Commissioning Group (the CCG) has also established an Integrated Commissioning Committee. Those two committees shall meet in common and shall be known together as the Integrated Commissioning Board ("the Board").

LBH's Integrated Commissioning Committee has authority to make decisions on behalf of LBH, which shall be binding on the authority, in accordance with these terms of reference and the scheme of delegation and reservation.

The CCG's Integrated Commissioning Committee has authority to make decisions on behalf of the CCG, which shall be binding on the authority, in accordance with these terms of reference and the scheme of delegation and reservation.

Except where stated otherwise (in which case the term "committees" is used), all references in this document to the "Board" refer collectively to the two committees described above. The Role and Responsibilities of the Board, as described below, are the roles and responsibilities of the individual committees insofar as they relate to the individual committee's authority.

The CCG and LBH committees (i.e. "the Board") will manage the Pooled Fund element of the Integrated Commissioning Fund in the delivery of the Locality Plan. For Aligned Fund services the Committees act as an advisory group making recommendations to the CCG Governing Body or the LBH Cabinet.

Role and Responsibilities of the Board

The Board is the principal forum to ensure that commissioning improves local services and outcomes and achieves integration of service provision and of commissioning and delivers the North East London Sustainability and Transformation Plan (NEL STP). It is the forum for decision making and monitoring of activity to integrate the commissioning activities of the CCG and LBH (to the extent defined in the s75 agreement).

The Board's remit is in respect of services that are Pooled Funds (including the Better Care Fund budgets) within the Integrated Commissioning Fund (ICF). The Board also has a remit with regard to Aligned Funds, whereby it is an advisory group making recommendations to the CCG Governing Body or the LBH Cabinet.

The CCG and LBH shall determine the funds, and therefore the services, that are to be pooled or aligned at any time (and shall include requirements in respect of Better Care Fund budgets). Once defined, the remit will be stated in these Terms of Reference or in another appropriate document that is provided to the Board.

In performing its role the Board will exercise its functions in accordance with, and to support the delivery of, the City and Hackney Locality Plan and the North East London Sustainability and Transformation Plan (NEL STP).

In carrying out its role the Board will be supported by the Transformation Board.

The duties of the Board defined below are subject to its Scheme of Delegation and subject to the financial framework which outlines which budgets are pooled and which are aligned and the role of the Board in relation to each.

Specifically, the Board will:

Commissioning strategies and plans

- Lead the commissioning agenda of the locality, including inputs from, and relationships with, all partners
- Ensure financial sustainability and drive local transformation programmes and initiatives
- Determine and advise on the local impacts of commissioning recommendations and decisions taken at a NEL level
- Ensure that the Locality plan is delivering the local contribution to the ambitions of the NEL STP
- Lead the development and scrutiny of annual commissioning intentions as set out in the Integrated Commissioning Strategy, including the monitoring, review, commissioning and decommissioning of activities
- Provide advice to the CCG about core primary care and make recommendation to the CCG's Local GP Provider Contracts Committee
- Ensure that the locality plan delivers constitutional requirements, financial balance, and supports the improvement in performance and outcomes established by the Health and Wellbeing Board
- Promote health and wellbeing, reduce health inequalities, and address the public health and health improvement agendas in making commissioning recommendations
- Ensure commissioning decisions are made by the ICB in a timely manner that address financial challenges of both the in-year and longer term plans
- Ensure that local plans can demonstrate their impact on Hackney residents.

Service re-design

- Approve all clinical and social care guidelines, pathways, service specifications, and new models of care
- Ensure all local guidelines and service specifications and pathways are developed in line with NICE and other national evidence, best practice and benchmarked performance
- Drive continuous improvement in all areas of commissioning, pathway and service redesign delivering increased quality performance and improved outcomes
- Ensure that services are designed and delivered, using “design lab” principles – i.e. co-developed by residents and practitioners working together.

Contracting and performance

- Oversee the annual contracting and planning processes and ensuring that contractual arrangements are supporting the ambitions of the CCG and LBH to transform services, ensure integrated delivery and improve outcomes

- Oversee local financial and operational performance and decisions in respect of investment and disinvestment plans

Stakeholder engagement

- Ensure adequate structures are in place to support patient, public, service user, and carer involvement at all levels and that the equalities agenda is delivered,
- Ensure that arrangements are in place to support collaboration with other localities when it has been identified that such collaborative arrangements would be in the best interests of local patients, public, service users, and carers
- Ensure and monitor on-going discussion between the ICB and provider organisations about long-term strategy and plans

Programme management

- Oversee the work of the Transformation Board including their work on the workstreams and enabler groups ensuring system wide implications are considered
- Ensure that risks associated with integrated commissioning are identified and managed, including to the extent necessary through risk management arrangements established by the CCG and LBH.

Safeguarding

- In discharging its duties, act such that it supports the CCG and LBH to comply with the statutory duties that apply to them in respect of safeguarding patients and service users.

Geographical Coverage

The responsibilities for the Board will cover the geographical area of LBH.

It is noted that there will need to be decisions made about how to address the issues of resident and registered populations across the CCG and LBH.

Membership

The membership of the LBH Committee shall be as follows:

- LBH Lead Member for Health, Social Care and Devolution
- LBH Lead Member for Children's Services
- LBH Lead Member of Finance and Corporate Services

The membership of the CCG Committee shall be as follows:

- Chair of the CCG
- CCG Governing Body Lay Member
- CCG Chief Officer

As the two committees shall meet in common, the members of the LBH Committee shall be in attendance at the meeting of the CCG Committee, and the members of the CCG Committee shall be in attendance at the meeting of the LBH Committee.

The following shall be expected to attend the meetings of the Board, contribute to all discussion and debate, but will not participate in decision-making:

- CCG Governing Body GP
- CCG Chief Financial Officer
- LBH Group Director – Finance and Corporate Services
- LBH Group Director – Adults and Children's Services

The following shall have a standing invitation to attend the meetings of the Board, contribute to all discussion and debate, but will not participate in decision-making:

- LBH Director of Public Health
- A person nominated by the Chief Financial Officers of the CCG and LBH
- Representative of London Borough of Hackney Healthwatch
- Representative of Hackney Voluntary and Community Services.

Meetings of the Board shall be chaired by either (1) the Chair of the CCG or (2) the cabinet member for health, social care and devolution. The Chair shall rotate between CCG and LBH every six months, with whoever isn't Chair becoming the Deputy Chair of the Board.

In the event of the Chair being unavailable for a meeting or when the Chair is conflicted regarding an agenda item and is required to leave the meeting, the Deputy Chair will assume the chairing of the meeting. Where the Deputy Chair is unavailable or is conflicted, a quorum of the members of each Committee will by consensus select a chair for the whole or part of the meeting concerned. Where the Board is making a decision to award a contract or funding to a local GP provider organisation or considering a recommendation to the CCG about core primary care services, that item will be chaired by the Deputy Chair if the CCG Chair is the Chair of the Board.

The membership will be kept under review and through approval from the CCG's Governing Body and LBH's elected Mayor. Other parties may be invited to send representatives to attend the Board's meetings in a non-decision making capacity.

The Board may also call additional experts to attend meetings on an ad hoc basis to inform discussions.

Meetings

The Board's members will be given no less than five clear working days' notice of its meetings. This will be accompanied by an agenda and supporting papers and sent to each member no later than five clear days before the date of the meeting. In urgent circumstances the requirement for five clear days' notice may be truncated.

It is anticipated that the Board will routinely meet monthly. When the Chair and Deputy Chair of the Board deem it necessary in light of urgent circumstances to call a meeting at short notice this notice period shall be such as s/he shall specify.

Meetings of the Board shall be held in accordance with partners' Access to Information procedures, rules, and other relevant constitutional requirements. The dates of the meetings will be published by the CCG and LBH. The meetings of the Board will be held in public, subject to any exemption provided by law or any matters that are confidential or commercially sensitive. This should only occur in exceptional circumstances and in accordance with the open and accountable local government guidance (June 2014).

There may be occasions where an Integrated Commissioning Board established by the City of London Corporation meets in common with the Board for Hackney to consider the same items of business. The terms of reference for the respective Boards still apply in such circumstances.

Secretarial support will be provided to the Board and minutes shall be taken of all the Board's meetings, with one set being prepared for each of the committees in common and submitted to the relevant forum as determined by the CCG and LBH. Agenda, decisions and minutes shall be published in accordance with partners' access to Information procedures rules.

Executive decisions made by the LBH committee may be subject to call-in by members of the Council in accordance with LBH's constitution. Executive decisions made by the CCG committee may be subject to review by the CCG's Governing Body and/or Members Forum in accordance with CCG's constitution. However, the CCG and LBH will manage the business of the Board, including consultation with relevant fora and/or officers within those organisations, such that the incidence of decisions being called-in is minimised.

Decision making

Each committee must reach its own decision on any matter under consideration, and must do so by consensus.

These decision-making arrangements shall be included in the review of these terms of reference as set out below.

Quorum

For the CCG committee, the quorum will be two of the three members.

For the LBH committee the quorum will be two of the three Council members.

Conflicts of interests

The partner organisations represented in the Board are committed to conducting business and delivering services in a fair, transparent, accountable and impartial manner. Board members will comply with the Conflicts of Interest policy statement developed for the ICBs, as well as the arrangements established by the organisations that they represent.

A declaration of interest will be completed by all members and attendees of the Board and will be kept up to date in line with the policy. Before each meeting each member or attendee will examine the agenda to identify any matters in which he/she has (or may be perceived to have) an interest. Such interests may be in addition to those declared previously. Any such conflicts should be raised with the chair and the secretariat at the earliest possible time.

The Chair will acknowledge the register of interests at the start of the meeting as an item of business. There will be the opportunity for any potential conflicts of interests to be debated and the chair (based on advice where necessary) shall determine whether any conflicts of interests exist and, if so, the arrangements through which they shall be addressed.

In some cases, it may be possible for a person with a conflict of interest to participate in a discussion but not the decision that results from it. In other cases, it may be necessary for a person to withdraw from the meeting for the duration of the discussion and decision. When the chair has a conflict of interests relating to an agenda item which obliges them to withdraw, the members of the board will select from among their number a chair for the whole or part of the meeting.

When considering any proposals relating to actual or potential contractual arrangements with local GP providers the Board will seek independent advice from the CCG Local GP Provider Contracts Committee who provide a scrutiny function for all such matters, particularly that the contract is in the best interests of local people, represents value for money and is being recommended without any conflict of interest from GPs.

All declarations and discussions relating to them will be minuted.

Additional requirements

The members of the Board have a collective responsibility for the operation of the Board. They will participate in discussion, review evidence, and provide objective expert input to the best of their knowledge and ability, and endeavour to reach a collective view. They will take advice from the Transformation Board and from other advisors where relevant.

The Board must operate within the schemes of delegation and financial framework agreed by the CCG and LBH, who remain responsible for their statutory functions and for ensuring that these are met and that the Board is operating within all relevant requirements.

The Board may assign tasks to such individuals or committees as it shall see fit, if any such assignments are consistent with each parties' relevant governance arrangements, are recorded in a scheme of delegation for the Board, are governed by terms of reference as appropriate, and reflect appropriate arrangements for the management of any actual or perceived conflicts of interest.

Reporting and relationships

- The Board will report to the relevant forum as determined by the CCG and LBH. The matters on which, and the arrangements through which, the Board is required to report shall be

determined by the CCG and LBH (and shall include requirements in respect of Better Care Fund budgets). The Board will present for approval by the CCG and LBH proposals on matters in respect of which authority is reserved to the CCG and/or LBH (including in respect of aligned fund services). The Board will also provide advice to the CCG about core primary care and make recommendation to the appropriate CCG Committee.

The Board will receive reports from the CCG and LBH on decisions made by those bodies where authority for those decisions is retained by them but the matters are relevant to the work of the Board.

The Board will provide reports to the Health and Wellbeing Board and other committees as required.

Review

These terms of reference will apply for the year from 1 April 2017 to 31 March 2018, subject to their agreement by the 2 statutory organisations.

The terms of reference will be reviewed not later than six months from initial approval and then annually thereafter, such annual reviews to coincide with reviews of the s75 agreements.

[Insert dates of approval of these TORS at each relevant forum within the CCG and LBH] – To be added

3 February 2017

Dated _____ 2017

LONDON BOROUGH OF HACKNEY

and

**NHS CITY AND HACKNEY CLINICAL COMMISSIONING
GROUP**

**FRAMEWORK SECTION 75 AGREEMENT FOR THE
DEVOLUTION OF HEALTH AND SOCIAL CARE SERVICES IN
LONDON BOROUGH OF HACKNEY (INCLUDING THE BETTER
CARE FUND)**

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THIS AGREEMENT is made on day of 2017

PARTIES

- (1) **LONDON BOROUGH OF HACKNEY** of Hackney Service Centre, 1 Hillman Street, London E8 1DY (the "**Council**")
- (2) **NHS CITY AND HACKNEY CLINICAL COMMISSIONING GROUP** of 3rd Floor, Block A, St Leonard's Hospital, London, N1 5LZ (the "**CCG**")

each a "**Party**" and together the "**Parties**".

BACKGROUND

- (A) The Council has responsibility for commissioning and may provide social care services on behalf of the population of the London Borough of Hackney.
- (B) The CCG has the responsibility for commissioning health services pursuant to the 2006 Act in the London Borough of Hackney.
- (C) The Parties wish to establish a pooled and aligned fund, and delegate the exercise of certain commissioning functions to each other, to integrate the commissioning of health and social care services, as set out in this Agreement.
- (D) This Agreement also sets out the arrangements for the Better Care Fund, which supports the integration of health and social care and to seek to achieve the National Conditions and local objectives. It is a requirement of the Better Care Fund that the Parties pool those funds in accordance with Section 75 of the 2006 Act. The pooled fund established for the purposes of this Agreement is broader than the Better Care Fund, and the requirements of the Better Care Fund plan (in terms of reporting, for example), shall only apply to the Better Care Fund element of the pooled fund.
- (E) Section 75 of the 2006 Act gives powers to local authorities and clinical commissioning groups to establish and maintain pooled funds out of which payment may be made towards expenditure incurred in the exercise of prescribed local authority functions and prescribed NHS functions.
- (F) The purpose of this Agreement is to set out the terms on which the Parties have agreed to collaborate and to establish a framework through which the Parties can secure the future position of health and wellbeing services through lead or joint commissioning arrangements. It is also the means through which the Parties will pool funds and align budgets as agreed between the Parties.
- (G) The main **aims and objectives** of the Parties in entering into this Agreement are to:
 - (i) meet the National Conditions and local objectives;
 - (ii) integrate the commissioning activities of the Parties in respect of the relevant populations (resident and GP registered) of London Borough of Hackney in line with the Health and Wellbeing Board's vision of integrated health and wellbeing, and through the pooling or aligning of financial resources and integrated governance create a sustainable health and wellbeing system with improved system performance;
 - (iii) agree strategies and ensure commissioning activity to make more effective use of resources to achieve improved health and wellbeing for the local population, improved outcomes and integrated service delivery and prioritise prevention and early intervention by ensuring people receive 'the right care in the right place at the right time';
 - (iv) help people take control of their lives and communities and ensure children, young people and adults are safe and confident in their lives and communities and t h a t

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people are treated with dignity and respect; and

- (v) to deliver Integrated Commissioning that will focus on developing joined up, population based, public health, and preventative and early intervention strategies and services and adopt an asset based approach to providing a single system of health and wellbeing, focusing on increasing the capacity and assets of people and place.
- (H) The Parties are entering this Agreement in exercise of the powers referred to in Section 75 of the 2006 Act, to the extent that exercise of these powers is required for this Agreement.

1. DEFINED TERMS AND INTERPRETATION

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

1998 Act means the Data Protection Act 1998.

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.

2012 Act means the Health and Social Care Act 2012.

Affected Party means, in the context of Clause 28, the Party whose obligations under the Agreement have been affected by the occurrence of a Force Majeure Event.

Agreement means this agreement including its Schedules and Appendices.

Aligned Commissioning means mechanisms by which the Parties commission services that are not included within a pooled arrangement, but which are closely related to those pooled commissioned services; and which are incorporated within the design of the overall integrated commissioned service. For the avoidance of doubt, aligned commissioning arrangements do not involve the formal delegation of any functions pursuant to Section 75 of the 2006 Act.

Aligned Fund means budgets for commissioning prescribed services (as set out in Part 3 of Schedule 1) which will be managed alongside the Pooled Fund.

Annual Review has the meaning set out in clause 24.1.

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

Best Value Duty means the duty on local authorities to provide best value and to provide services efficiently, effectively and economically and to strive for constant improvement of all services as set out in the Local Government Act of 1999 and the Local Government Act of 2000 and any similar duty.

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 Parties.

Better Care Fund Plan means the plan attached at Part 1 of Schedule 6 setting out the Parties plan for the use of the Better Care Fund.

Budget Contributions means the budget contributions made by each Party to the Integrated Commissioning Fund in any Financial Year and the indicative budget contributions

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for the financial year 2017/2018 as set out under Part 2 of Schedule 1.

CCG Contracts means any contract that the CCG holds but has agreed that the Council should be the Lead Commissioner, and therefore the CCG appoints the Council to act as agent to manage the contract in accordance with Clause 15.

