

Dated

2015

(1) LINCOLNSHIRE COUNTY COUNCIL

and

**(2) NHS LINCOLNSHIRE EAST CLINICAL
COMMISSIONING GROUP**

**(3) NHS SOUTH WEST LINCOLNSHIRE CLINICAL
COMMISSIONING GROUP**

**(4) NHS LINCOLNSHIRE WEST CLINICAL
COMMISSIONING GROUP**

**(5) NHS SOUTH LINCOLNSHIRE CLINICAL
COMMISSIONING GROUP**

**FRAMEWORK PARTNERSHIP AGREEMENT RELATING
TO THE COMMISSIONING OF HEALTH AND SOCIAL
CARE SERVICES AND THE POOLING OF FUNDS FOR
THE PURPOSES OF THE BETTER CARE FUND**

Contents

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10876404-v2

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THIS AGREEMENT is made on day of
2015

PARTIES

- (1) **LINCOLNSHIRE COUNTY COUNCIL** of County Offices, Newland, Lincolnshire, LN1 1YL (the "**Council**") and
- (2) **NHS LINCOLNSHIRE EAST CLINICAL COMMISSIONING GROUP** of Cross O'Cliff, Bracebridge Heath, Lincoln, LN4 2HN (the "**LECCG**")
- (3) **NHS SOUTH WEST LINCOLNSHIRE CLINICAL COMMISSIONING GROUP** of South Kesteven District Council Offices, St Peter's Hill, Grantham, NG31 6PZ (the "**SWLCCG**")
- (4) **NHS LINCOLNSHIRE WEST CLINICAL COMMISSIONING GROUP** of Cross O'Cliff, Bracebridge Heath, Lincoln, LN4 2HN (the "**LWCCG**") and
- (5) **NHS SOUTH LINCOLNSHIRE CLINICAL COMMISSIONING GROUP** of Stamford and Rutland Hospital, Ryhall Road, Stamford, Lincolnshire, PE9 1UA (the "**SLCCG**")

(together the "**CCGs**") and the Council and each of the CCGs are each a "Partner" and together "the Partners".

BACKGROUND

- (A) The Council has responsibility for commissioning and/or providing social care services on behalf of the population of its administrative area.
- (B) The CCGs have the responsibility for commissioning health services pursuant to the 2006 Act in their respective areas.
- (C) The Better Care Fund has been established by the Government to provide funds to local areas to support the integration of health and social care and to seek to achieve the National Conditions and Local Objectives. It is a requirement of the Better Care Fund that the CCGs and the Council establish a pooled fund or funds for at least the BCF Minimum. The Partners wish to extend the use of pooled funds to include funding streams in excess of the BCF Minimum and to include within this Framework funding streams that are aligned but are not pooled.
- (D) Section 75 of the 2006 Act gives powers to local authorities and clinical commissioning groups to establish and maintain pooled funds out of which payment may be made towards expenditure incurred in the exercise of prescribed local authority functions and prescribed NHS functions.
- (E) Section 75 of the 2006 Act also gives powers to local authorities and clinical commissioning groups to establish lead commissioning arrangements 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 Partners have agreed to collaborate and to establish a framework through which the Partners can secure the future position of health and social care services through the use of Section 75 powers. It is also means through which the Partners will pool funds and align budgets as agreed between the Partners.
- (G) The aims and benefits of the Partners in entering in to this Agreement are to:
 - a) improve the quality and efficiency of the Services;
 - b) meet the National Conditions;
 - c) make more effective use of resources through the establishment and maintenance of one or more pooled funds for revenue expenditure on the Services; and

- d) achieve the aims and objectives specified in each Individual Scheme Agreement
- (H) The Partners are entering into this Agreement in exercise of the powers referred to in Section 75 of the 2006 Act and/or Section 13Z(2) and 14Z(3) of the 2006 Act as applicable, or Section 1 of the Localism Act 2011 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.

Affected Partner means, in the context of Clause 22, the Partner whose obligations under the Agreement have been affected by the occurrence of a Force Majeure Event

Agreed Individual Schemes means the Individual Schemes specified in Schedule 1

Agreement means this agreement including its Schedules and Appendices.

Aligned Individual Scheme means the Agreed Individual Schemes set out in Part B of Schedule 1 and any other Individual Scheme that does not create a pooled fund

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

BCF Minimum means the legal minimum requirement for pooling of funds as part of the Better Care Fund being for the purposes of the Better Care Fund in Lincolnshire £48.399m

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

Better Care Fund Plan means the BCF submission submitted to the Secretary of State on 9 January 2015 setting out the Partners plan for the use of the Better Care Fund.

CAMHS Section 75 means the partnership agreement dated [] and made under section 75 of the 2006 Act between the Council and [] and relating to integrated child and adolescent mental health services

CCG/LPFT Adult Mental Health Section 75 means the [] agreement dated [] and made between [the CCGs] and [Lincolnshire Partnership Foundation Trust] and relating to the provision of adult mental health services

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

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

Commencement Date means 00:01 hrs on 1 April 2015.

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

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

Corporate Section 75 means the partnership agreement dated [] and made under Section 75 of the 2006 Act between the Council and [the CCGs] and relating to []

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

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

Force Majeure Event means one or more of the following:

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

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

Functions means the NHS Functions and the Health Related Functions

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

Host Partner means for each Pooled Fund the Partner that will host the Pooled Fund as set out in the relevant Individual Scheme Agreement

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.

ICES Section 75 means the partnership agreement dated [] and made under section 75 of the 2006 Act between the Council and [LECCG] and relating to integrated community equipment services

Individual Scheme means one of the schemes which is agreed by the Partners to be included within this Agreement using the powers under Section 75 or otherwise, in each case as documented in a relevant Individual Scheme Agreement and at the Commencement Date being the Agreed Individual Schemes.

Individual Scheme Agreement means the contractual arrangement relating to each Individual Scheme being at the Commencement Date

- (a) the Learning Disabilities Section 75

- (b) the CAMHS Section 75
- (c) the ICES Section 75
- (d) the Proactive care Section 75
- (e) the Corporate Section 75
- (f) the LCC/LPFT Adult Mental Health Section 75
- (g) the CCG/LPFT Adult Mental Health contract

each of which is incorporated by reference into this Agreement and shall be treated as having been made under this Agreement

Law means:

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

LCC/LPFT Adult Mental Health Section 75 means the partnership agreement dated [] and made under Section 75 of the 2006 Act between the Council and [Lincolnshire Partnership Foundation Trust] and relating to the creation of an integrated provider in respect of adult mental health

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

Lead Commissioner means the Partner responsible for commissioning an Individual Service under any Individual Scheme Agreement which involves Lead Commissioning Arrangements

Learning Disabilities Section 75 means the partnership agreement dated [] and made under Section 75 of the 2006 Act between the Council and [] and relating to learning disabilities services

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 listed in Regulation 5 of the Regulations as are exercisable by the CCG as are relevant to the commissioning of any services and which are further described in each Individual Scheme Agreement.

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

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

Partnership Board means the partnership board responsible for review of performance and oversight of this Agreement as set out in Schedule 2.

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

Pooled Fund means any of pooled funds established and maintained by the Partners as a pooled fund in accordance with the Regulations as set out in an Individual Scheme Agreement

Pooled Fund Individual Scheme means the Agreed Individual Schemes set out in Part A of Schedule 1 and any other Individual Scheme that creates between the Partners a pooled fund

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

Proactive Care Section 75 means the partnership agreement dated [] and made under Section 75 of the 2006 Act between the Council and [the CCGs] and relating to [] services

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

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

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

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

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

Service Users means those individual for whom the Partners have a responsibility to commission any of the Services as identified in each Individual Scheme Agreement.

SOSH means the Secretary of State for Health.