CCG Contingency Funds means funds apportioned by the CCG (in accordance with the Financial Framework) that the CCG has designated to cover financial risks where such risks are not otherwise mitigated through Service Contracts.

CCG Statutory Duties means the duties of the CCG pursuant to Sections 14P to 14Z2 of the 2006 Act and those duties that are set out in the 2012 Act.

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

Chief Financial Officer(s) means either the person appointed by the Council pursuant to section 151 of the Local Government Act 1972 or the person appointed to the role of chief finance officer by the CCG in accordance with paragraph 11 of Schedule 1A of the Health and Social Care Act 2012 or both as the context requires.

Commencement Date means 00:01 hrs on 1 April 2017.

Commissioning Plans means the plans setting out details of how the Integrated Commissioning Strategies (including but not limited to the Locality Plans) will be implemented and delivered.

Confidential Information means information, data and/or material of any nature which any Party may receive or obtain about the operation of this Agreement and the Services and:

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

Contract Price means any sum payable to a Provider under a Service Contract as consideration for the provision of Services and which, for the avoidance of doubt, does not include any Default Liability or Performance Payment.

Council Contracts means any contract that the Council holds but has agreed that the CCG should be the Lead Commissioner, and therefore the Council appoints the CCG to act as agent to manage the contract in accordance with Clause 15.

Default Liability means any sum which is agreed or determined by Law or in accordance with the terms of a Services Contract to be payable by any Party(s) to the Provider as a consequence of (i) breach by any or all of the Parties of an obligation(s) in whole or in part) under the relevant Services Contract or (ii) any act or omission of a third party for which any or all of the Parties are, under the terms of the relevant Services Contract, liable to the Provider.

Dispute Resolution Procedure means the procedure set out at Clause 27.

Exit Plan means the exit plan described in Schedule 7 (Exit Planning Obligations).

Expiry Date means 23.59 hours on 31 March 2019.

Finance Economy Group means a group responsible for the financial management of the

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Integrated Commissioning Fund, as further set out in the Financial Framework.

Financial Framework means the financial framework agreed between the Parties in respect of this Agreement, as varied from time to time in accordance with Clause 34.2 and as set out in Schedule 3.

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

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 Party claiming relief.

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

Health Related Functions means those of the health-related functions of the Council specified in Regulation 6 of the Regulations from time to time as are relevant to the commissioning of the Services and which may be further described in the relevant Commissioning Plans, Service Specifications, Better Care Fund Plan and/or Scheme Specifications.

Host Partner means the Party that will host and provide the financial administrative systems for the Pooled Fund and undertake to perform the duties for which they will be responsible, as set out in paragraph 7(4) and 7(5) of the Regulations.

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

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

Information Framework means the information framework agreed between the Parties in respect of this Agreement, as amended from time to time in accordance with Clause 34.2.

Integrated Commissioning means arrangements by which Parties Commission Services in relation to an Integrated Commissioning Strategy on behalf of each other; and in the exercise of commissioning of both the NHS Functions and Health Related Functions.

Integrated Commissioning Board (or “ICB”) means the committees responsible for review of performance and oversight of this Agreement with the terms of reference as set out in Schedule 2.

Integrated Commissioning Fund means the total of the Pooled Fund and Aligned Fund.

Integrated Commissioning Strategies means the commissioning strategies and priorities agreed between the Parties about what services to commission within the area, and amended

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from time to time in accordance with Clause 34, and the agreed Integrated Commissioning Strategies as of the date of this Agreement are set out in Part 1 of Schedule 1.

Law means:

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

Lead Commissioning Arrangements means the arrangements by which one Party commissions Services in relation to an Integrated Commissioning Strategy or Commissioning Plan on behalf of the other Party in exercise of both the NHS Functions and the Health Related Functions.

Lead Commissioner means the Party responsible for commissioning an individual Service under a Commissioning Plan.

Locality Plan means a strategy designated as such by the Integrated Commissioning Board.

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 mean the national conditions as set out in the NHS England Planning Guidance as are amended or replaced from time to time.

NHS Functions means those of the NHS functions of the CCG listed in Regulation 5 of the Regulations from time to time as are relevant to the commissioning of the Services and which may be further described in the relevant Commissioning Plans, Service Specifications, Better Care Fund Plan and/or Scheme Specifications.

NHS Standard Contract means a contract based on terms published by NHS England for the commissioning of health services in accordance with their obligations under Regulation 17(1) of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012.

Non-Recurrent Payments means funding provided by a Party to the Integrated Commissioning Fund in addition to the Budget Contributions pursuant to arrangements agreed in accordance with Clause 10.3.

Overspend means any expenditure from the Integrated Commissioning Fund in a Financial Year which exceeds the budget agreement for that Financial Year.

Performance Payment Arrangement means any arrangement agreed with a Provider and one or more Parties in relation to the cost of providing Services on such terms as agreed in writing by all Parties.

Performance Payments means any sum over and above the relevant Contract Price which is payable to the Provider in accordance with a Performance Payment Arrangement.

Permitted Budget means in relation to a Service, the budget that the Parties have set in relation to the Service or Services (including the budgets for all the commissioning

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staff of each Party), such details being included at Schedule 1 (Integrated Commissioning Strategies and Budget Contributions).

Permitted Expenditure has the meaning given in Clause 7.2.

Personal Data means Personal Data as defined by the 1998 Act.

Pooled Fund means any pooled fund established and maintained by the Parties as a pooled fund in accordance with the Regulations.

Pooled Fund Manager means such officer of the Host Partner for the relevant Pooled Fund as nominated by the Host Partner from time to time to manage the Integrated Commissioning Fund.

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:

1 April to 30 June;

1 July to 30 September;

1 October to 31 December;

1 January to 31 March,

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

Regulations mean the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 No 617 (as amended).

Scheme Specification means a specification setting out the detailed arrangements relating to a BCF Service within a Commissioning Plan agreed by the Parties to be commissioned under this Agreement as set out in Part 2 of Schedule 6.

Sensitive Personal Data means Sensitive Personal Data as defined in the 1998 Act.

Service Specification means a specification setting out the detailed arrangements relating to a Service within a Commissioning Plan agreed by the Parties to be commissioned under this Agreement.

Services mean such health and wellbeing services as agreed from time to time by the Parties as commissioned under the strategies set out in this Agreement.

Services Contract means an agreement for the provision of Services entered with a Provider by one or more of the Parties in accordance with the relevant Commissioning Plan, or, in 2017/18, in accordance with plans previously made by one of the Parties

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

Task and Finish Group means a group responsible for the operational financial management and reporting for the Integrated Commissioning Fund, as further set out in the Financial Framework.

Third Party Costs means all such third-party costs (including legal and other professional fees) in respect of each Service as a Party reasonably and properly incurs in the proper performance of its obligations under this Agreement and as agreed by the Parties.

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

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- 1.2 In this Agreement, all references to any statute or statutory provision shall be deemed to include references to any statute or statutory provision which amends, extends, consolidates or replaces the same and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made thereunder and any conditions attaching thereto. Where relevant, references to English statutes and statutory provisions shall be construed as references also to equivalent statutes, statutory provisions and rules of law in other jurisdictions.
- 1.3 Any headings to Clauses, together with the front cover and the index are for convenience only and shall not affect the meaning of this Agreement. Unless the contrary is stated, references to Clauses and Schedules shall mean the clauses and schedules of this Agreement.
- 1.4 Any reference to the Parties shall include their respective statutory successors, employees and agents.
- 1.5 In the event of a conflict between the terms in the main body of this Agreement, the Schedules, the Financial Framework and the Information Framework, this shall be resolved in the following order of priority (highest first):
- 1.5.1 the terms in the main body of this Agreement; and
- 1.5.2 the Schedules.
- 1.6 Where a term of this Agreement provides for a list of items following the word "including" or "includes", then such list is not to be interpreted as being an exhaustive list.
- 1.7 In this Agreement, words importing any gender include all other genders, and the term "person" includes any individual, partnership, firm, trust, body corporate, government, governmental body, trust, agency, unincorporated body of persons or association and a reference to a person includes a reference to that person's successors and permitted assigns.
- 1.8 In this Agreement, words importing the singular only shall include the plural and vice versa.
- 1.9 In this Agreement, "staff" and "employees" shall have the same meaning and shall include reference to any full or part time employee or officer, director, manager and agent.
- 1.10 Subject to the contrary being stated expressly or implied from the context in these terms and conditions, all communication between the Parties shall be in writing.
- 1.11 Unless expressly stated otherwise, all monetary amounts are expressed in pounds' sterling but in the event, that pounds sterling is replaced as legal tender in the United Kingdom by a different currency then all monetary amounts shall be converted into such other currency at the rate prevailing on the date such other currency first became legal tender in the United Kingdom.
- 1.12 All references to the Agreement include (subject to all relevant approvals) a reference to the Agreement as amended, supplemented, substituted, novated or assigned from time to time.
- 2. TERM**
- 2.1 This Agreement shall come into force on the Commencement Date and shall expire on the Expiry Date, subject to earlier termination in accordance with its terms or at law.
- 2.2 The duration of the arrangements for each Service shall be as set out in the relevant Services Contract, and the duration of the arrangements for each Scheme Specification (where different to the term of this Agreement) shall be set out within the relevant Scheme Specification.

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3. GENERAL PRINCIPLES

3.1 Nothing in this Agreement shall affect:

3.1.1 the liabilities of the Parties to each other or to any third parties for the exercise of their respective functions and obligations (including the Functions); or

3.1.2 any power or duty to recover charges for the provision of any services (including the Services) in the exercise of any local authority function.

3.2 The Parties agree to:

3.2.1 treat each other with respect and an equality of esteem;

3.2.2 be open with information about the performance and financial status of each; and

3.2.3 provide early information and notice about relevant problems.

3.3 The Parties acknowledge that it is a requirement of the Better Care Fund that the CCG and the Council establish a Pooled Fund for the purposes of supporting the integration of health and social care and to seek to achieve the National Conditions and local objectives. The Parties have agreed to establish such a Pooled Fund pursuant to this Agreement and in accordance with the Better Care Fund Plan and the Scheme Specifications. For the avoidance of doubt, the Better Care Fund Plan and the Scheme Specifications (and any requirements therein) shall only apply in respect of the Services commissioned pursuant to those Scheme Specifications. The Parties acknowledge and agree that the Better Care Fund will form part of the Pooled Fund for the purposes of this Agreement, however, only that part of the Pooled Fund will be subject to the requirements in the Better Care Fund Plan.

3.4 The Parties shall comply with their respective obligations as set out in with the Financial Framework and the Information Framework. Any reference to the Financial Framework or the Information Framework is a reference to the Financial Framework or the Information Framework as varied in accordance with Clause 34.2 from time to time.

4. PARTNERSHIP FLEXIBILITIES

4.1 This Agreement sets out the mechanism through which the Parties will work together to establish one or more of the following:

4.1.1 Integrated Commissioning;

4.1.2 Lead Commissioning Arrangements;

4.1.3 Aligned Commissioning;

4.1.4 the establishment of one or more Pooled Fund;

in relation to the Services (the "**Flexibilities**").

4.2 The Council delegates to the CCG and the CCG agrees to exercise, on the Council's behalf, the Health-Related Functions to the extent necessary for performing its obligations under this Agreement in conjunction with the NHS Functions.

4.3 The CCG delegates to the Council and the Council agrees to exercise on the CCG's behalf the NHS Functions to the extent necessary for performing its obligations under this Agreement in conjunction with the Health-Related Functions.

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

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5. FUNCTIONS

- 5.1 The purpose of this Agreement is to establish a framework through which the Parties can secure the provision of health and wellbeing services in accordance with the terms of this Agreement.
- 5.2 This Agreement shall include such functions as shall be agreed from time to time by the Parties.
- 5.3 Where the Parties add a new Commissioning Plan to this Agreement it will need to be agreed by both Parties in accordance with the governance arrangements set out in this Agreement and include as a minimum, detail of who will act as the Lead Commissioner, the budget and other resource contributions of each Party.
- 5.4 The Parties shall not enter a Commissioning Plan unless they are satisfied that the Commissioning Plan in question will improve health and well-being in accordance with this Agreement.
- 5.5 The introduction of any Commissioning Plans using Pooled Funds will be subject to business case approval by the Integrated Commissioning Board, unless otherwise agreed by the Parties.
- 5.6 The introduction of Commissioning Plans using Aligned Funds will be subject to business case approval by the Integrated Commissioning Board who will recommend them for approval by the relevant Party or Parties, unless otherwise agreed by the Parties.
- 5.7 The Parties agree to comply with the governance arrangements in Schedule 2.

6. COMMISSIONING ARRANGEMENTS

- 6.1 Where there are Integrated Commissioning arrangements in respect of individual Services, both Parties shall work in cooperation and shall endeavour to ensure that the NHS Functions and Health Related Functions are commissioned with all due skill, care and attention.
- 6.2 Each Party shall be responsible for compliance with and making payments of all sums due from them to a Provider pursuant to the terms of a Service Contract.
- 6.3 Both Parties shall work in cooperation and endeavour to ensure that the relevant Services as set out in each Commissioning Plan are commissioned within each Party's Budget Contribution in respect of that Service in each Financial Year.
- 6.4 The Parties shall comply with the arrangements in respect of the Aligned Commissioning as set out in the relevant Service Specification.
- 6.5 The Parties shall comply with the obligations set out in Schedule 7 (Exit Planning Obligations).
- 6.6 Each Party shall keep the other Party and other stakeholders regularly informed, through agreed governance arrangements, of the effectiveness of the arrangements including the Better Care Fund and any Overspend or underspend in a Pooled Fund or Aligned Fund through the agreed governance arrangements.

Appointment and Role of a Lead Commissioner

- 6.7 From time to time the Parties through the Integrated Commissioning Board shall appoint one of them to act as Lead Commissioner for an Integrated Commissioning Strategy, Commissioning Plan or an individual Service and unless agreed otherwise the Lead Commissioner shall:
 - 6.7.1 exercise the NHS Functions in conjunction with the Health-Related Functions

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- 6.7.2 endeavor to ensure that the NHS Functions and the Health Related Functions are funded within the parameters of the Budget Contributions of each Party in relation to each Service in each Financial Year;
- 6.7.3 commission Services for individuals who meet the eligibility criteria set out in the relevant Service Specification;
- 6.7.4 contract with Provider(s) for the provision of the Services on terms agreed between the Parties;
- 6.7.5 comply with all relevant legal duties and guidance of both Parties in relation to the Services being commissioned;
- 6.7.6 where Services are commissioned using the NHS Standard Contract, perform the obligations of the “Commissioner” and “Co-ordinating Commissioner” with all due skill, care and attention and where Services are commissioned using any other form of contract to perform its obligations with all due skill and attention;
- 6.7.7 undertake performance management and contract monitoring of all Service Contracts;
- 6.7.8 put in place appropriate systems, as agreed by the Parties, to make sure that payments of all sums due to a Provider take place pursuant to the terms of any Services Contract;
- 6.7.9 provide the other Party with information in accordance with the Information Framework; and
- 6.7.10 keep the other Party and the Integrated Commissioning Board regularly informed of the effectiveness of the arrangements including the Better Care Fund and any Overspend or underspend in a Pooled Fund or Aligned Fund.

7. ESTABLISHMENT OF THE POOLED FUND

- 7.1 In exercise of their respective powers under Section 75 of the 2006 Act, the Parties have agreed to establish and maintain a Pooled Fund for revenue expenditure as set out in the Commissioning Plan.
- 7.2 The Pooled Fund shall be managed and maintained in accordance with the terms of this Agreement and it is agreed that monies held in the Pooled Fund (except for the CCG Contingency Funds) may only be used for the Permitted Budget and spent to commission prescribed services (as described in various legislation), services that the Parties agree will contribute to the effective delivery of the prescribed services and Third Party Costs (“Permitted Expenditure”).
- 7.3 The Parties may only depart from the definition of Permitted Expenditure to include or exclude other revenue expenditure with the express written agreement of each Party. Failure to reach agreement on such issues may be resolved through the Dispute Resolution Procedure.
- 7.4 For the avoidance of doubt, monies held in the Pooled Fund may not be expended on Default Liabilities unless this is agreed by both Parties. The CCG Contingency Funds may only be used in accordance with the Financial Framework.
- 7.5 Pursuant to this Agreement, the Parties agree to appoint a Host Partner for the Pooled Fund who shall be responsible for:
 - 7.5.1 administering the record of the funds contributed to the Pooled Fund on behalf of itself and the other Party;
 - 7.5.2 administering the record of the funds expended by the Parties in relation to the Pooled Fund;

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7.5.3 administering a record of the funds contributed and expended by the Parties in relation to Aligned Funds; and

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

7.6 For the avoidance of doubt each Party shall administer its own financial transactions initially within its own accounting ledger and seek reimbursement from the Host Partner out of the Pooled Fund.

8. POOLED FUND MANAGEMENT

8.1 The Parties hereby agree that the Host Partner shall appoint an officer to act as the Pooled Fund Manager for the purposes of Regulation 7(4) of the Regulations, subject to the consent of the other Party (such consent not to be unreasonably withheld).