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

- 1.2 In this Agreement, all references to any statute or statutory provision shall be deemed to include references to any statute or statutory provision which amends, extends, consolidates or replaces the same and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made thereunder and any conditions attaching thereto. Where relevant, references to English statutes and statutory provisions shall be construed as references also to equivalent statutes, statutory provisions and rules of law in other jurisdictions.
- 1.3 Any headings to Clauses, together with the front cover and the index are for convenience only and shall not affect the meaning of this Agreement. Unless the contrary is stated, references to Clauses and Schedules shall mean the clauses and schedules of this Agreement.
- 1.4 Any reference to the Partners shall include their respective statutory successors, employees and agents.

- 1.5 In the event of a conflict, the conditions set out in the Clauses to this Agreement shall take priority over the Schedules.
- 1.6 Where a term of this Agreement provides for a list of items following the word "including" or "includes", then such list is not to be interpreted as being an exhaustive list.
- 1.7 In this Agreement, words importing any particular gender include all other genders, and the term "person" includes any individual, partnership, firm, trust, body corporate, government, governmental body, trust, agency, unincorporated body of persons or association and a reference to a person includes a reference to that person's successors and permitted assigns.
- 1.8 In this Agreement, words importing the singular only shall include the plural and vice versa.
- 1.9 In this Agreement, "staff" and "employees" shall have the same meaning and shall include reference to any full or part time employee or officer, director, manager and agent.
- 1.10 Subject to the contrary being stated expressly or implied from the context in these terms and conditions, all communication between the Partners shall be in writing.
- 1.11 Unless expressly stated otherwise, all monetary amounts are expressed in pounds sterling but in the event that pounds sterling is replaced as legal tender in the United Kingdom by a different currency then all monetary amounts shall be converted into such other currency at the rate prevailing on the date such other currency first became legal tender in the United Kingdom.
- 1.12 All references to the Agreement include (subject to all relevant approvals) a reference to the Agreement as amended, supplemented, substituted, novated or assigned from time to time.

2 TERM

- 2.1 This Agreement shall come into force on the Commencement Date.
- 2.2 This Agreement shall continue in force until midnight on 31 March 2016 at which time it shall terminate automatically unless extended in accordance with Clause 2.4.
- 2.3 The commencement, duration and termination of the arrangements for each Individual Scheme shall be as set out in the relevant Individual Scheme Agreement. No expiry or termination of this Agreement shall affect the continuation in force of any Individual Scheme Agreement and the expiry or termination of any Individual Scheme Agreement shall not affect the continuation in force of this Agreement.
- 2.4 This Agreement may be extended to any extent beyond the expiry date of this Agreement set out in clause 2.2 by the written agreement of all the Partners not later than the said date of expiry

3 GENERAL PRINCIPLES

- 3.1 Nothing in this Agreement shall affect:
- 3.1.1 the liabilities of the Partners to each other or to any third parties for the exercise of their respective functions and obligations (including the Functions); or
 - 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 Partners 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 For the avoidance of doubt, the aims and outcomes relating to an Individual Scheme shall be as set out in the relevant Individual Scheme Agreement.

4 PARTNERSHIP FLEXIBILITIES

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

- 4.1.1 Lead Commissioning Arrangements;
- 4.1.2 the establishment of one or more Pooled Funds;
- 4.1.3 joint commissioning of services; and
- 4.1.4 the alignment of their separate commissioning activity towards shared outcomes or objectives

in relation to Individual Schemes (the "Flexibilities")

- 4.2 The Individual Schemes in place as at the Commencement Date shall be the Agreed Individual Schemes.