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

8.2.1 the day to day operation and management of the Pooled Fund;

8.2.2 preparing and submitting to the Integrated Commissioning Board bi-monthly reports (or more frequent reports if required by the Integrated Commissioning Board) and an annual return about the income and expenditure from the Pooled Fund together with such other information as may be required by the Parties and the Integrated Commissioning Board to monitor the effectiveness of the Pooled Fund and to enable the Parties to complete their own financial accounts and returns; and

8.2.3 compliance with the obligations set out in the Financial Framework.

8.3 Pursuant to this Agreement, the Parties agree to establishing a Finance Economy Group and a Task and Finish Group, with the composition and responsibilities of such groups further specified in the Financial Framework.

8.4 In carrying out the responsibilities under Clause 8.2 the Pooled Fund Manager shall be accountable to the Parties and have regard to the recommendations of the Finance Economy Group, the Task and Finish Group, and the Integrated Commissioning Board. Furthermore, the Pooled Fund Manager must comply with the Financial Framework and the Information Framework.

8.5 Both Parties acknowledge the importance of ensuring that there is sufficient financial management support for the Integrated Commissioning Fund, and the Chief Financial Officer (or equivalent) of each Party shall be responsible for ensuring this support.

8.6 The Integrated Commissioning Board may agree to the viring of funds within the Pooled Fund (subject to any specific requirements of the Financial Framework).

9. ALIGNED FUNDS

9.1 Any Budget Contributions agreed to be held within an Aligned Fund will be notionally held in a fund established for commissioning that Service as set out in the relevant Commissioning Plan. For the avoidance of doubt, an Aligned Fund does not constitute a pooled fund for the purposes of Regulation 7 of the Regulations, and all non-pooled funds referred to in this Agreement shall be Aligned Funds.

9.2 Where an individual Service is being supported by an Aligned Fund, the Parties agree that responsibility for expending monies from an Aligned Fund shall not be delegated to the Lead Commissioner.

9.3 The Parties shall work together to establish the financial and administrative support necessary to enable the effective and efficient management of an Aligned Fund, meeting all required accounting and auditing obligations.

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- 9.4 Where there are shared Aligned Commissioning arrangements, both Parties shall work in cooperation and shall endeavour to ensure that:
- 9.4.1 the NHS Functions funded from an Aligned Fund are carried out within the CCG's Budget Contribution to an Aligned Fund for the relevant Service in each Financial Year; and
- 9.4.2 the Health Related Functions funded from an Aligned Fund are carried out within the Council's Budget Contribution to an Aligned Fund for the relevant Service in each Financial Year.

10. BUDGET CONTRIBUTIONS

- 10.1 The Budget Contribution of the CCG and the Council to the Pooled Fund and Aligned Funds for the first Financial Year of operation of each individual Service (including details of how such contributions shall be made) shall be as set out in each Commissioning Plan and the Better Care Fund Plan (as relevant).
- 10.2 Future Budget Contributions going forward will be determined by the Parties, who shall seek to agree such details prior to 31 December of the preceding year and set out in writing on or before the 31 March of the preceding financial year in accordance with the Financial Framework.
- 10.3 Except for Clause 17, no provision of this Agreement shall preclude the Parties from making additional contributions of Non-Recurrent Payments to the Integrated Commissioning Fund from time to time by agreement. Any such additional contributions of Non-Recurrent Payments shall be recorded in Integrated Commissioning Board minutes and recorded in the budget statement.
- 10.4 Any grant contributions (or other ring-fenced funding) shall be subject to the relevant conditions that apply and both Parties hereby agree to comply with those conditions.

Non-financial contributions

- 10.5 Both Parties shall review non-financial contributions toward the Integrated Commissioning Fund including staff, premises, IT support and other non-financial resources necessary to perform its obligations pursuant to this Agreement (including, but not limited to, management of service contracts and the Pooled Fund) as part of the annual review.

11. CHARGING FOR SERVICES

- 11.1 The Services provided through this Agreement for which the Council normally charges will continue to attract a charge. There is no intention to increase or expand charging arrangements through this Agreement, although the Council reserves the right to do this at any time.
- 11.2 All charges will be collected by the Council.
- 11.3 Care plans will ensure that where a charge is made, it is carefully explained to Service Users at the outset, to avoid any misunderstanding that NHS services are being charged for.
- 11.4 Decisions about the charging policies to be adopted will rest with the Council. Changes of policy will be reported to the Integrated Commissioning Board. The Council will ensure that written operational policies exist which provide staff with clear guidance on which services are charged for and which are non-chargeable.
- 11.5 The Council shall be liable for and release and indemnify and keep indemnified the CCG from and against all costs, claims, expenses, demands and liability arising from or as a result of the Council charging for any services.

12. RISK SHARE ARRANGMENTS, OVERSPENDS AND UNDERSPENDS

12.1 The Parties have agreed that the arrangements and obligations as set out in the Financial Framework shall apply to this Agreement.

Overspends in Pooled Funds

12.2 Subject to Clause 12.3, the Host Partner shall manage expenditure from the Pooled Fund within the Budget Contributions and shall ensure that the expenditure is limited to Permitted Expenditure.

12.3 The Host Partner shall not be in breach of its obligations under this Agreement if an Overspend occurs IF the only expenditure from the Pooled Fund has been in accordance with Permitted Expenditure and the Host Partner has informed the Integrated Commissioning Board in accordance with Clause 12.4.

12.4 If the Finance Task and Finish Group identifies an actual or projected Overspend the Pooled Fund Manager must ensure that the Integrated Commissioning Board is informed as soon as reasonably possible.

Overspends in Aligned Funds

12.5 Where either Party forecasts an Overspend in relation to an Aligned Fund, that Party shall as soon as reasonably practicable inform the other Party and the Integrated Commissioning Board.

Risk share arrangements

12.6 The Parties have agreed risk share arrangements which provide for financial risks arising within the commissioning of services from the Pooled Fund and an Aligned Fund; and the financial risk to the pool arising from any payment for performance element of the Better Care Fund.

12.7 If the Integrated Commissioning Fund records an Overspend or underspend in any year, the balance of Overspend is recorded in the Party that holds the statutory responsibility for the function or budget which incurred the Overspend or underspend. The mechanisms for sharing risk and reward are set out in further detail in the Financial Framework.

12.8 Unless the Parties agree to the contrary, where:

12.8.1 any Overspend that is recorded at the end of any Financial Year; or

12.8.2 any Overspend is offset, during that Financial Year, by contributions from fund reserves accumulated in previous Financial Years;

12.8.3 any Overspend is met from the CCG Contingency Funds

the Parties shall be entitled to recover their share of those Overspends, through adjustment to their future Financial Years' contribution to the Integrated Commissioning Fund.

13. INFORMATION FRAMEWORK

13.1 The Parties agree to share information with each other relating to the Services commissioned under Commissioning Plans, in accordance with the Information Framework.

14. PREMISES

14.1 The Parties shall be responsible for providing any premises which are necessary for the commissioning of the Services and, where these requirements are not set out in the relevant Service Specification, they will be agreed by the Integrated Commissioning Board.

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15. PRE-EXISTING CONTRACTS

- 15.1 Where from time to time the Parties have agreed to appoint a Lead Commissioner for a Service, the Party that is not the Lead Commissioner hereby appoints the other to act as agent to manage the CCG Contracts or the Council Contracts () from the Commencement Date. Each Party shall make available to the other copies of the CCG Contracts or the Council Contracts (as the case may be) to enable the other to carry out its role as agent.
- 15.2 The Parties may agree that, where necessary, and subject to the relevant contracting party's consent, the rights and obligations of the original contracting Party under the CCG Contracts or Council Contracts (as the case may be) may be transferred to the other Party by way of novation or assignment.

16. GOVERNANCE AND PERFORMANCE MANAGEMENT

- 16.1 The Parties shall comply with their respective obligations as set out in Schedule 2 (Governance) and Schedule 5 (Performance Arrangements).

17. CAPITAL EXPENDITURE

- 17.1 Neither Pooled Funds nor Aligned 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 Parties. If a need for capital expenditure is identified this must be agreed by the Parties and the capital expenditure must comply with any applicable grant conditions.

18. VAT

- 18.1 The Parties shall agree the treatment of the Pooled Fund for VAT purposes in accordance with any relevant guidance from HM Revenue and Customs.
- 18.2 Further detail as to the agreement by the Parties about VAT is set out in the Financial Framework.

19. AUDIT AND RIGHT OF ACCESS

- 19.1 Both Parties 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 Pooled Fund in accordance with the Regulations and section 7 of the Local Audit and Accountability Act 2014.
- 19.2 All internal and external auditors and all other persons authorised by the Parties will be given the right of access by them to any document, information or explanation they require from any employee or member of the Party to carry out their duties. This right is not limited to financial information or accounting records and applies equally to premises or equipment used about this Agreement. Access may be at any time without notice, provided there is good cause for access without notice.

20. LIABILITIES AND INSURANCE AND INDEMNITY

- 20.1 Subject to Clause 20.2 and 20.3, if a Party ("First Party") incurs a Loss arising out of or about this Agreement or a Services Contract because of any act or omission of another Party ("**Other Party**") which constitutes negligence, fraud or a breach of contract in relation to this Agreement or a Services Contract then the Other Party shall be liable to the First Party for that Loss and shall indemnify the First Party accordingly.
- 20.2 Clause 20.1 shall only apply to the extent that the acts or omissions of the Other Party contributed to the relevant Loss. Furthermore, it shall not apply if such act or omission occurred because of the Other Party acting in accordance with the instructions or requests of the First Party or the Integrated Commissioning Board.

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- 20.3 If any third party makes a claim or intimates an intention to make a claim against either Party, which may reasonably be considered as likely to give rise to liability under this Clause 20 the Party that may claim against the other indemnifying Party will:
- 20.3.1 as soon as reasonably practicable give written notice of that matter to the Other Party specifying in reasonable detail the nature of the relevant claim;
 - 20.3.2 not make any admission of liability, agreement or compromise in relation to the relevant claim without the prior written consent of the Other Party (such consent not to be unreasonably conditioned, withheld or delayed);
 - 20.3.3 give the Other Party 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 to enable the Indemnifying Party and its professional advisers to examine such premises, assets, accounts, documents and records and to take copies at their own expense for assessing the merits of, and if necessary defending, the relevant claim.
- 20.4 Each Party 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.
- 20.5 Where a Party is the Lead Commissioner for any Service Contract, it shall ensure that any Provider that they appoint will have adequate insurance (or equivalent indemnity arrangements through schemes operated by the National Health Service Litigation Authority) including but not limited to employer's liability, public liability, professional indemnity insurance and clinical negligence, as appropriate to the services being undertaken by the Provider.
- 20.6 Each Party shall at all times take all reasonable steps to minimise and mitigate any loss for which one party is entitled to bring a claim against the other pursuant to this Agreement.

21. STANDARDS OF CONDUCT AND SERVICE

- 21.1 The Parties will at all times comply with Law and ensure good corporate governance in respect of each Party (including the Parties' respective constitutions, standing orders, standing financial instructions and codes of conduct).
- 21.2 The Council is subject to the Best Value Duty. This Agreement and the operation of the Integrated Commissioning Fund is therefore subject to the Council's Best Value Duty and the CCG will co-operate with all reasonable requests from the Council which the Council considers necessary to fulfil its Best Value Duty.
- 21.3 The CCG is subject to the CCG Statutory Duties and these include a duty of clinical governance, through which it is accountable for securing continuous improvements to 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 Fund are subject to ensuring compliance with the CCG Statutory Duties and clinical governance obligations.
- 21.4 The Parties are committed to an approach to equality and equal opportunities as represented in their respective policies. The Parties 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.

22. CONFLICTS OF INTEREST

- 22.1 The Parties shall comply with their respective policies for identifying and managing conflicts of interest. Without prejudice to the generality of this clause, this should include:
- 22.1.1 any existing conflicts of interest or potential conflicts of interest;
 - 22.1.2 any conflict of interest or potential conflict of interest that may arise in the future;

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- 22.1.3 ensuring that additional employment (paid or voluntary) may not be undertaken by any staff working within this Agreement which conflicts with or is detrimental to any of the Parties' interests, or which in any way weakens public confidence or affects the ability of the Parties to discharge their duties under this Agreement;
- 22.1.4 providing that each Party shall require that any employee employed as part of this Agreement considers that a conflict of interest exists in relation to their own role or position in connection with this Agreement, they shall notify and request guidance initially from their line manager (who shall inform the Integrated Commissioning Board where necessary);
- 22.1.5 the Parties shall ensure that their respective policies for managing and identifying conflicts of interest are maintained and where possible, consistent.
- 22.2 The Integrated Commissioning Board shall maintain a register of conflict of interests.
- 22.3 In the event of a conflict arising between the Parties' respective policies the matter shall be referred to the Authorised Officers for resolution acknowledging that NHS standards are strictly enforced by NHS England. Should the Authorised Officers be unable to reach a resolution the matter shall be determined as a dispute in accordance with Clause 27.
- 23. GOVERNANCE**
- 23.1 Section 75 of the 2006 Act states that the partner organisations retain the statutory responsibilities and remain accountable for the prescribed services set out for each in the relevant legislation.
- 23.2 Overall strategic oversight of the development of Integrated Commissioning is vested in the Council's Cabinet and the CCG's Governing Body, which shall remain the statutory decision making bodies.
- 23.3 The Health and Well Being Board will provide strategic oversight of partnership working between the Parties and shall make recommendations to the Parties as to any actions it considers necessary.
- 23.4 The Parties have established the Integrated Commissioning Board to provide oversight and leadership for delivery of Integrated Commissioning.
- 23.5 The Integrated Commissioning Board is based on a committee in common committee structure. The Integrated Commissioning Board terms of reference are included at Part 2 of Schedule 2. (Governance)
- 23.6 The Parties will ensure membership is appropriate to carry out the required functions of the Integrated Commissioning Board.
- 23.7 The senior management and officers delivering Integrated Commissioning will be given sufficient relevant delegated authority to carry out their role.
- 23.8 Each Party has secured internal reporting arrangements to ensure the standards of accountability and probity required by each Party's own statutory duties and organisation are complied with.
- 23.9 The Integrated Commissioning Board shall be responsible for making decisions relating to the Pooled Fund where necessary, in accordance with the relevant standing financial instructions and schemes of delegation. The Integrated Commissioning Board shall be responsible for making recommendations to the CCG's Governing Body or the Council's Cabinet or appropriate committee, where necessary, in relation to an Aligned Fund.
- 23.10 The Integrated Commissioning Board shall be responsible for the overall approval of Commissioning Plans and business cases, save for the approval of BCF Plans, which shall be approved in accordance with the terms set out in Schedule 6 (Better Care Fund Plan)

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24. REVIEW

- 24.1 Save where the CCG's Governing Body and the Council's Cabinet or appropriate committee (as relevant) agrees alternative arrangements (including alternative frequencies) the Parties shall undertake an annual review ("**Annual Review**") of the operation of this Agreement, the Integrated Commissioning Fund and the provision of the Services within three months of the end of each Financial Year. The Integrated Commissioning Board will agree the frequency and scale of any other reviews, monitoring and reporting of activity and the performance of the integrated commissioning function.
- 24.2 The Integrated Commissioning Board shall within twenty 20 Working Days of the annual review prepare a joint annual report documenting the matters referred to in this Clause 24. A copy of this report shall be provided to the Parties.
- 24.3 In the event that the Parties fail to meet the requirements of the Better Care Fund Plan and NHS England the Parties shall provide full co-operation with NHS England to agree a recovery plan.

25. COMPLAINTS

- 25.1 In this Agreement, "complaints" shall include complaints, concerns and comments that come to the attention of the Parties through any source and in any medium; and shall include complaints about any aspect of the Services commissioned and about the function of commissioning.
- 25.2 The Parties agree that they and the Integrated Commissioning Board will adhere to the relevant policies of the Parties in responding to complaints. Complaints will be handled in accordance with the policies of the most appropriate Party. In the event of there being a dispute over which is the most appropriate Party, the role shall fall to the Lead Commissioner for the Service involved.
- 25.3 Analysis of the complaints handled by the Parties shall be reported to the Integrated Commissioning Board.