- 4.3 Each Individual Scheme shall be wholly governed by the relevant Individual Scheme Agreement including:-

- 4.3.1 the extent of any delegation by the Council to the CCGs or any of them of the exercise of Health Related Functions in conjunction with NHS Functions;
- 4.3.2 the extent of any delegation by the CCGs or any of them to the Council of the exercise of NHS Functions in conjunction with Health-Related Functions;
- 4.3.3 the extent of any pooling of budgets in Pooled Funds established by a Pooled Fund Individual Scheme and the management of such Funds including treatment of underspends and overspends

save to the extent set out in clause 7.1, clause 10.3 and clause 17.3 and in the event of any inconsistency between such an Individual Scheme Agreement and the provisions of clause 7.1, 10.3 and 17.3 of this Agreement the said clauses 7.1, 10.3 and 17.3 shall prevail.

5 FUNCTIONS

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

- 5.2 This Agreement shall include from the Commencement Date the Individual Schemes listed in the Schedule 1 on the terms of the Individual Scheme Agreements and such other Individual Schemes as the Partners shall agree on such terms as shall be agreed from time to time by the Partners.

- 5.3 Where the Partners add a new Individual Scheme to this Agreement an Individual Scheme Agreement for each such Individual Scheme shall be completed and agreed between the Partners.

- 5.4 The Partners shall not enter into an Individual Scheme Agreement in respect of an Individual Scheme (other than the Agreed Individual Schemes) unless they are satisfied that the Individual Scheme in question meets all applicable statutory pre-conditions and requirements relating thereto including (where applicable) those set out in the Regulations.

- 5.5 The introduction of any Individual Scheme (other than the Agreed Individual Schemes) will be subject to business case development and recommendation by the [Partnership Board] and approval from each of the Partners through their formal decision-making processes

6 ESTABLISHMENT OF POOLED FUNDS

- 6.1 In exercise of their respective powers under Section 75 of the 2006 Act, the Partners have agreed to establish and maintain such pooled funds for revenue expenditure as are set out in each of the Individual Scheme Agreements.
- 6.2 Subject to clause 7.1 below, each Pooled Fund shall be managed and maintained in accordance with the terms of the relevant Individual Scheme Agreement.
- 6.3 Subject to clause 10.3, underspends and Overspends shall be managed in accordance with the terms of each Individual Scheme Agreement

7 POOLED FUND MANAGEMENT

- 7.1 Each Host Partner in respect of any Individual Scheme where there is a Pooled Fund undertakes to ensure that the Pooled Fund Manager in respect of that Individual Scheme shall, in addition to their duties under the Individual Scheme Agreement relating to that Scheme comply with the following duties and responsibilities under this Agreement:
- 7.1.1 maintaining an overview of all joint financial issues affecting the Partners in relation to the Pooled Fund;
 - 7.1.2 ensuring that full and proper records for accounting purposes are kept in respect of the Pooled Fund;
 - 7.1.3 reporting to the Partnership Board as required by Schedule 4 and the Partnership Board;
 - 7.1.4 ensuring action is taken to manage any projected under or overspends relating to the Pooled Fund in accordance with the Individual Scheme Agreement;
 - 7.1.5 preparing and submitting to the Partnership Board Quarterly reports (or more frequent reports if required by the Partnership 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 Partners and the Partnership Board to monitor the effectiveness of the Pooled Fund and to enable the Partners to complete their own financial accounts and returns. The Partners agree to provide all necessary information to the Pooled Fund Manager in time for the reporting requirements to be met;
 - 7.1.6 preparing and submitting reports to the Health and Wellbeing Board and each of the Partners as required by them; and
 - 7.1.7 complying with Schedule 3 as regards the management of risk across the Individual Schemes covered by this Agreement
- 7.2 Each Host Partner in respect of any Individual Scheme shall ensure that in carrying out their responsibilities as provided under the Individual Scheme Agreement and Clause 7.1 the Pooled Fund Manager shall have regard to the recommendations of the Partnership Board.
- 7.3 The Partnership Board shall consider any proposals for the viring of funds between Pooled Funds before making recommendations to the Partners who shall be responsible for approving any proposed virement.