26. TERMINATION

- 26.1 Either Party may terminate this by giving not less than [nine (9) months'] written notice to the other Party, with the earliest date that such notice can take effect being the first anniversary of the Commencement Date, and thereafter, such notice may only be effective on subsequent anniversaries of the Commencement Date.
- 26.2 Each of the individual Services may be terminated in accordance with the terms set out in the relevant Service Contract if the Parties ensure that the Better Care Fund requirements continue to be met, and the obligations under this Agreement are met.
- 26.3 If any Party (the "**Relevant Party**") fails to meet any of its obligations under this Agreement, the other Party may by notice require the Relevant Party to take such reasonable action within a reasonable timescale as the other Party may specify to rectify such failure. Should the Relevant Party fail to rectify such failure within such reasonable timescale, the matter shall be referred for resolution in accordance with Clause 27.
- 26.4 Expiry or termination of this Agreement (whether by effluxion of time or otherwise) shall be without prejudice to the Parties' rights in respect of any antecedent breach and the provisions of Clauses 19, 20 and 29.
- 26.5 Upon expiry or termination of this Agreement for any reason whatsoever the following shall apply:
- 26.5.1 the Parties agree that they will work together and co-operate to ensure that the winding down and disaggregation of the integrated and joint activities to the separate responsibilities of the Parties is carried out smoothly and with as little disruption as possible to service users, employees, the Parties and third parties,

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so as to minimise costs and liabilities of each Party in doing so, and shall each commit sufficient resource to implement the Exit Plan;

- 26.5.2 where either Party has entered into a Service Contract which continues after the expiry or termination of this Agreement, both Parties shall continue to contribute to the Contract Price in accordance with the agreed contribution for that Service prior to the expiry or termination and will enter into all appropriate legal documentation required in respect of this;
 - 26.5.3 the Lead Commissioner shall make reasonable endeavors to amend or terminate a Service Contract (which shall for the avoidance of doubt not include any act or omission that would place the Lead Commissioner in breach of the Service Contract) where the other Party requests the same in writing, provided that the Lead Commissioner shall not be required to make any payments to the Provider for such amendment or termination unless the Parties shall have agreed in advance who shall be responsible for any such payment;
 - 26.5.4 where a Service Contract held by a Lead Commissioner relates all or partially to Services which relate to the other Party's Functions then, provided that the Service Contract allows it, the other Party may request that the Lead Commissioner assigns the Service Contract in whole or part upon the same terms mutatis mutandis as the original Service Contract;
 - 26.5.5 the Integrated Commissioning Board shall continue to operate for the purposes of functions associated with this Agreement for the remainder of any contracts and commitments relating to this Agreement; and
 - 26.5.6 expiry or termination of this Agreement shall have no effect on the liability of any rights or remedies of either Party already accrued, prior to the date upon which such termination takes effect.
- 26.6 In the event of termination in relation to an individual Service the provisions of Clause 26.5 shall apply mutatis mutandis in relation to the individual Service (as though references as to this Agreement were to that individual Service).

27. DISPUTE RESOLUTION

- 27.1 The following principles are to be adhered to for any dispute resolution:
- 27.1.1 The resolution of a dispute under this Agreement must maintain the quality of health and social care provision now and in the future, deliver the best possible outcomes, support innovation where appropriate, make care more cost-effective, and allocate risk fairly.
 - 27.1.2 The resolution of a dispute under this Agreement must promote transparency and accountability. It should hold the Parties to the Agreement accountable to each other and to Service Users and citizens, and facilitate the sharing of appropriate information to achieve the ambition of the Parties.
 - 27.1.3 The Parties must engage constructively with each other within the dispute resolution process when working to reach agreement.
- 27.2 This dispute resolution process shall operate as follows:
- 27.2.1 The Parties may refer any disputes arising out of this Agreement to the members of the Integrated Commissioning Board for resolution. If any dispute referred to the Integrated Commissioning Board is not resolved within **14 days** of such referral, either Party, by notice in writing to the other, may refer the dispute to the chief executives (or equivalent) of the Parties, who shall co-operate in good faith to resolve the dispute as amicably as possible within 14 days of service of the notice;

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- 27.2.2 If the chief executives (or equivalent) fail to resolve the dispute within the allotted time, the Parties will attempt to settle it by mediation either: (a) with the Centre for Effective Dispute Resolution (“CEDR”); or (b) if agreed in writing by the Parties, with any other alternative mediation organisation, using the respective model procedures of CEDR or such other mediation organisation.
- 27.2.3 To initiate mediation a Party shall:
- 27.2.3.1 give notice in writing (“**Mediation Notice**”) to the other Party requesting mediation of the dispute; and
 - 27.2.3.2 send a copy of the Mediation Notice to CEDR or an equivalent mediation organisation as agreed by the Parties asking them to nominate a mediator if the Parties are not able to agree such appointment by negotiation.
- 27.2.4 Neither Party may issue a Mediation Notice until the process set out in Clause 27.2.1 has been exhausted.
- 27.2.5 The mediation shall commence within twenty eight (28) days of the Mediation Notice being served. Neither Party will terminate such mediation until each Party has made its opening presentation and the mediator has met each Party separately for at least one hour or one Party has failed to participate in the mediation process. The Parties will cooperate with any person appointed as mediator, providing them with such information and other assistance as they shall require and will pay their costs, as they shall determine or in the absence of such determination such costs will be shared equally.
- 27.2.6 Should either Party dispute the outcome of the mediation process referred to in Clause 27.2.5, the Parties may refer the dispute for final resolution by arbitration. It is agreed that:
- 27.2.6.1 the tribunal shall consist of one arbitrator agreed by the Parties;
 - 27.2.6.2 in default of the Parties' agreement as to the arbitrator within 14 days, the appointing authority shall be the Chartered Institute of Arbitrators in London;
 - 27.2.6.3 the seat of the arbitration shall be London;
 - 27.2.6.4 the law governing the arbitration agreement shall be English; and
 - 27.2.6.5 the language of the arbitration shall be English.
- 27.3 Nothing in this Agreement shall prevent either Party seeking from any court any interim or provisional relief that may be necessary to protect the rights or property of that Party or that relates to the safety of Service Users or the security of Confidential Information, pending resolution of the relevant dispute in accordance with the CEDR or other mediation organisation procedure.
- 28. FORCE MAJEURE**
- 28.1 Neither Party shall be entitled to bring a claim for a breach of obligations under this Agreement by the other Party, or incur any liability to the other Party for any losses or damages incurred by that Party, to the extent that a Force Majeure Event occurs and the Parties agree that such affected Party is / has been prevented from carrying out its obligations by that Force Majeure Event.
- 28.2 On the occurrence of a Force Majeure Event, the Affected Party shall notify the other Party as soon as practicable. Such notification shall include details of the Force Majeure Event, including evidence of its effect on the obligations of the Affected Party and any action proposed to mitigate its effect.

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- 28.3 As soon as practicable, following notification as detailed in Clause 28.2, the Parties shall consult with each other in good faith and use all best endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and, subject to Clause 28.4, facilitate the continued performance of the Agreement.
- 28.4 If the Force Majeure Event continues for a period of more than sixty (60) days, either Party shall have the right to terminate the Agreement by giving fourteen (14) days written notice of termination to the other Party. For the avoidance of doubt, no compensation shall be payable by either Party as a direct consequence of this Agreement being terminated in accordance with this Clause 28.4.

29. CONFIDENTIALITY

- 29.1 In respect of any Confidential Information a Party receives from another Party (the "**Discloser**") and subject always to the remainder of this Clause 29, each Party (the "**Recipient**") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party, without the Discloser's prior written consent provided that:
- 29.1.1 the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the Commencement Date; and
- 29.1.2 the provisions of this Clause 29 shall not apply to any Confidential Information which:
- 29.1.2.1 is in or enters the public domain other than by breach of the Agreement or other act or omission of the Recipient; or
- 29.1.2.2 is obtained by a third party who is lawfully authorised to disclose such information.
- 29.2 Nothing in this Clause 29 shall prevent the Recipient from disclosing Confidential Information where it is required to do so in fulfilment of statutory obligations or by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable Law.
- 29.3 Each Party:
- 29.3.1 may only disclose Confidential Information to its employees and professional advisors to the extent strictly necessary for such employees to carry out their duties under the Agreement; and
- 29.3.2 will ensure that, where Confidential Information is disclosed in accordance with Clause 29.3.1, the recipient(s) of that information is made subject to a duty of confidentiality equivalent to that contained in this Clause 29;
- 29.3.3 shall not use Confidential Information other than strictly for the performance of its obligations under this Agreement.

30. FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION REGULATIONS

- 30.1 The Parties agree that they will each cooperate with each other to enable any Party receiving a request for information under the 2000 Act or the 2004 Regulations to respond to a request promptly and within the statutory timescales. This cooperation shall include but not be limited to finding, retrieving and supplying information held, directing requests to the other Party as appropriate and responding to any requests by the Party receiving a request for comments or other assistance.
- 30.2 Each Party acknowledges that the other Party is subject to the requirements of the 2000 Act and each Party shall assist and co-operate with the other, at their own expense, to enable the other Party to comply with its information disclosure obligations.

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- 30.3 Where a Party receives a request for information specifically in relation to a function of the other Party, it shall direct the request for information to the other Party as soon as practicable after receipt and in any event within two Working Days of receiving the request for information.
- 30.4 Where the request relates to functions of both Parties, the Party receiving the request will share the request with the other Party as soon as practicable after receipt and in any event, within two Working Days and that Party will assist and co-operate with the other as is necessary for it to respond to the request within the time for compliance. If either Party determines that information must be disclosed it shall notify the other Party of that decision at least two Working Days before disclosure. Each Party shall be responsible for determining at its absolute discretion whether the relevant information is exempt from disclosure or is to be disclosed in response to a request for information.
- 30.5 All agreements between the Parties as to confidentiality shall be subject to their duties under the 2000 Act and 2004 Regulations. No Party shall be in breach of Clause 29 or any other confidentiality clauses or agreements if it makes disclosures of information in accordance with the 2000 Act and/or 2004 Regulations.

31. INFORMATION SHARING AND DATA PROTECTION

- 31.1 In all instances where the Parties share information with each other; and in the functioning of the Integrated Commissioning Board, the Parties will adhere to the relevant policies and information governance protocols of each Party. In doing so, the Parties will ensure that the operation of this Agreement complies with Law, the 1998 Act.
- 31.2 Subject to the following provisions of this section, and the Information Framework the Parties shall work together to establish effective arrangements to permit and control the exchange of information to support the Integrated Commissioning arrangements.
- 31.3 Without prejudice to any other provision of this Agreement, each Party shall always comply with the requirements of the 1998 Act in respect of any Personal Data howsoever acquired or processed for the purposes of, or in the operation of, the Integrated Commissioning arrangements and no Personal Data collected or processed for any purposes connected with this Agreement will not be disclosed to any other person otherwise than in strict accordance with the provisions of the 1998 Act.
- 31.4 Each Party shall ensure that to process any information for the purposes of this Agreement lawfully and fairly in accordance with the first data protection principle that it shall notify the subject of such personal information of the purposes for which it is gathered and for which it may be disclosed. Where necessary, the Parties will obtain the consent of Service Users and other data subjects to disclose personal information to be used for the purposes of this Agreement.
- 31.5 Any data disclosed by a Party to the other for use in carrying out the purposes of this Agreement will be held and processed strictly in accordance with the 1998 Act and any common law obligation of confidentiality.
- 31.6 Each Party shall:
- 31.6.1 keep confidential any information obtained about this Agreement and any Sensitive Personal Data, subject to the 1998 Act;
 - 31.6.2 take appropriate technical and organisational measures against unauthorised or unlawful processing of such personal data and against accidental loss or destruction of or damage to such Personal Data;
 - 31.6.3 only process Personal Data for and on behalf of the other Party, in accordance with the other Party's instructions and for the purposes of this Agreement and to ensure compliance with the 1998 Act; and

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- 31.6.4 allow the other Party to audit its compliance with the requirements of this Clause 31 on reasonable notice and/or to promptly provide the other Party with evidence of its compliance with the obligations set out in this Clause 31.

32. OMBUDSMEN

- 32.1 The Parties will co-operate with any investigation undertaken by the Health Service Commissioner for England or the Local Government Commissioner for England (or both) about this Agreement.

33. PARTIES/NOTICES

- 33.1 Any notice to be given under this Agreement shall either be delivered personally or sent by first class post or electronic mail. The address for service of each Party shall be as set out in Clause 33.3 or such other address as each Party may previously have notified to the other Party in writing. A notice shall be deemed to have been served if:

33.1.1 personally delivered, at the time of delivery;

33.1.2 posted, at the expiration of forty-eight (48) hours after the envelope containing the same was delivered into the custody of the postal authorities; and

33.1.3 if sent by electronic mail, at the time of transmission and a telephone call must be made to the recipient warning the recipient that an electronic mail message has been sent to him (as evidenced by a contemporaneous note of the Party sending the notice) and a hard copy of such notice is also sent by first class recorded delivery post (airmail if overseas) on the same day as that on which the electronic mail is sent.

- 33.2 In proving such service, it shall be sufficient to prove that personal delivery was made, or that the envelope containing such notice was properly addressed and delivered into the custody of the postal authority as prepaid first class or airmail letter (as appropriate), or that the facsimile was transmitted on a tested line or that the correct transmission report was received from the facsimile machine sending the notice, or that the electronic mail 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).

- 33.3 The address for service of notices as referred to in Clause 33.1 shall be as follows unless otherwise notified to the other Party in writing:

33.3.1 if to the Council, addressed to:

Assistant Director of Commissioning, Hackney Council, Mare Street, E8 1EA
[Council to confirm]; and

33.3.2 if to the CCG, addressed to:

Chief Officer, NHS City and Hackney CCG, 3rd Floor, Block A, St Leonard's
Hospital, Nuttall Street, London N1 5LZ

34. VARIATION

- 34.1 Subject to Clause 34.2, no variations to this Agreement will be valid unless they are recorded in writing and signed for and on behalf of each of the Parties.

- 34.2 The members of the Integrated Commissioning Board may choose to exercise their delegated powers on behalf of their employer organisation (which, for the avoidance of doubt, in each case must either be the CCG or the Council) to:

34.2.1 agree the addition of Commissioning Plans or Integrated Commissioning Strategies to this Agreement following the approval of a detailed business case by each of the Parties; and/or

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- 34.2.2 consider the Annual Review of this Agreement pursuant to Clause 24 and implement agreed changes following the review; and/or
- 34.2.3 vary the Financial Framework, subject to the written approval of each of the Parties; and/or
- 34.2.4 vary the Information Framework, subject to the written approval of each of the Parties.

35. CHANGE IN LAW

- 35.1 The Parties shall ascertain, observe, perform and comply with all relevant Laws, and shall do and execute or cause to be done and executed all acts required to be done under or by any Laws.
- 35.2 On the occurrence of any Change in Law, the Parties shall agree in good faith any amendment required to this Agreement because of the Change in Law subject to the Parties using all reasonable endeavours to mitigate the adverse effects of such Change in Law and taking all reasonable steps to minimise any increase in costs arising from such Change in Law.
- 35.3 In the event of failure by the Parties to agree the relevant amendments to the Agreement (as appropriate), the Clause 27 (Dispute Resolution) shall apply.

36. WAIVER

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

37. SEVERANCE

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

38. ASSIGNMENT AND SUB CONTRACTING

- 38.1 The Parties shall not sub contract, assign or transfer the whole or any part of this Agreement, without the prior written consent of the other Parties, which shall not be unreasonably withheld or delayed. This shall not apply to any assignment to a statutory successor of all or part of a Party's statutory functions.

39. EXCLUSION OF PARTNERSHIP AND AGENCY

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

40. THIRDPARTYRIGHTS

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

41. ENTIRE AGREEMENT

41.1 The terms herein contained together with the contents of the Schedules, including the Financial Framework and the Information Framework, constitute the complete agreement between the Parties with respect to the subject matter hereof and supersede all previous communications representations understandings and agreement and any representation promise or condition not incorporated herein shall not be binding on any Party.

41.2 The Parties acknowledge that there was an unsigned agreement relating to section 75 arrangements for learning disability services that had been circulated between the Parties. For the avoidance of doubt, that unsigned agreement is not in force and the content of this Agreement with regard to learning disability services prevails.

42. COUNTERPARTS

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

43. GOVERNING LAW AND JURISDICTION

43.1 This Agreement and any dispute or claim arising out of or about it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.

43.2 Subject to Clause 27 (Dispute Resolution), the Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to hear and settle any action, suit, proceedings, dispute or claim, which may arise out of, or about, this Agreement, its subject matter or formation (including non-contractual disputes or claims).

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IN WITNESS, WHEREOF this Agreement has been executed as a Deed by the Parties on the date of this Agreement

Executed as a Deed by affixing the common seal of **LONDON BOROUGH OF HACKNEY**

in the presence of:

.....
Authorised Signatory

.....
Authorised Signatory

Executed as a Deed by affixing the common seal of **NHS CITY AND HACKNEY CLINICAL COMMISSIONING GROUP**

in the presence of:

.....
Authorised Signatory

.....
Authorised Signatory

SCHEDULE 1 – INTEGRATED COMMISSIONING STRATEGIES AND INDICATIVE BUDGET CONTRIBUTIONS

PART ONE –INTEGRATED COMMISSIONING STRATEGIES

The Integrated Commissioning Strategy is the joint commissioning between the CCG and the Local Authority. The Locality Plan is being developed and will form the detail and basis of the Integrated Commissioning Strategy. The four priority areas of the Locality Plan are:

- Children & Young People
- Planned care
- Prevention
- Unplanned care

Four work streams are being established for these priority areas to review current plans and services, identify areas for improvement and test out their potential impact. Pooled Funds are connected to each of these priority areas.

Each work stream will report to the Transformation Board. The Transformation Board is made up of the local system leaders and is responsible for developing and delivering improvement plans and making recommendations to the Integrated Commissioning Board for decision.