8 FINANCIAL CONTRIBUTIONS

- 8.1 The Financial Contribution of the CCG and the Council to any Pooled Fund for any Financial Year of operation of an Individual Scheme shall be as set out in or shall be calculated or determined in accordance with the relevant Individual Scheme Agreement.
- 8.2 Financial Contributions shall be paid as set out in the each Individual Scheme Agreement.
- 8.3 With the exception of Clause 11, no provision of this Agreement shall preclude the Partners from making additional contributions of non-recurrent payments to any Pooled Fund from time

to time by mutual agreement. Any such additional contributions of non-recurrent payments shall be explicitly approved by the Partner making the additional contributions and shall be recorded in the budget statement for the relevant Pooled Fund as a separate item.

9 NON FINANCIAL CONTRIBUTIONS

- 9.1 The Individual Scheme Agreement shall set out non-financial contributions of each Partner including staff (including the Pooled Fund Manager), premises, IT support and other non-financial resources necessary to perform its obligations pursuant to the Individual Scheme Agreement (including, but not limited to, management of service contracts and the Pooled Fund).

10 RISK SHARE ARRANGMENTS, OVERSPENDS AND UNDERSPENDS

- 10.1 Subject to clause 10.3, the risk share arrangements and the arrangements in relation to Overspends and underspends relating to each Individual Scheme shall be as set out in the relevant Individual Scheme Agreement
- 10.2 The Partners have agreed the risk share arrangements set out in schedule 3, to govern financial risks arising across the Pooled Funds and the financial risk to the Partners arising from the payment for performance element of the Better Care Fund.
- 10.3 Notwithstanding the provisions of any Individual Scheme Agreement containing a Pooled Fund, in the event of any conflict between the provisions of any Individual Scheme Agreement containing a Pooled Fund and the provisions of Schedule 3, the provisions of Schedule 3 shall prevail.
- 10.4 The Host Partner for the relevant Pooled Fund shall manage expenditure from a Pooled Fund within the Financial Contributions and shall ensure that the expenditure is limited to permitted expenditure in accordance with the relevant Individual Scheme Agreement.

11 CAPITAL EXPENDITURE

Pooled Funds shall not normally be applied towards any one-off expenditure on goods and/or services, which will provide continuing benefit and would historically have been funded from the capital budgets of one of the Partners. If a need for capital expenditure is identified this must be agreed by the Partners in accordance with the relevant Individual Scheme Agreement.

12 VAT

The treatment of each of the Pooled Funds for VAT purposes shall be as set out in each of the Individual Scheme Agreements.

13 AUDIT AND RIGHT OF ACCESS

- 13.1 All Partners shall promote a culture of probity and sound financial discipline and control. The Host Partner shall arrange for the audit of the accounts of the relevant Pooled Fund and shall require the Audit Commission to make arrangements to certify an annual return of those accounts under Section 28(1) of the Audit Commission Act 1998.
- 13.2 All internal and external auditors and all other persons authorised by the Partners will be given the right of access by them to any document, information or explanation they require from any employee, member of the Partner in order to carry out their duties. This right is not limited to financial information or accounting records and applies equally to premises or equipment used in connection with this Agreement. Access may be at any time without notice, provided there is good cause for access without notice.

14 LIABILITIES AND INSURANCE AND INDEMNITY

- 14.1 Subject to the provisions of Schedule 3, the liabilities of the Partners to each other and the insurance and indemnity provisions relating to any Individual Scheme shall be as set out in the Individual Scheme Agreement.

15 STANDARDS OF CONDUCT AND SERVICE

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

16 CONFLICTS OF INTEREST

The Partners shall comply with the agreed policy for identifying and managing conflicts of interest as set out in Schedule 5.