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SUMMARY OF SERVICES INCLUDED WITHIN THE INTEGRATED COMMISSIONING FUND 2017/18			
Section 75 Services			
Service Area (Work stream)	Contract Type	2016/17 Budget £'000	2017/18 Budget £'000
1. City & Hackney CCG			
Unplanned Care (BCF)	Section 75	4,805	TBC in Feb
Unplanned Care (non BCF)	NHS contracts and Alliance contracts	89,056	TBC in Feb
Unplanned Care Total		93,861	#VALUE!
Planned Care (BCF)	NHS contracts and Alliance contracts	13,915	
Planned Care (non BCF)	NHS contracts and Alliance contracts	169,773	TBC in Feb
Prevention (non BCF)	NHS contracts and Alliance contracts	5,309	TBC in Feb
Children/Young people	NHS contracts and Alliance contracts	42,563	TBC in Feb
	City & Hackney CCG Total:	325,421	#VALUE!
2. London Borough of Hackney			
Unplanned Care		6,126	6,126
Planned Care		67,662	65,500
Planned Care (via DFG Capital)		1,185	1,185
Prevention		36,277	35,416
	London Borough of Hackney Total:	111,250	108,227
Grand Total Section 75 Services including Efficiencies/QIPP		436,671	#VALUE!
Aligned Services			
1. City & Hackney CCG			
Non-excisable* health services	NHS contracts contracts	21,843	TBC in Feb
Corporate, Support and reserves		30,972	TBC in Feb
	City & Hackney CCG Total:	52,815	#VALUE!
2. London Borough of Hackney			
Non-excisable* social care services (income)		(5,609)	(5,726)
	London Borough of Hackney Total:	(5,609)	(5,726)
Grand Total Aligned Services including Efficiencies/QIPP		47,206	#VALUE!
In Collaboration Services			
1. City & Hackney CCG			
Primary care co-commissioning		-	TBC in Feb
	City & Hackney CCG Total:	-	TBC in Feb
Grand Total In Collaboration Services including Efficiencies/QIPP		0	TBC in Feb
Grand Total Integrated Commissioning Fund including Efficiencies/QIPP		483,877	#VALUE!

Notes

1. 2017/18 budget figures are expected in February and the above tables will be updated accordingly.
2. CCG budget split between Hackney and City of London patients based on proportion of GP registered patients for each local authority of the total (97% for Hackney and 3% for City of London) except where services are specifically commissioned for City or Hackney residents such as some of the services in the BCF.
3. The above tables showing pooled budgets for each organisation are shown at summary (workstream) level however, these summary documents are underpinned by service/contract level detail, a record of which is held by each partner.
4. The CCG pooled budgets do not include the following services which are not excisable under S75 :
 - a. Surgery
 - b. Endoscopy
 - c. Termination of Pregnancies
 - d. Radiotherapy
 - e. Laser treatments
 - f. Emergency Ambulance Services
5. The Local Authority pooled budgets for Adult Social Care and Public Health, do not include the following services which are not excisable under S75:
 - a. power to charge for services (see Aligned Income budget)

PART TWO – INDICATIVE BUDGET CONTRIBUTIONS

[NOTE: This will set out the budget contributions of the Parties for financial year 2017/2018, including:

- details of the indicative contributions to the Pooled Fund;
- details of the indicative contributions to an Aligned Fund;
- details of staff and other administrative recharges.]

PART THREE – ALIGNED FUNDS

The Aligned Funds for both parties are per below:

1. CCG Aligned Funds:

This is comprised of commissioned services not exercisable under the Partnership Regulations as well as the CCG corporate management and support services commissioned services not exercisable under the Partnership Regulations:

- a. Surgery (the CCG has excluded Elective Surgery)
- b. Endoscopy
- c. Termination of Pregnancies
- d. Radiotherapy
- e. Laser treatments
- f. Emergency Ambulance Services

Corporate management & support services: Include all management, administrative and support services such as contract management and finance, and, estates & facilities services.

2. Local Authority Aligned Funds:

This comprises of income budgets arising out of local authority power to charge for services.

SCHEDULE 2 – GOVERNANCE

PART ONE – OVERVIEW

1. The clinical and care principles by which the Pooled Fund will be operated will be overseen by the Integrated Commissioning Board. The Integrated Commissioning Board shall constitute committees in common of the Parties, and once the Partnership Regulations have been appropriately clarified, the Integrated Commissioning Board will constitute a Joint Committee of the CCG and the Council in compliance with the Local Government Act 1972 and the 2006 Act, which permit the creation of a joint committee.
2. The Integrated Commissioning Board represents the interests of both Parties in securing improved operation of the local health economy.
3. The Integrated Commissioning Board will set out the key priorities and principles for the Pooled Fund through which improvements to clinical and care outcomes and to financial sustainability will be secured.
4. Decisions to pool funding and management of Services or commissioning areas will be made by the Integrated Commissioning Board.
5. Decisions to deploy funds from the CCG Contingency Fund will require the written authorisation of the CCG's Chief Financial Officer.
6. The management of the Integrated Commissioning Fund is facilitated via the Pooled Fund Manager, the Finance Economy Group and the Task and Finish Group, as further set out in the Financial Framework.
7. As the Health and Wellbeing Board includes representatives of a number of organisations (including providers) who are not statutory commissioners of local health and care services, it is not appropriate to require the Health and Wellbeing Board to take decisions relating to the Pooled Fund. The Health and Wellbeing Board will however be kept informed of the performance of the Integrated Commissioning Fund.

PART TWO – TERMS OF REFERENCE OF INTEGRATED COMMISSIONING BOARD

[NOTE: The agreed Terms of Reference for the Integrated Commissioning Board will be inserted here]

PART THREE – TERMS OF REFERENCE OF THE TRANSFORMATION BOARD

[NOTE: The agreed Terms of Reference for the Transformation Board will be inserted here]

PART FOUR - STRUCTURE DIAGRAM OF THE GOVERNANCE ARRANGEMENTS

[NOTE: The completed structure diagram of governance arrangements will be inserted here]

SCHEDULE 3 – FINANCIAL FRAMEWORK

[Note: The financial framework will be inserted in due course.]

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SCHEDULE 4 – INFORMATION FRAMEWORK

1. Background

This Information Framework provides guidelines as to the level of information to be shared between the Parties, for the purposes of facilitating effective Integrated Commissioning.

The Parties shall share information relating to the commissioning of Services by way of Services Contracts with Providers when acting as Lead Commissioner.

The Parties will also share information to help better understand financial issues that may be arising with regard to a Service Contract.

Whilst complying with their respective obligations under this Information Framework the Parties acknowledge and agree that any information sharing contemplated by this Information Framework shall take place subject to the terms of the Agreement, and specifically:

- i) Clause 6.7.9 of the Agreement, which sets out the obligation for the Lead Commissioner to provide the other Party with information as set out in this Information Framework; and
- ii) Clause 31 (Information Sharing and Data Protection).

2. Interpretation

In this Information Framework:

- i) the notification or provision of information to a receiving Party shall mean notification or provision of the information by the Lead Commissioner to that Party's Authorised Officer; and
- ii) references to any definitions, information or circumstances shall include references to the equivalent definitions, information or circumstances where the Lead Commissioner is entered into a contract by way of Council Contract, CCG Contract or otherwise.

3. Variations

This Information Framework and the Parties' obligations contained herein may be varied in accordance with Clause 34.2.4 of the Agreement.

4. Obligations as Lead Commissioner

The capitalised terms used in this section are, except for where provided for in the Agreement, defined terms under the NHS Standard Contract, and shall be interpreted accordingly.

Notifications

Each Party acknowledges and agrees that where it is Lead Commissioner for any Service Contracts it shall notify the other Party:

If it receives or serves any of the following:

- a Change in Control Notification;
- a Notice of an Event of Force Majeure;
- a Contract Performance Notice;
- a Service Variation;
- a Variation;
- a notice in relation to a Suspension Event;
- an Exception Report;
- a Remedial Action Plan or Immediate Action Plan;
- notice of the appointment of an Auditor;
- a Material Sub-Contractor Change in Control;
- notice of a request for information under the FOIA, EIR or DPA (subject access request);

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- notice in relation to the Health Service Ombudsman;

If it becomes aware of one of the following events occurring:

- a material breach of the Provider or Commissioners obligations under the Service Contract;
- a Suspension Event;
- a Provider Insolvency Event;
- a change in Consents;
- a Provider committing a Prohibited Act;
- a Data Breach or any Information Governance Breach;
- any circumstances that have a material and adverse effect on the ability of the Provider to provide the [Services] AND/OR [Essential Services];
- any Provider default or Commissioner default (as contemplated by GC17.9 and GC 17.10 of the NHS Standard Contract);
- any breach of confidentiality obligations;
- any Information Breach;
- any publicity, coverage or publications which will both substantially and materially have a negative impact on either Party's or the Provider's reputation in relation to the Services or in the opinion of the Service Users

and provide information where requested by the other Party, in relation to the notification.

Disputes

The Lead Commissioner shall:

- advise the other Party of any matter which has been referred for Dispute and agree what (if any) matters will require the prior approval of one or more of the other Parties as part of that process; and
- notify the other Party of the outcome of any Dispute that is agreed or determined by Dispute Resolution.

Consultation

The Lead Commissioner shall consult with the other Party before attending:

- an Activity Management Meeting;
- a Contract Management Meeting; and
- a Review Meeting; and
- a Joint Activity Review;

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

Reports and Record Provision

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).

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

- CQUIN Performance Reports;
- CQUIN Reconciliation Accounts;
- Essential Services Continuity Plans;
- Immediate Action Plans;
- Incident Response Plans;
- JI Reports;
- Joint Activity Reviews;
- Succession Plans;

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- Transition Arrangements;
- Review Records;
- Remedial Action Plans;
- Quality Requirements;
- Service Quality Performance Report;
- Safeguarding Policies;
- Activity Management Plans;
- Data Quality Improvement Plan (DQIP);
- Service Development and Improvement Plan (SDIP);
- Auditor's draft report;
- Auditor's Final Report; and
- HCAI Reduction Plan

Restrictions

The Lead Commissioner shall not:

- permanently or temporarily withhold or retain monies pursuant to the Withholding and Retaining of Payment Provisions;
- vary the Data Quality Improvement Plan (DQIP), Service Development and Improvement Plan (SDIP), Remedial Action Plan, Immediate Action Plan [or any other Provider plans];
- agree (or vary) the terms of a Joint Investigation or associated Immediate Action Plan;
- suspend all or part of the Services;
- serve any notice to terminate the Service Contract (in whole or in part);
- agree (or vary) the terms of a Succession Plan or Transfer Arrangements,
- agree any substantive changes to the Service Contract in relation to an Auditor's final report;
- give any approvals under the Service Contract;
- agree to, or propose, any variation to the Service Contract (including any Schedule or Appendices);
- serve any notice.

without the prior approval of the other Party (acting through the Integrated Commissioning Board), such approval not to be unreasonably withheld or delayed.

SCHEDULE 5 – PERFORMANCE ARRANGEMENTS

1. INTRODUCTION

This Agreement between the Council and the CCG establishes a framework for joining together the commissioning, provision, finances, performance management, and governance for the Services covered by the Agreement.

This Schedule outlines the arrangements for the performance management framework for the Agreement.

2. PURPOSE

This Schedule aims to ensure that Parties adopt an integrated performance management framework to ensure they plan, deliver, review and act on relevant information to commission improved outcomes for the people of the London Borough of Hackney.

This approach will ensure that the actions and investment of Parties will lead towards the achievement of national, regional and local performance targets as well as improving outcomes for the people of the London Borough of Hackney.

3. DEFINITION

Performance management is the overall process that integrates planning, action, monitoring and review. Performance management means knowing:

- What you are aiming for (e.g. purpose, mission, corporate aims, strategic goals etc.);
- What you have to do to meet these aims (e.g. business plan, project plan etc);
- What the priorities are, and ensuring that there are sufficient resources (inputs);
- What the current performance is through monitoring and reporting; and
- How to review progress, detect problems and take action in a timely manner to ensure the outcome/target is achieved.

4. BENEFITS

Effective performance management enables relevant staff throughout the partnership to:

- Be clear what the strategic objectives are for commissioning; and
- Be clear what outcomes are to be delivered in any one Financial Year,

thereby ensuring better quality Services are delivered to local people.

5. OUTLINEFRAMEWORK

Essentially, the performance management framework consists of three processes in relation to joint commissioning, as set out below.

5.1 BUSINESSPLANNING PROCESS

- 5.1.1 Commissioning Plans that state the strategic objectives and key performance measures for a period of three to five Financial Years, and commissioning intentions for those objectives with timescales for achievement.

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- 5.1.2 Services Contracts that state how performance will be monitored, reported, reviewed and necessary action taken, including performance indicators.

5.2 REPORTING AND REVIEWPROCESS

- 5.2.1 Overall progress against delivery of the outcomes in the Commissioning Plans.
- 5.2.2 Overall progress against delivery on the Services Contracts and identification of reasons for under performance.

5.3 PERFORMANCEIMPROVEMENT PROCESS

- 5.3.1 Ensuring action is taken where the continuation of current performance would lead to an outcome/target not being met.
- 5.3.2 Application of a range of tools and techniques to improve overall performance.

6. FRAMEWORK DETAIL

6.1 BUSINESSPLANNING PROCESS

- 6.1.1 It is the responsibility of the Parties to develop, and annually review, a Commissioning Plan on a rolling three financial year basis for the particular Service to be commissioned. Each strategy will be developed by adherence to the 'commissioning cycle' and in consultation with Service Users and carers.
- 6.1.2 It is the responsibility of the Parties to develop an annual Commissioning Plan. This Commissioning Plan will state the outcomes to be achieved, by when and what the risks are if they are not achieved.
- 6.1.3 Each outcome in the Commissioning Plan should be aligned to one of the strategic objectives. Any outcome that is not so aligned should be reviewed as to why it is being considered.
- 6.1.4 The relevant Party (whichever Party is agreed to be the Lead Commissioner for the relevant Services Contract) should then go through a process of developing, negotiating and agreeing a Services Contract with each Provider regarding the outcomes they are to deliver. It will be clear which Services are to be discontinued e.g. in the advent of a budget reduction.

6.2 Services Contracts with Providers should:

- 6.2.1 Take account of the requirements of the Better Care Fund Plan (if applicable) and the agreed Commissioning Strategies and annual plans of the Council and the CCG;
- 6.2.2 Take account of legislative changes; and
- 6.2.3 Include a requirement on the Provider to develop a detailed service plan (e.g. stating what, by when, by who and the risk associated with not achieving the outcome) as to how the Provider intends achieving the said outcomes. It should also require the Provider to regularly measure progress against achieving the outcomes, to report this to the Lead Commissioner in a timely manner to an agreed frequency (e.g. monthly), and to provide a Performance Improvement Plan or Recovery Plan where financial under performance is significantly under target.

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- 6.2.4 Include a process whereby outcomes may be added / removed as a result of changing needs.

6.3 REPORTING AND REVIEW PROCESS

- 6.3.1 Regular meetings should be held between the Host Partner and the Provider to review performance.
- 6.3.2 The Lead Commissioner will monitor Services, as part of a basket of measures that contribute to the delivery of key outcome, having regard to national, regional and local key performance indicators including:
- 6.3.2.1 National ASCOF Measures;
 - 6.3.2.2 BCF Indicators (where relevant);
 - 6.3.2.3 Audit and inspection recommendations;
 - 6.3.2.4 Relevant Operational Plan indicators; and
 - 6.3.2.5 NHS Operating Framework targets.
- 6.3.3 These key indicators form part of a basket of performance measures. Activity and Financial indicators will be another part of the complete basket.
- 6.3.4 The basket of performance indicators will be monitored and reported to the Integrated Commissioning Board using, wherever possible, existing performance reports generated within either the Council or the CCG, and making it clear where the areas of good performance and those of concern are, i.e. using a simple traffic light scheme with exception reporting on the key issues.
- 6.3.5 The performance of all Providers should be reported, on a regular basis by the relevant Partner to the [Integrated Commissioning Board / Health and Wellbeing Board].

6.4 PERFORMANCE IMPROVEMENT PROCESS

Where necessary the Lead Commissioner should require the Provider to undertake specific performance improvement initiatives where performance is significantly under target.

SCHEDULE 6 – BETTER CARE FUND PLAN

BACKGROUND

The Parties acknowledge that the Better Care Fund for 2017-19 is to be agreed, and the details of the Better Care Fund Plan, Scheme Specifications and BCF Reporting Requirements and Governance will be included in this Schedule following a formal variation agreed by the Parties.

The Better Care Fund will form part of the Pooled Fund, however the Parties acknowledge and agree that the Pooled Fund will not be subject to the BCF Reporting Requirements and Governance – only the Better Care Fund elements of the Pooled Fund will be subject to those terms. For the avoidance of doubt, the Pooled Fund shall not be considered to constitute the Better Care Fund, however the Better Care Fund will be an element of the Pooled Fund.

PART ONE – BETTER CARE FUND PLAN

The Parties agree that the Better Care Fund Plan will be inserted into this Part One once formally agreed by way of a variation to this Agreement.

PART TWO – SCHEME SPECIFICATIONS

The Parties agree that the Better Care Fund Scheme Specifications will be inserted into this Part Two once formally agreed by way of a variation to this Agreement.

PART THREE – BCF REPORTING REQUIREMENTS AND GOVERNANCE

The Parties agree that the BCF Reporting Requirements and Governance will be inserted into this Part Three once formally agreed by way of a variation to this Agreement.