17 GOVERNANCE

- 17.1 The arrangements for the governance of this Agreement are set out in Schedule 2
- 17.2 The arrangements for the governance of each Individual Scheme are set out in the relevant Individual Scheme Agreement.
- 17.3 In the event of any inconsistency between Schedule 2 and the governance arrangements of any Individual Scheme Agreement, Schedule 2 shall prevail.
- 17.4 Each Partner has secured internal reporting arrangements to ensure the standards of accountability and probity required by each Partner's own statutory duties and organisation are complied with.
- 17.5 The [Partnership Board] shall be responsible for recommending the addition of new Individual Schemes, or the amendment or variation of existing Individual Schemes ensuring compliance with the Better Care Fund Plan and the strategic direction of the Better Care Fund.
- 17.6 Approval of the addition of new Individual Schemes is reserved to the Partners all of whom must agree such addition in writing. Approval of the amendment or variation of existing Individual Schemes is reserved to the Partners in accordance with the relevant Individual Scheme Agreement.

18 REVIEW

- 18.1 Save where the Partnership Board agree alternative arrangements (including alternative frequencies) the Partners shall undertake a review ("**Annual Review**") of the operation of this Agreement not later than 3 Months prior the end of the Financial Year.
- 18.2 Subject to any variations to this process required by the Partnership Board, the Annual Review shall be conducted in good faith and, where applicable, in accordance with the governance arrangements set out in Schedule 2.

- 18.3 The Partners shall within [20] Working Days of the annual review prepare a joint report documenting the matters referred to in this Clause 18. A copy of this report shall be provided to the Partnership Board.
- 18.4 The Report referred to in clause 18.3 shall form the basis of a consideration by the Partnership Board as to whether to recommend to the Partners an extension of this Agreement under clause 2.4.
- 18.4 In the event that the Partners fail to meet the requirements of the Better Care Fund Plan and NHS England the Partners shall provide full co-operation with NHS England to agree a recovery plan.

19 COMPLAINTS

- 19.1 Complaints relating to Individual Schemes shall be dealt with in accordance with the relevant Individual Scheme Agreement.
- 19.2 The Partners' own complaints procedures shall apply to complaints relating to this Agreement. The Partners agree to assist one another in the management of complaints arising from this Agreement or the provision of the Services.

20 TERMINATION & DEFAULT

- 20.1 This Agreement may be terminated by any Partner giving not less than [3] Months' notice in writing to terminate this Agreement provided that such termination shall not take effect prior to the expiry of the Financial Year in which the notice was given.
- 20.2 Each Individual Scheme may be terminated in accordance with the terms set out in the relevant Individual Scheme Agreement. In the event of any such termination the parties shall negotiate in good faith such provisions as shall be necessary to ensure compliance with the requirements of the Better Care Fund (if any) in force at that time.
- 20.3 If any Partner ("Relevant Partner") fails to meet any of its obligations under this Agreement, the other Partners (acting jointly) may by notice require the Relevant Partner to take such reasonable action within a reasonable timescale as the other Partners may specify to rectify such failure. Should the Relevant Partner fail to rectify such failure within such reasonable timescale, the matter shall be referred for resolution in accordance with Clause 21.
- 20.4 Termination of this Agreement (whether by effluxion of time or otherwise) shall be without prejudice to the Partners' rights in respect of any antecedent breach and the provisions of Clauses [INSERT]
- 20.5 Upon termination of this Agreement for any reason whatsoever the following shall apply:
- 20.5.1 the Partners agree that they will work together and co-operate to ensure that the winding down of this Agreement is carried out smoothly and with as little disruption as possible to service users, employees, the Partners and third parties, so as to minimise costs and liabilities of each Partner in doing so; and
- 20.5.2 Termination of this Agreement shall have no effect on the liability or any rights or remedies of any Partner already accrued, prior to the date upon which such termination takes effect.
- 20.6 Subject to clauses 7.1, 10.3 and 17.3, in the event of termination of an Individual Scheme the provisions of the Individual Scheme Agreement shall apply.

21 DISPUTE RESOLUTION

- 21.1 In the event of a dispute between the Partners arising out of this Agreement, any Partner may serve written notice of the dispute on the other Partner, setting out full details of the dispute.
- 21.2 The Authorised Officer shall meet in good faith as soon as possible and in any event within seven (7) days of notice of the dispute being served pursuant to Clause 21.1, at a meeting convened for the purpose of resolving the dispute.

- 21.3 If the dispute remains after the meeting detailed in Clause 21.2 has taken place, the Partners' respective [chief executives][*insert position*] or nominees shall meet in good faith as soon as possible after the relevant meeting and in any event with fourteen (14) days of the date of the meeting, for the purpose of resolving the dispute.
- 21.4 If the dispute remains after the meeting detailed in Clause 21.3 has taken place, then the Partners will attempt to settle such dispute by mediation in accordance with the CEDR Model Mediation Procedure or any other model mediation procedure as agreed by the Partners. To initiate a mediation, any Partner may give notice in writing (a "**Mediation Notice**") to the others requesting mediation of the dispute and shall send a copy thereof to CEDR or an equivalent mediation organisation as agreed by the Partners asking them to nominate a mediator. The mediation shall commence within twenty (20) Working Days of the Mediation Notice being served. No Partner will terminate such mediation until each of them has made its opening presentation and the mediator has met each of them separately for at least one (1) hour. Thereafter, paragraph 14 of the Model Mediation Procedure will apply (or the equivalent paragraph of any other model mediation procedure agreed by the Partners). The Partners will co-operate with any person appointed as mediator, providing him with such information and other assistance as he shall require and will pay his costs as he shall determine or in the absence of such determination such costs will be shared equally.
- 21.5 Nothing in the procedure set out in this Clause 21 shall in any way affect any Partner's right to terminate this Agreement in accordance with any of its terms or take immediate legal action.

22 FORCE MAJEURE

- 22.1 No Partner shall be entitled to bring a claim for a breach of obligations under this Agreement by any other Partner or incur any liability to any other Partner for any losses or damages incurred by that Partner to the extent that a Force Majeure Event occurs and it is prevented from carrying out its obligations by that Force Majeure Event.
- 22.2 On the occurrence of a Force Majeure Event, the Affected Partner shall notify the other Partners as soon as practicable. Such notification shall include details of the Force Majeure Event, including evidence of its effect on the obligations of the Affected Partner and any action proposed to mitigate its effect.
- 22.3 As soon as practicable, following notification as detailed in Clause 22.2, the Partners shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and, subject to Clause 22.4, facilitate the continued performance of the Agreement.
- 22.4 If the Force Majeure Event continues for a period of more than [sixty (60) days], any Partner shall have the right to terminate the Agreement by giving [fourteen (14) days] written notice of termination to the other Partners. For the avoidance of doubt, no compensation shall be payable by any Partner as a direct consequence of this Agreement being terminated in accordance with this Clause.

23 CONFIDENTIALITY

- 23.1 In respect of any Confidential Information a Partner receives from another Partner (the "**Discloser**") and subject always to the remainder of this Clause 23, each Partner (the "**Recipient**") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party, without the Discloser's prior written consent provided that:
- 23.1.1 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
- 23.1.2 the provisions of this Clause 23 shall not apply to any Confidential Information which:
- (a) is in or enters the public domain other than by breach of the Agreement or other act or omission of the Recipient; or

(b) is obtained by a third party who is lawfully authorised to disclose such information.

23.2 Nothing in this Clause 23 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.

23.3 Each Partner:

23.3.1 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

23.3.2 will ensure that, where Confidential Information is disclosed in accordance with Clause 23.3.1, the recipient(s) of that information is made subject to a duty of confidentiality equivalent to that contained in this Clause 23;

23.3.3 shall not use Confidential Information other than strictly for the performance of its obligations under this Agreement.

24 FREEDOM OF INFORMATION AND ENVIRONMENTAL PROTECTION REGULATIONS

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

24.2 Any and all agreements between the Partners as to confidentiality shall be subject to their duties under the 2000 Act and 2004 Act. No Partner shall be in breach of Clause 23 if it makes disclosures of information in accordance with the 2000 Act and/or 2004 Act.