SCHEDULE 7 – EXIT PLANNING OBLIGATIONS

1. Within six (6) months from the commencement of this Agreement the Parties shall prepare an Exit Plan, which shall be mutually agreed by the Integrated Commissioning Board.
2. The agreed Exit Plan will be signed as approved by each party.
3. The Exit Plan shall provide comprehensive plans for the activities and the associated liaison and assistance which will be required for the successful unwinding of the Agreement.

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FINANCIAL FRAMEWORK

Between

City and Hackney Clinical Commissioning Group and

London Borough of Hackney

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Defined Terms

Defined terms in this Financial Framework shall have the same meaning as those given in the s75 Agreement. A selection of such defined terms (as well as other defined terms relevant for the Financial Framework) are included below for ease of reference:

Aligned Fund means budgets for commissioning prescribed services (as set out in Schedule 1 of the s75 Agreement) which will be managed alongside the Pooled Fund.

CCG – City and Hackney Commissioning Group, one of two partners to the Integrated Commissioning Fund and the s75 agreement

Council – London Borough of Hackney, one of two partners to the Integrated Commissioning Fund and the s75 agreement

DH – Department of Health

Financial Framework – (this document) describes the ground rules under which the financial decisions relating to the Integrated Commissioning Fund will be made.

Health and Wellbeing Board – established as a Council committee under s194 of the Health and Social Care Act 2012, the purpose of which is to promote more joined up delivery of services and involves oversight of achievement of the objectives of the integrated commissioning function; and oversight of proper governance of the integrated commissioning function

Integrated Commissioning Board – Committee in Common which has delegated decision making authority from CCG and Council to make decisions binding on both parties on use of the Integrated Commissioning Fund in accordance with its terms of reference and the s75 agreement.

Integrated Commissioning Fund means the total of the Pooled Fund and Aligned Fund.

Partners – the CCG and the Council are partners to the s75 agreement and the Integrated Commissioning Fund.

Pooled Fund means any pooled fund established and maintained by the Parties as a pooled fund in accordance with the Regulations.

Pooled Fund Host means the Partner that will host and provide the financial administrative systems for the Pooled Fund and undertake to perform the duties for which they will be responsible, as set out in paragraph 7(4) and 7(5) of the Regulations

Section 75 agreement (s75) – section 75 of the NHS Act 2006: the legislation that allows the establishment of pooled funds between NHS bodies and local authorities at a local level.

SoDA – scheme of delegation of authorities, or equivalent, of the CCG, the Council and the Integrated Commissioning Board.

Transformation Board – means the Transformation Board set up in accordance with Terms of Reference included in the s75

Terms of the Financial Framework

1. Consultation and approval

1.1 The process for consulting on management and oversight of the Integrated Commissioning Fund and the Section 75 agreement (s75) agreement will include, as a minimum:

- Approval of the CCG (Governing Body)

- Approval of the Council

1.2 This Financial Framework is to be reviewed on an annual basis and may be varied in accordance with the provisions of the s75 agreement.

1.3 The process of consultation for the Financial Framework will be aligned with the development of the s75 agreement and the arrangements for the development of the Integrated Commissioning Fund. It forms a Schedule to the s75 agreement.

1.4 Approval of the inaugural Financial Framework will be by:

- the CCG (Governing Body)
- the Council (Executive Cabinet)

2. Frequency of review and renewal

2.1 This Financial Framework will be reviewed and revised, as necessary on an annual basis. This review will involve the designated financial leads and governance leads of both Partners. The Integrated Commissioning Board will recommend approval of the reviewed Financial Framework to the:

- The CCG (Governing Body)
- The Council (Executive Cabinet).

2.2 The Partners may, at some point in the future, agree to extend the period between formal review and variation of the Financial Framework. Any changes will be subject to approval as above.

2.3 Detailed guidance about specific aspects of this Financial Framework may be issued from time to time. This guidance will be approved by the Integrated Commissioning Board, or by specific groups or individuals as delegated.

3. Scope of this Financial Framework

3.1 This Financial Framework lays out the general rules and sets the scope for the management and expenditure of public sector funds originating from NHS and Local Government sources.

3.2 It supports the relationship between the Partners via the Section 75 Agreement and the use of Aligned Funds. It:

- Provides detail of the framework of the formal relationship with regard to the management of the Integrated Commissioning Fund;
- Sets the expectation that the Partners will continue to work closely together; and with Providers, to ensure that the best quality care is provided and best value is achieved in the use of resources;
- Recognises the statute and regulations under which the Pooled Fund is established i.e. section 75 of the National Health Services Act 2006 and NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000.

3.3 This Financial Framework sets out the requirements and makes provision for governance and accountability of:

- The Integrated Commissioning Fund;
- Authorities and responsibilities delegated from the Partners

- Financial planning and management responsibilities;
- Budgeting and budgetary control, including forecasting.

3.4 This Financial Framework identifies the responsibilities of each Partner to:

- Support and facilitate the achievement of the objectives of the Integrated Commissioning Fund;
- Ensure that the objectives and functions of the Partners and of the Integrated Commissioning Fund are complementary and mutually supportive;
- Ensure due diligence and appropriate oversight of financial decisions;
- Ensure the achievement of the Partners' objectives.

Responsibilities

4. Partner responsibilities

4.1 The Partners have stated their commitment to developing Integrated Commissioning whilst ensuring the financial health of both Partners; and of other organisations in the local health and wellbeing economy.

4.2 The Partners recognise their obligation to comply with statute and regulations.

4.3 The Partners recognise that each Partner's ultimate responsibility for service provision and delivery is not changed. However, they will delegate decision making and administration, where this improves the way that services are commissioned and where it is feasible.

4.4 The Partners recognise specific responsibilities regarding services included within Integrated Commissioning:

- Obligations and commitments to the residents of; and patients registered within London Borough of Hackney;
- Obligations to the Provider community; delivering pace of change whilst creating a sustainable provider market.

5. Responsibilities of the Partner organisations' leadership

5.1 The Partners will agree and approve the strategic objectives for Integrated Commissioning. They will:

- Set the strategic objectives for the Partner organisation;
- Seek assurance that these are incorporated within the strategic priorities for Integrated Commissioning;
- Ensure that strategic objectives for integrated commissioning will be progressed through 2017/18 and annually thereafter, in line with the business planning timetable.

5.2 The Partners will approve the policy and performance framework (business plan) for Integrated Commissioning and will:

- Ensure the adequacy of the Integrated Commissioning function's business plan and alignment with the partners' plans
- Approve the adequacy of organisation, staffing and management of Integrated Commissioning
- Aim to have a harmonised business planning and monthly reporting timetable by Q1 of 2017/18

and going forward, such a timetable shall be available by Q3 of the preceding financial year.

5.3 The Partners will approve the authority and governance framework for Integrated Commissioning, including:

- Approving the key governance documents (where these are different from the Partner organisations' documents);
- Approve the use of the relevant Partners Standing Orders, Standing Financial Instructions, Schedule of Decisions Reserved, Scheme of Delegated Authorities etc. The Partners will endeavour to unify these where appropriate;
- Ensuring the performance of the Pooled Fund is scrutinised regularly and appropriately;
- Delivering scrutiny and pre-approval of significant new programmes and projects.

Governance documents are to be reviewed in accordance with what is specified within the relevant terms of reference (at least).

6. Responsibilities of the Partner organisations' Authorised Officers and Chief Financial Officers

6.1 Authorised Officer

6.1.1 Each Partner is required to appoint a member of the senior management team to be the Authorised Officer for their organisation.

- Signing approval of certain changes to the s75 Agreement (as identified in the s75 Agreement);
- Ensuring the record of minutes of meeting of the Integrated Commissioning Board is maintained.

6.1.2 The scope of these roles will be subject to the delegations approved by each Partner.

6.1.3 Authorised Officers are to be members of the Integrated Commissioning Board.

6.2 Chief Financial Officer

6.2.1 The overriding responsibility of the Chief Financial Officers will be to gain assurance as to the satisfactory standard of financial management, accounting and reporting of the Integrated Commissioning Fund. Each Chief Financial Officer will:

- Ensure that the Integrated Commissioning arrangements are appropriate and sufficiently secure to safeguard public funds;
- Ensure that financial governance and internal controls conform to the requirements of regularity, propriety and good financial management; sufficient to deliver successful operations;
- Ensure that reporting of Integrated Commissioning on strategic, operational and financial performance, budgetary control and risk management is adequate and reliable.

6.2.2 The Council Chief Financial Officer will ensure that the specific obligations of the s151 officer are delivered in respect of transactions involving the funds of the Council.

6.2.3 The Chief Financial Officer of each Partner will ensure the adequacy of arrangements to deliver new services, programmes and projects.

6.2.4 The Chief Financial Officer of each Partner will report assurance to their respective Audit Committees.

6.2.5 The Chief Financial Officers shall operate any risk sharing pooling arrangement and management of any contingency sums as specified in this Framework.

7. Responsibilities of the Host Partner

7.1 The decision on the appointment of the Host Partner is agreed by both Partners, after assessment of the relative merits of each holding the role. **For the Pooled Fund the Council has been appointed as the Host Partner.** This appointment will be reviewed periodically and may be re-assessed in the light of developments at each Partner or determined by external developments.

7.2 The scope of role of the Host Partner is determined, in the first instance, by the decision to seek to minimise organisational change resulting from the development of the Integrated Commissioning arrangement. As a minimum, the Host Partner will deliver the regulatory requirements:

- Appoint the Pooled Fund Manager;
- Deliver the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 7(4) and 7(5) requirements:
 - Accounts and audit
 - Managing the fund
 - Reporting to the partners and reporting frequency
 - Exercise NHS and health-related functions

8. Responsibilities and role of the Pooled Fund Manager

8.1 The Pool Fund Manager is appointed by the Host Partner in accordance with requirements of the Section 75 Agreement and associated regulations.

Management of the Pooled Fund

8.2 Financial management of the Pooled Fund will be overseen by the Partners' Chief Financial Officers (CFOs) or equivalent.

8.3 The CFOs will lead a 'Finance Economy Group' comprising also of the Partners' CFOs. This group will be responsible for the strategic financial management of the Pooled Fund

8.4 A 'Task and Finish' group comprising of the Partners' deputy CFOs (or equivalent) will be responsible for the Pooled Fund operational financial management and reporting.

8.5 A summary of the responsibilities of the Finance Economy Group and Task and Finish Group are set out in the table below:

Finance Economy Group	Task and Finish Group
Maintaining an overview of all joint financial issues affecting the Parties in relation to the Services and the Pooled Fund.	Ensuring that all expenditure from the Pooled Fund is in accordance with the provisions of this Agreement and the relevant Commissioning Plans.

Finance Economy Group	Task and Finish Group
Ensure arrangements are in place in order that the Task and Finish Group provides all necessary information in time for the reporting requirements to be met.	Ensuring that full and proper records for accounting purposes are kept in respect of the Pooled Fund and liaising with internal and external auditors as necessary.
Ensuring action is taken to manage any projected under or overspends relating to the Pooled Fund in accordance with the s75 Agreement.	Reporting to the Parties as required by the Integrated Commissioning Board and the relevant Commissioning Plans.
	Preparing and submitting reports to the Health and Wellbeing Board as required by it

8.6 The CFOs have responsibility for ensuring the Pooled Fund is adequately resourced in terms of finance support.

9. Termination of the Section 75 Agreement

9.1 The options for terminating the Section 75 Agreement are set out within the Section 75 Agreement.

9.2 This Financial Framework identifies the scale of risks that both Partners will accept, before considering the need to reduce the scale of the Integrated Commissioning Fund and/or terminate the Section 75 Agreement.

9.3 The Partners will agree mechanisms for entering emergency arrangements to reverse adverse trends, including:

- protocol for suspending the Host Partner’s management arrangements for the Pooled Fund;
- structure of governance and management of the Section 75 Agreement or this Financial Framework in emergency measures.

9.4 The Partners agree that in the event that the financial forecast expenditure for the Integrated Commissioning Fund will exceed available resources (after application of any contingencies), a remedial action plan must be agreed by the ICB within 4 weeks and signed off by the two CFOs as providing assurance it will bring the fund back in to balance.

10. Cessation of the Pooled Fund

10.1 Where the Pooled Fund is to be ceased, due to the termination of the Section 75 Agreement, the Partners must (amongst other obligations) comply with the Exit Plan. This may include considering the ownership of assets, and where particular liabilities and commitments will be apportioned. If the relevant Partner is not clearly identified, ownership will fall to the Partner acting as the Lead Commissioner. This applies to:

- Ownership of invested assets;
- Ownership of consequential service obligations.

10.2 Where the Section 75 Agreement is to be terminated due to the financial failure of one or both of the Partners, the Partners will agree the stages for realising the losses accumulated by the Pooled Fund. The stages are:

- apportionment of financial risk;
- allocation and apportionment of financial risk as agreed between Partners;
- agreement of continuation of Services to Service Users.

The Partners acknowledge that they are public authorities, however “financial failure” in this context is interpreted to mean where the organisation is unable to provide viable recovery plans for both actual or forecast budgetary overspends or, where it cannot meet its financial obligations to its creditors. The Partners will need to both agree on whether a situation constitutes “financial failure” for the purpose of this section.

Scope and description of the Fund

11. Scope of Integrated Commissioning

11.1 The Partners have agreed that the scope of the Integrated Commissioning Fund shall be the maximum commissioning resource that it makes sense to pool, or align to deliver joined-up commissioning:

- a formal Pooled Fund has been established where possible;
- Aligned Funds will be used where there are specific barriers to pooling (including legislative and regulatory barriers).

11.2 Commissioning funding will be pooled or aligned, at service and/or contract level. All services falling within the scope of pooled funds will each be mapped to a relevant work stream of the four defined in the Devolution Business Case. Services not exercisable under Section 75 of the 2006 Act and, those services which are outside the current scope of the Pooled Fund but managed alongside the Pooled Funds will be mapped into Aligned Funds. Contracts will only be split where there is value in disaggregating the commissioning arrangement and where this can be managed effectively. The Partners’ financial ledger record will be designed to allow for the pooled and aligned elements of the fund to be identified and disaggregated clearly.

11.3 Either Partner will be allocated the Lead Commissioner role for each service area, or contract, based on the most logical and effective design for the commissioning function, and this is set out in Schedule 1 of the s75 Agreement.

11.4 The Partners agree in principle that further Services may be added to the Integrated Commissioning Fund; or specific Services may be removed from the Integrated Commissioning arrangements, in future. The decision and approval approach to this process will follow best practice in business case development, analysis and challenge.

11.5 The Partners recognise that the London Borough of Hackney community is included in the approach to planning for commissioning of care in London Borough of Hackney. The Partners will maintain a close relationship with London Borough of Hackney for the health related service needs of the London Borough of Hackney residents and registered patients.

11.6 The scope of the Integrated Commissioning Fund is illustrated in Appendix 1 and includes both the CCG and Council’s commissioning resources and costs of administering these.

12. Better Care Fund

[Note: This detail will need completing based on the future BCF arrangements for FY 17/18]

12.1 The BCF is an element of the wider Pooled Fund.

12.2 For clarity, the Pooled Fund established under the s75 Agreement shall not be designated as the Better Care Fund, however, the Better Care Fund forms part of the overall Pooled Fund.

12.3 The Pooled Fund is combined with the Aligned Funds to make up the total value of the Integrated Commissioning Fund.

13. Value of the Integrated Commissioning Fund

- 13.1 The Integrated Commissioning Fund comprises of the Pooled Fund and Aligned Fund which it makes sense to plan and manage in a coordinated way.
- 13.2 The details of the Pooled Fund and Aligned Fund are set out in Schedule 1 of the s75 Agreement.
- 13.3 The stated intention is to maximise the resources and the scale of commissioning to be included in the Integrated Commissioning Fund, as either a Pooled Fund or Aligned Fund. The prescribed services that cannot be pooled, as summarised in SI(2000)617: NHS Bodies and Local Authorities Partnership Arrangements Regulations includes:

NHS

- Acute surgical (unlikely to be able to disaggregate from hotel services);
- Emergency ambulance;
- Radiotherapy;
- Termination of pregnancies;
- Endoscopy;
- Laser treatments (class 4);
- Other invasive treatments.

Local Government

- Adoption services (Adoption & Childcare Act, 2003);
 - Appointment of mental health professional (MHA, 1983);
 - MHP powers of entry (MHA, 1983);
 - Safeguarding children in care homes (Children Act, 1989);
 - Appointment of director of social services (LASSA, 1970).
- 13.4 Where possible, these services will be included in the Integrated Commissioning Fund as an Aligned Fund.

14. Range of the Pooled Fund (cross boundary flows and issues)

- 14.1 The populations served by the Pooled Fund are not consistent between the Partners; and essential Integrated Commissioning extends beyond the boundaries of the Pooled Fund. The Partners agree to seek to avoid creating unnecessary barriers or inequalities of access for Service Users. They agree to seek to avoid creating perverse incentives in the design of commissioned and provided Services.
- 14.2 Funding inconsistencies are created by:
- Council residents registered with GPs outside of the London Borough of Hackney area;
 - Non-Council residents registered with GPs within the London Borough of Hackney;
 - Individuals not resident; and not registered with GPs in the area requiring services within the scope of the Integrated Commissioning arrangement;

- Service Users who receive Services who are not physically present in the borough.
- 14.3 Unwanted barriers and incentives to commissioning are created by:
- The 'footprint' of the main providers of NHS services extending into neighbouring areas,
- 14.4 Potential service level boundaries and inconsistencies may also occur as a result of the range of local government commissioned services that remain with the Council.

Statutory reporting requirements

15. Annual financial accounts

- 15.1 The value of the budget for the Pooled Fund, as described in the Section 75 Agreement, will be material to both Partners; and as such will be subject to appropriate levels of external and internal audit scrutiny.
- 15.2 The annual financial accounts of both Partners will be required to include sufficiently detailed notes of the financial performance and records of the Integrated Commissioning arrangement:
- The structure of reporting to be followed for a "Joint Operation", such as this Integrated Commissioning arrangement, is prescribed by the International Financial Reporting Standards (IFRS) in IFRS11(Joint arrangements) and IFRS 12 (Disclosure of interests in other entities);
 - The Statement of Financial Performance of the formal Pooled Fund is to be reported in the Host Partner's accounts and reflected in the other Partner's accounts;
 - The financial performance of Aligned Fund is to be reported within the body of the relevant Partner's accounts;
 - The financial performance of the entirety of the Integrated Commissioning Fund; and the associated risk share arrangement, is to be reported as an explanatory note in both Partners' accounts.
- 15.3 Planning for accounts preparation and required audit arrangements will take account of:
- Timetables for producing the annual accounts, their audit and reporting requirements; recognising the earlier reporting deadlines for NHS accounts. It is acknowledged that Council reporting deadlines are susceptible to change;
 - The scope of required reporting, including the contribution to the CCG Annual Report; and to the Council Annual Report;
 - The evidence required to support the annual statement on governance; and for reporting any financial concerns with the Integrated Commissioning Fund;
 - The evidence required to support the Head of Internal Audit Opinion and the external audit Regularity Opinion.
- 15.4 The annual financial accounts will be delivered within the requirements of the financial regimes and rules of each Partner, specific to over and underspending:
- CCG – Resource Allocation Budgeting impact and treatment of over and underspends – impact carried forward into next year's allocation;
 - Council – not allowed to carry forward overspend for the year. Overspending to be met from reserves, but more likely to be addressed through service reviews across the Council during the year.

16. Arrangements for audit and counter fraud

- 16.1 The Partners agree that they will seek a joint approach and joined up arrangements for the internal audit of the Integrated Commissioning function and associated budget resources:
- Access arrangements for both sets of (internal and external) auditors will be agreed as part of the annual audit planning and scoping exercise;
 - Deliver combined assurance to the CCG and Council where possible;
 - Deliver each Head of Internal Audit (HoIA) opinion and shared assurance for both Partner organisations.
- 16.2 In terms of the external audit legal and regulatory requirement:
- The Integrated Commissioning arrangements will represent a material and significant element of each Partner organisation's audit;
 - The audit will address the Pooled Fund fully within the Host Partner's accounts, with the required narrative note in the accounts of the other Partner;
 - The audit will address the aligned elements of the fund within the accounts of the Partner with the originating budget, or the Partner to which the funds were transferred through s76 or s256 of the National Health Services Act 2006, if such transfers occur;
 - A note will be included in the accounts of both Partners setting out the results; and the risk share impacts for the entirety of the Integrated Commissioning Fund.
- 16.3 The assurances required for the sign off of the audit of both sets of financial accounts will be agreed between the external auditors.

17. Local Counter Fraud and Security Management Services (LCFSMS)

- 17.1 NHS Protect has confirmed that its focus will continue to be on NHS resources. The Partners agree that coverage of counter fraud culture and issues within the Integrated Commissioning arrangement will be joined up, as far as is practicable:
- The CCG and Council will agree arrangements for sharing the approach to promoting the counter fraud culture; and for investigating and addressing instances of suspicion of illegal activity;
 - The Council counter fraud functions will continue to be delivered by its internal audit provider and specific fraud team.

Budget Setting

18. Budget setting ground rules

- 18.1 The Policy for commissioning through the Integrated Commissioning Fund is compatible with and delivers effectively the strategic priorities of both Partners.
- 18.2 Funds can only be used to commission prescribed services (as described in various legislation); and services that the Partners agree will contribute to the effective delivery of the commissioning priorities.
- 18.3 Delivery of a balanced outturn is a pre-requisite of commissioning decisions.
- 18.4 (Future Target) Budgets subject to specified limitations; and budget resource will be transferrable between the Partners, to enable optimum delivery of commissioned services and ensure best value

in the use of resources. This will be recognised within each Partners medium term financial strategy.

18.5 The Partners agree that the Integrated Commissioning Fund will be reviewed during 2017/18 and updated accordingly in recognition of national funding decisions of the Government and associated agencies together with funding decisions taken by the Council and CCG.

18.6 Commissioning decisions take account of the potential impact on services retained by the Partners.

18.7 Commissioning decisions are sensitive to the potential impact on the wider community of Providers.

19. Budget setting methodology

19.1 Prior to the commencement of each financial year following the commencement of the s75 Agreement, both Partners need to be satisfied that the other Partner's methodology for setting the annual budget is robust and reliable. If they are not, the issue shall be escalated through the appropriate Dispute Resolution Procedure. Each Partner will agree the other's methodology for setting the inaugural budget contribution; and future years' budgets. The factors that will be considered include:

- Clarity of the Services to be included in the Integrated Commissioning arrangement and risk share (Pooled Fund and Aligned Fund);
- Verification of budget determined for each Service;
- Assumed and modelled trends in demand;
- Deliverability of the savings targets applied;
- Sufficiency of the budget applied (e.g. compared with previous year outturn).

19.2 The Partners will agree:

- A transparent approach to setting budgets shared between the Partners;
- Validation of the key assumptions and approaches used by each Partner to determine the budget;
- Plans for migration to a more consistent approach to budget setting and demand forecasting that recognises the modelling challenges specific to each organisation.

19.3 Both Partners recognise the risk to resources from unmet need and rationed Services from previous years.

20. Accuracy of activity projections, trends and interventions

20.1 The CCG approach differs depending on services but is a combination of totals agreed in contract negotiations with Providers and detailed demand modelling taking in to account of known activity, trends and forecast growth.

20.2 The Council approach is based on cost and volume analysis of likely trends in demand for Services. As part of this, the Council will:

- Determine the access eligibility thresholds for health related services, as defined by the Care Act 2014 and any flexibilities allowed;
- Determine the charges to be levied against Service Users, where this is an option.

21. Accuracy of cost projections

21.1 The Council commissioning budgets will be recognised in gross value, as well as in net value:

- Other budgets, where costs are partially offset by income from fees and charges and grants, will be included at their net value in the risk share calculations.

21.2 The Councils scope to assess the eligibility thresholds for access to services; and to set fees for services, will be taken into account when negotiating relevant contracts.

22. Addressing conflicts in budget setting priorities

22.1 It is expected that the Integrated Commissioning budget planning process will not adversely impact on the other commissioning obligations of the Partner:

- The Partners' oversight and scrutiny functions will have the opportunity to challenge any changes proposed. Any proposed changes to the budget planning process including harmonising the timetables will need to be signed off by the CFOs of each of the Partners. Any conflicting elements will be fed through to each Partner's governing body or equivalent.
- The scheme of delegations will provide a level of control over the approval of changes;
- Arrangements will be adopted for administering proposals for significant re-engineering; and compliance with business planning and investment proposal discipline, including comprehensive consultation.

22.2 It is expected that changes in the strategic direction of the Partners will not impact adversely on each other, or on the commissioning obligations of the Integrated Commissioning function.

23. Use of Integrated Commissioning Funds

23.1 As set out in the s75 Agreement, the Integrated Commissioning Funds shall only be used for Permitted Expenditure.

24. Future budget settlements

Risk to be addressed: Financial settlements and budget uplifts for future years are insufficient to meet rising demands and rising costs

Possible scenarios:

- Local Government grant funding from government (Revenue Support Grant) is projected to reduce significantly over the next 3 years. The main sources of funding will then be Council Tax and Business Rates;
- NHS funding earmarked for health related services (Better Care Fund) is expected to increase in the next years.
- The size and trend in the gap between the two funding streams over the next 5 years is not certain.
- Both Partners may be required to produce medium term efficiency plans in order to receive multi-year financial settlements.
- NHS England may impose the need for the CCG to provide financial support to other areas within the North East London health economy.

24.1 Principles of response to these risks and future pressures:

- As far as is possible, the value of the single budgets will be kept at their equivalent current value
- Treatment of remaining resource gaps is likely to be addressed as additional savings targets

24.2 Mitigations:

The Partners will agree a protocol for agreeing amendments to the budget setting model in subsequent years. This will include consideration of:

- Treatment of prior year overspends
- Treatment of efficiency savings delivered from previous years

25. Boundaries to the Fund

25.1 Budget setting will take account of boundaries on a number of planes:

- Pooled Fund versus retained funds;
- Pooled Fund versus Aligned Funds;
- Non-resident patients registered with GPs in London Borough of Hackney;
- London Borough of Hackney residents registered with GPs outside of London Borough of Hackney;

25.2 Budget setting will also take account of patients registered with GP Practices in the London Borough of Hackney area, whilst recognising that they are outside of the Integrated Commissioning Fund arrangement.

26. Finalising the prior year position

26.1 Both Partners acknowledge that the financial performance of the relevant budgets in the current year should be regarded as a key indicator of future years' risks; and of the scale of the savings targets agreed between the Partners. The following constraints will need to be accommodated:

- Current year out-turn position will not be known until very late in the process.

26.2 The value of the Integrated Commissioning Fund will be based on the budget allocations

- Indicative savings targets will be identified by the Partners from time to time.

27. Treatment of historical overspends / underspends

27.1 CCG would account for prior year deficit as a negative balance on the RAB (Resource Account Budgeting) settlement and a prior year surplus as a positive balance.

27.2 The Council cannot record a year-end deficit; and must fund remaining overspends from reserves. Overspends identified during the year are addressed through service reviews and rationalisation of the scale of non-mandatory services provided, offsets from underspent directorates, or by allocation from reserves at the year-end.

28. Prior year and in-year overspends / underspends

28.1 The Partners recognise that differences in funding regimes and freedoms result in a different response to recorded "overspends":

- The CCG cannot carry "reserves" between years. Underspends and overspends are recognised within the annual resource allocation. Overspends in one year result in reduced allocation in the next. The CCG can set a budget that delivers a planned overspent position, but is expected to achieve balance over a 3 to 5 year period.
- The Council cannot record an overspend at the year-end; and has to account for overspent budgets through its reserves. But the reserves are limited and should be replaced through

budget targets set in the subsequent year.

28.2 The Partners agree, in principle, that they will use these differing “flexibilities” in a combined approach to maximise protection to the Integrated Commissioning function. Any unused contingency sums in the Pooled Fund must remain in the Pooled Fund hosted by the Council and will form reserves available to the Integrated Commissioning Board in subsequent years.

28.3 Further detail in relation to the CCG Contingency Fund is set out in section 33 of this Financial Framework. Other contingencies available to the Partners may be provisions made from the balance sheet or accumulated reserves. Release of such contingencies shall be made following the approval of the relevant Partner that holds such contingency.

29. Treatment of underlying and emerging deficit:

29.1 Underlying and emerging deficit will include:

- Unidentified deficit:
 - unmet need
 - unmet demand
- Identified deficit:
 - undelivered services
 - service delivery backlogs
 - waiting lists

29.2 The CCG and the Council agree to work together to identify responses to the threat of emerging unfunded demand pressures and growth in demand.

29.3 The first point of responsibility for addressing pressures through contracts will be the Lead Commissioner. A Lead Commissioner will be identified for each Service Contract.

29.4 Escalation arrangements will be agreed for Service Contracts and commissioning arrangements that appear to be overheating and indicate future losses. See section 9.3 of the Financial Framework.

30. Setting subsequent years' budgets

30.1 The Section 75 Agreement specifies that the Integrated Commissioning Fund will be subject to annual review. This will be alongside the medium term financial plans of each Partners.

30.2 The Partners agree to a shared approach to:

- Identifying and agreeing future trends in demand and service design;
- Checking sufficiency of growth funding;
- Identifying and accounting for changes in cost pressures;
- Identifying and agreeing savings and efficiency approaches. Ensuring the robustness of planned savings programmes;
- Setting criteria for values for savings targets:
 - Minimum and maximum allowed;
 - Reality checked and deliverable.

- 30.3 The Partners agree to design a robust business case approach to service redesign; and to its financial impact. This will involve:
- Robust analysis of overall savings projections;
 - Robust analysis of comparative impact on Partners; and recognition of the need to reflect (compensate) for these impacts in future budget setting;
 - Agreement on the impact on the risk share.
- 30.4 Where the CCG is able to drawdown funds from prior year RAB surpluses, these funds shall only be committed by the Integrated Commissioning Board to support its programme of work. Such funds can only be applied non-recurrently.
- 30.5 Where CCG Contingency Funds have been applied to meet in year cost pressures, it is the responsibility of the Integrated Commissioning Board to ensure effective measures are put in place to restore the CCG Contingency Funds in the following year.

Risk Sharing Framework

31. Scenarios of operational pressures and risks in budget setting

31.1 The following sections set out a range of scenarios of risk:

Pressures on Partners' budgets

(A) Risk: Pressures within either Partner which results in shortfall in growth funding and/or increased savings targets

Possible scenarios are:

- Shifting priorities in the Council from other directorates and services;
- Internal pressure on overall CCG position resulting in pressure on budget allocation for London Borough of Hackney patients;
- Changes in targets set (externally) for performance in specific service area(s) within the Integrated Commissioning Fund.
- Increased savings targets set (externally).

Principles of response to these risks and future pressures:

- Impacts due to shifts in internal policy and priority have to be discussed by both Partners
 - Partners have to agree on how and when to apply accumulated savings;
- Impacts due to external policy and target changes to be regarded as required changes; and partners to agree response
 - Accumulated savings can be applied to offset, but need to recognise limited resource

(B) Risk: Available resources and budgets do not address current demand

Possible scenarios are:

- Growth rates in demand for services exceed available funding increase;
- New commissioning arrangements and single approach to commissioning identifies previously un-met need;

- Providers are carrying backlogs in activity that need to be delivered and need to be funded.

Principles of response to these risks and future pressures:

- The Integrated Commissioning function must seek to achieve a balanced financial out-turn;
- Providers of services will be encouraged, including through contracting, to manage service delivery costs within the allotted amount;
- Where possible, Services will be prioritised and needs assessed. Non-statutory services may be withdrawn, if impact is less significant than effect of rationing funds to areas of demand growth. Service rationing will not be organisation specific;
- Funds will be made available to promote more effective and streamlined provision of Services.

Savings targets, reserves and contingencies

(A) Risk: Efficiency savings targets applied within budgets are undeliverable

Possible scenarios are:

- A Partner is unable to show persuasive plans for achieving the savings expectations ;
- Savings target exceeds sensible levels;
- Savings proposals would have an adverse and costly effect on other elements of the overall service delivery.

Principles of response to these risks and future pressures:

- Agreed process for identifying efficiency savings targets:
 - From service delivery re-design;
 - From QIPP expectations;
 - From benefits expected of merged commissioning;
 - From share of organisation's overall target;
- Agreed approach to identifying benefit shares with Providers.
- Agreed process for verifying likelihood of delivery of the savings targets:
 - Arrangements for assessing schemes to deliver;
 - Risk assessment for schemes; and response to higher risk proposals.
- Agreed arrangements for sharing the risk of under-delivery of efficiency savings targets;
- Arrangements for allowing late amendments to budgets and savings target:
 - E.g. QIPP schemes determined late.

(B) Risk: Insufficient resources to allow for a contingency or reserve to be set

Principles of response to these risks and future pressures:

- Partners will agree rules specifying whether contingency (both recurrent and non-recurrent) is a required element of the annual budget; and what this level is:
 - Proportion of annual total allocation designated to contingency target to be agreed;

- Arrangements for agreeing contingency that is lower than the agreed target;
- Partners agree proposed treatment of any reserves brought into the Integrated Commissioning Fund:
 - Budgeted from savings in previous year(s);
 - Agreement of priorities and triggers for calls upon reserves ;
- Treatment of unspent contingency, or other underspend of the total budget to be determined by the Partners:
 - Proportion, or target value to retain within the Integrated Commissioning Fund;
 - Treatment of any underspend to be returned to the Partners;
- Agreement on accounting for reserves. The CCG is unlikely to be able to report resource balances to carry forward:
 - But, the CCG would report the net position across the whole. The performance of City and Hackney and the rest of the CCG may, in total, allow for shadow reserves to be identified for the London Borough of Hackney element.

32. Governance of service redesign

32.1 The Partners will agree a protocol for developing service re-design. Elements will be delivered within the Integrated Commissioning Strategy of the Integrated Commissioning Board. It will involve a formal project management procedure for planning significant changes in service delivery design, which:

- Identifies resource implications;
- Identifies staffing implications;
- Assesses the impact on commissioning intentions:
 - And status of agreements with providers;
- Assesses the impact on Service Contracts:
 - Potential differential share of savings between the CCG, the Council and the Provider;
 - Potential for budget shift impact in advance of risk share arrangement;
- Delivers alignment with wider service design agenda.

32.2 Formal approval arrangements will be implemented, involving both Partners and requiring formal sign-off of projects

32.3 The Partners will agree the approach to monitoring of the impact on budget allocations:

- Linked to potential recognition of impact in budget planning;
- Impact on financial risk share.

33. CCG Acute Contingency in the Pooled Fund

33.1 The CCG will apportion some contingency budget into the Pooled Fund which will be earmarked for CCG related pressures and risks. This is defined as the CCG Contingency Fund in the s75 Agreement. The CCG Contingency Fund will cover in-year cost pressures including acute contract over performance and managing any budgetary gaps that emerge.

- 33.2 The CCG Contingency Fund in the Pooled Fund will not include the 0.5% unallocated strategic risk reserve required by NHS England as part of a system-wide NHS risk management approach.
- 33.3 Use of the CCG Contingency Fund will require approval by the CCG Chief Finance Officer. The CCG CFO will determine the apportionment of the CCG Contingency Funds between the Pooled Fund and the Aligned Fund at the start of each Financial Year, based on an analysis of risks.

The CFO may, at their discretion, extend the use of the CCG Contingency Funds sitting in the Aligned Fund to the Pooled Fund, especially if such action will minimise pressures on health, such as avoiding bed blockage. The CCG Contingency Funds will not be used outside of the scope of the Pooled fund and Aligned fund.

- 33.4 Where CCG related budget pressures are unable to be contained within the totality of CCG's Pooled budgets, the CCG CFO must inform the Integrated Commissioning Board, and the Integrated Commissioning Board must take immediate mitigating action at its next meeting to ensure the Fund is in balance.

Note: For 2017/18, no Local authority contingency budget is included in the Pooled Funds.

34. Budget Virements

- 34.1 Budget virement means moving budgets between different budget lines. This process is designed to cover virements involving movement of budgets within the Pooled Funds (e.g. from one work stream to another or within a work stream from one service to another), or from Aligned Funds to Pooled Funds subject to approval from the relevant statutory body CFO.

- 34.2 The budget setting process aims to ensure that all budget holders receive realistic budgets at the start of the year in order that the business plan can be achieved. Nevertheless, there will inevitably be in-year changes, and this is where virement may be used.

- 34.3 There are occasions where virement are generally appropriate. These include:

- Adjustments to reflect changes that could not have been foreseen at the start of the year.
- Where planned actions by managers mean that resources previously allocated for one purpose are no longer required for that purpose and are used for another agreed purpose.
- Movement of Reserve budget to fund specific initiatives or mitigate budgetary risks where agreed by the Party funding the reserve.

- 34.4 Virement Rules and Processes

- A virement is not permitted from non-recurrent to recurrent expenditure
- A Virement is not permitted where the CCG or Council would be committed to additional recurrent funding in excess of commitments agreed within the CCG or Council's operating plan
- Virements within the Pooled Funds must be approved by the CFO/Finance Director for the relevant Partner seeking to make the budget change
- Virements to / from BCF parts of the Pooled Fund must be agreed by the Partners and in accordance with BCF guidance and rules.

35. Value of financial risk from the other Partner

- 35.1 The Partners recognise the high risk of overspending of the Integrated Commissioning Fund but

there is a shared commitment for the maximum resources to be included within the Integrated Commissioning Fund.

- 35.2 The Partners will be responsible for the management of their own deficit arising within the level of resources which they contribute to the Integrated Commissioning Fund. The detail of how this works operationally is set out in Clauses 12.7 and 12.8 of the s75 Agreement.

Managing the transactions of the Pooled Fund

36. Transactions within the Pooled Fund

36.1 Funding management arrangements, at the transaction level, will be designed in line with the principle of limited change and aim for consistency with the administrative approach of the previous year: Where practicable funds will remain with the respective Partner; and relevant transactions will be handled by them. If required, to fulfil specific s75 Pool rules, recharges will be applied to ensure that the entirety of the Pooled Fund record is accounted for within the Pooled Fund.

36.2 The mechanism of “cash” flow and contribution to the Pooled Fund is:

- Partner organisations will continue to access financial resources in the same way as they currently do: CCG draw down of funds; the Council transfer of cash. A regular reconciliation of transactions made by the Partners on behalf of the Pooled Fund shall be overseen by the CFOs and any net balance of the cash due to the Host Partner shall be enacted by the CFOs .

36.3 Expenditure from the Integrated Commissioning Fund:

- Contractual arrangements will be unchanged from the Partners’ existing arrangements, unless evolving integration necessitates redesign.
- A Lead Commissioner will be identified for each contractual arrangement.

36.4 Specific arrangements and rules will be determined for the “direct payments” processes for Service Users (use of a holding bank account and “debit cards”).

36.5 Any potential impact of VAT regime differences will be reduced through the planned consistency of approach to:

- Identify the scale and scope of the issue;
- Ensure that the correct VAT regime is applied to each transaction;
- Identify NHS service elements versus health related service elements.

36.6 The Partners agree to assume a “fair proportions” contribution to the input of non-financial resources (staff, premises, equipment, support services etc.), in accordance with the existing arrangements. This assumption will be reviewed during the first year of the Integrated Commissioning approach.

Managing Financial Performance

37. Budget management general arrangements

37.1 The starting principle is that the structure of the budget management and responsibility will evolve during 2017/18, rather than face a major re-structuring at the start of the year.

37.2 But the Partners expect to make clear and consistent progress, from the start of the financial year, towards a more joined up structure of budgetary control.

37.3 The financial regulations (SFIs, SoDA) of each Partner will be reviewed for consistency. Where required, the regulations will be amended to enable the proposed structures and responsibilities to

be implemented.

Review of in-year budget allocation

- 37.4 The basic principle is that budget allocations to the Integrated Commissioning Fund will not change (in-year) once they have been agreed however agree that they will be reviewed during 2017/2018 and updated accordingly in recognition of national funding decisions of the Government and associated agencies together with funding decisions taken by the Council and CCG.
- 37.5 Resources, identified during the year, and specific to the services in the agreement and to the population served, will be adjusted accordingly. Examples include:
- Specific grants;
 - Funding from DH, NHS England, other government sources;
- 37.6 The Partners will agree a model whereby they retain the right to revisit allocations during the year provided that a minimum of three months' notice is given, unless both Partners agree otherwise (in writing)
- Risks arising from external sources (protocol for responding to pressures, faced by either partner, from external sources);
 - Risks arising from internal sources.

38. In-year financial performance

Local operating rules

- 38.1 The Partners will implement administrative arrangements that will be based on existing arrangements, but will be developed, where beneficial, for the Integrated Commissioning function as a whole.
- 38.2 For individual schemes, the arrangements will reflect:
- Any legislative / funding restrictions or requirements
 - strategic priority restrictions
- 38.3 Reporting of performance (financial, contracts, quality etc.) will be delivered in terms of gross income and expenditure.
- 38.4 The forecasting approach for the Pooled Fund and the wider Integrated Commissioning Fund will be determined by the Partners.

Monitoring performance

- 38.5 The Partners will develop a model for monitoring monthly performance of the Integrated Commissioning Fund. This model will include:
- Actual and forecast expenditure and income;
 - Arrangements for identified accruals for activity delivered;
 - Monitoring of service backlogs.
 - Cash transactions for receipts and payments.

Responding to overspend trends

Alerting Partners of the likely overspend

38.6 The Partners will develop an agreed approach to addressing trends towards overspending in the Integrated Commissioning Fund. Design of the tool for alerting partners of likely overspend will include:

- Triggers and thresholds;
- Agreed sensitivity measures;
- Trend analysis and alerts;
- Analysis of impact of/on related activities;
- Impact of progress along the annual timeframe – forecasting and sensitivity analysis over the medium term.

38.7 Escalation rules will address

- Scope for managing the situation including agreed delegations;
- Process for escalating to the other Partner.

The Partners' approach to responding to adverse trends will vary, depending on the value of the potential overspend and the progress along the annual timeline:

- differentiating response (scale, threshold etc.) according to progress through the financial year.

Managing potential overspends

38.8 Escalation arrangements for responding to overspends forecast through the year will include assessment of options for:

- Management of contracts (and contract adjustments);
- Management of demand;
- Service redesign.

38.9 The procedure includes arrangements for agreeing the response to; and flexibility allowed within the Integrated Commissioning Fund for changes in allocations, in-year:

- Both Partners options to curtail the Service at any point during the year.

38.10 Where elements of the trend to overspend are specific to one Partner, the Partners will agree:

- The priority of demand on available funds to offset overspends;
- The approach to allocating and apportioning risk (in year and forecast outturn) between the Partners.

38.11 Where elements of the trend to overspend exist within Integrated Commissioning elements i.e. where both Parties would otherwise separately contribute to the Service, the Partners will agree:

- The approach to allocating and apportioning risk between the Partners

38.12 The Partners will agree arrangements for emergency management of any recovery position, including:

- suspension of Host Partner's management of the Integrated Commissioning Fund;

- agreed amendments to the structure of governance and management of the Integrated Commissioning Fund in emergency measures.

39. Responding to annual overspends

39.1 The Partners will develop arrangements for addressing Overspends not recovered at the year-end and/or projected in future years. These will include:

- Escalation thresholds for response, based on the value of the overspend;
- Mechanism of carry forward to next year's budget:
 - CCG accumulated loss;
 - The Council repayment to reserves (but more likely to have been addressed through reduction in service provision during the year);
- Apportion according to agreed risk share model for first element of overspend:
 - Split by % contribution to Pooled Fund;
 - Risk sharing limits set to identify maximum contribution to be made by either Partner;
- Allocate remainder according to overspend pattern, to responsible Partner:
 - In accordance with risk sharing agreement.

39.2 The Council's inability to carry-forward an Overspent position will be addressed through use of reserves, which will be recovered in the subsequent year(s).

40. Responding to annual underspends

40.1 The Partners will identify underspends as generated:

- By whole Pooled Fund;
- By specific Pooled Fund elements;
- By Partner responsibility.

40.2 Options for addressing underspends recorded at the year-end will include:

- Allocate to investment fund;
- Carry forward to next year's budget:
 - Legal restrictions (CCG RAB budgeting);
 - The Council scope to hold balance, but CCG to prove no draw-down in advance of need;
- Off-set against next year's budget;
- Return to Partners:
 - Mechanism for agreeing share of returns.

Other financial Considerations

41. Design of the financial ledger

41.1 Both Partners will design processes that deliver a clear audit trail of each element of the Integrated

Commissioning Fund.

- Assurance on the accuracy and completeness of the records will be provided by the Partners;
- Assurance of compliance with s75 may be through a self-assessment and self-certification. But the Partners agree that this will be subject to an IA review, as a minimum.

42. Financial reporting responsibilities of the Host Partner and the Pooled Fund Manager

42.1 The Partners will agree the arrangements for administering and managing the financial records of the Pooled Fund. Elements specific to the set-up of financial record include:

- Ledger and consolidations (developing the arrangement for combining the Integrated Commissioning Fund records of the Partners);
- Transactions (delivering the audit trail to show the transactions making up the Integrated Commissioning Fund record);
- Reporting.

42.2 The Partners will agree the financial performance reporting needs of each, including providing analysis and summaries of the financial performance of the Integrated Commissioning function, in accordance with the Partner organisations' requirements

- In accordance with timetables agreed by both Partners;
- Providing the details required by both Partners;
- Designed to meet the needs of the differing audience(s).

42.3 The Pooled Fund Manager will ensure the proper treatment specific aspects of the Pooled Fund and its transactions:

- Ring-fenced budgets, specific schemes and funding restrictions;
- VAT;
- Year-end treatment of surpluses;
- Audit.

42.4 The Pooled Fund Manager will ensure the provision of the annual return to Partners, identifying separately and in total: BCF and Pooled Fund

- Contributions to the Pooled Fund:
- Expenditure from the Pooled Fund:
- Treatment of the difference / risk share;
- Detail for ring fenced schemes and restricted funds;
- Reporting deadlines.

Requirements of partner organisations

42.5 The Partners will agree their respective requirements for the monitoring and reporting of the financial position:

- Financial contribution to the Integrated Commissioning Fund:

- Expenditure and commitments;
- Contract performance ;
- Overall performance of the Integrated Commissioning Fund.

42.6 Assurance framework requirements:

- Sources of assurance;
- Specific funding and ring fencing requirements in respect of appropriateness of spend.

42.7 Overview of management of the Integrated Commissioning Fund:

- Review arrangements;
- Access to records, including audit access;
- Ad hoc reviews.

42.8 And year-end requirements:

- Deadlines specific to NHS/LG and specific reporting requirements;
- Accountable Officer / s151 Officer assurance requirements;
- IFRS reporting requirement;
- Governance statement requirements.

43. Managing the cash position

43.1 The Host Partner will:

- Hold monies contributed to the Pooled Fund that are required for transactions generated from the Host Partner:
 - The timing of contributions will align to payment obligations;
- Administer the payment processes for its own transactions;
- Administer the consolidation of the financial records of the Pooled Fund.

43.2 The Partners will adhere to the rules and restrictions applying to them:

- The CCG is required to limit cash draw-down to the monies required, when they are required:
 - Not allowed to draw excess cash;
 - Not allowed to earn interest, or investment income;
 - Not allowed to have a cash balance at the year-end;
- The Council is allowed to invest available cash to earn income on its own resource allocation:
 - The Council will determine how interest income is used; and is not obliged to include any part of that interest income in the Integrated Commissioning Fund.

43.3 Banking arrangements will reflect existing arrangements.

43.4 Transaction payments from the CCG and the Council will be unchanged from current arrangements. The Council should not suffer a reduced capacity to generate investment income from retained cash

and investment balances. But, the Council will not be able to derive investment advantage through early draw-down of CCG funds.

44. Payment mechanisms

- 44.1 The Partners acknowledge responsibility for paying all sums due to Providers, in compliance with contract terms.
- 44.2 The Partners will agree arrangements for making payments to Providers, such that Providers are not affected by any changes to the structure of commissioning from the Integrated Commissioning Fund.
- 44.3 The design of payment mechanism will ensure that the Integrated Commissioning Fund structure delivers the full process of receipt of invoice, confirmation of service delivery and standards compliance, confirming amount due to invoice amount, instructing payment.
- 44.4 Providers will not be affected adversely by any specific rules that apply to certain services managed through the Integrated Commissioning Fund.
- 44.5 Any specific arrangements for LG and NHS to comply with will be identified and addressed, as necessary.

45. Direct Payments

- 45.1 The Partners recognise the growing importance and impact of direct payments to Service Users for purchasing their own agreed packages of care.
- 45.2 The design of the resource allocation arrangements will deliver:
- Discipline over approval of proposed care plans and direct payments approach;
 - Security of funding ahead of spend by Service Users (e.g. “debit card”, pre-approved spend)
 - Approach to recovering unused funding from individual Service Users.

46. Income opportunities

46.1 Grants and sponsorship

- 46.1.1 The partners will seek to maximise uptake of opportunities of funding offered, including:
- Government Grant funding:
 - As an annual allocation;
 - Through one-off projects;
 - Grants from other organisations;
 - Sponsorship;
 - Opportunities to charge for enhanced services commissioned.

46.2 Chargeable health related services

- 46.2.1 The Council will retain responsibility for assessing the contribution (to a provided social service) to be paid by Service Users.
- 46.2.2 The Council will retain responsibility for collecting the assessed contribution.

47. VAT

47.1 The Partners will set out the details of the treatment of VAT in respect of the Services commissioned through the Integrated Commissioning Fund:

- Identify range of services for which VAT is reclaimable;
- Identify charged services which have to be subject to VAT;
- Identify controls for ensuring that VAT is treated correctly.

47.2 The Partners shall agree that for the treatment of the Pooled Fund for VAT purposes:

- the Council will be the Host Partner and will hold and administer the Pooled Fund for VAT purposes.
- The Lead Commissioner for each Service Contract will be specified in each Service Specification or Scheme Specification (as relevant).
- The Council will commission services for which it is the Lead Commissioner and recover VAT according to the local authority VAT regime (full recovery).
- The CCG will commission services for which it is the Lead Commissioner and recover VAT according to the NHS VAT regime (limited VAT recovery).
- Any funds passing between the Partners under this agreement does not represent consideration for a supply of services and shall be outside the scope of VAT.

48. Capital investment

48.1 The financial arrangements for the Integrated Commissioning Fund will recognise and allow for the Council approach to delivering future service improvement through capital grants to achieve improved quality, lower cost accommodation for services:

- Disabled Facilities Grant

48.2 The Council will retain ownership of any assets that are to be retained.

48.3 The Council has the option to arrange on behalf of both Partners unsupported borrowing to support capital investment in the London Borough of Hackney economy.

49. Resources contributed by Partners

49.1 Staffing, equipment, accommodation etc. resources provided by each Partner to the management and administration of the Integrated Commissioning Fund will be based, initially, on existing structures.

49.2 The Partners will agree the approach to ensuring a fair share of the cost of administering the Pooled Fund.

49.3 The Partners will identify the savings to be generated through the medium term plan to deliver greater levels of integration of CCG and the Council staff, to identify operational and financial benefits from integration; and will agree the resulting benefit share between Partners.