25 OMBUDSMEN

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

26 INFORMATION SHARING

The Partners will follow the Information Governance Protocol set out in Schedule 6, and in so doing will ensure that the operation this Agreement complies with Law, in particular the 1998 Act.

27 NOTICES

27.1 Any notice to be given under this Agreement shall either be delivered personally or sent by facsimile or sent by first class post or electronic mail. The address for service of each Partner shall be as set out in Clause 27.3 or such other address as each Partner may previously have notified to the other Partner in writing. A notice shall be deemed to have been served if:

27.1.1 personally delivered, at the time of delivery;

27.1.2 sent by facsimile, at the time of transmission;

27.1.3 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

27.1.4 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 Partner 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.

27.2 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).

27.3 The address for service of notices as referred to in Clause 27.1 shall be as follows unless otherwise notified to the other Partner in writing:

27.3.1 if to the Council, addressed to the [];

Tel: []
Fax: []
E.Mail: []

and

27.3.2 If to the

27.3.3 If to the

27.3.4 If to the

27.3.5 if to the CCG, addressed to [];

Tel: []
Fax: []
E.Mail: []

28 VARIATION

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

29 CHANGE IN LAW

29.1 The Partners shall ascertain, observe, perform and comply with all relevant Laws, and shall do and execute or cause to be done and executed all acts required to be done under or by virtue of any Laws.

29.2 On the occurrence of any Change in Law, the Partners shall agree in good faith any amendment required to this Agreement as a result of the Change in Law subject to the Partners using all reasonable endeavours to mitigate the adverse effects of such Change in Law and taking all reasonable steps to minimise any increase in costs arising from such Change in Law.

29.3 In the event of failure by the Partners to agree the relevant amendments to the Agreement (as appropriate), Clause 21 (Dispute Resolution) shall apply.

30 WAIVER

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

31 SEVERANCE

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

32 ASSIGNMENT AND SUB CONTRACTING

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

33 EXCLUSION OF PARTNERSHIP AND AGENCY

33.1 Nothing in this Agreement shall create or be deemed to create a partnership under the Partnership Act 1890 or the Limited Partnership Act 1907, a joint venture or the relationship of employer and employee between the Partners or render any Partner directly liable to any third party for the debts, liabilities or obligations of the other.

33.2 Except as expressly provided otherwise in this Agreement or where the context or any statutory provision otherwise necessarily requires, no Partner will have authority to, or hold itself out as having authority to:

33.2.1 act as an agent of the others;

33.2.2 make any representations or give any warranties to third parties on behalf of or in respect of the others; or

33.2.3 bind the others in any way.

34 THIRD PARTY RIGHTS

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

35 ENTIRE AGREEMENT

35.1 The terms herein contained together with the contents of the Schedules constitute the complete agreement between the Partners with respect to the subject matter hereof and supersede all previous communications representations understandings and agreement and any representation promise or condition not incorporated herein shall not be binding on any Partner.

35.2 No agreement or understanding varying or extending or pursuant to any of the terms or provisions hereof shall be binding upon any Partner unless in writing and signed by a duly authorised officer or representative of the parties.

36 COUNTERPARTS

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

37 GOVERNING LAW AND JURISDICTION

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

37.2 Subject to Clause 21 (Dispute Resolution), the Partners irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to hear and settle any action, suit,

proceedings, dispute or claim, which may arise out of, or in connection with, this Agreement, its subject matter or formation (including non-contractual disputes or claims).

IN WITNESS WHEREOF this Agreement has been executed by the Partners on the date of this Agreement¹

THE CORPORATE SEAL of **THE**)
COUNCIL OF [])
was hereunto affixed in the presence of:)

Signed for on behalf of []
CLINICAL COMMISSIONING GROUP

Authorised Signatory

Signed for on behalf of []
CLINICAL COMMISSIONING GROUP

Authorised Signatory

Signed for on behalf of []
CLINICAL COMMISSIONING GROUP

Authorised Signatory

Signed for on behalf of []
CLINICAL COMMISSIONING GROUP

Authorised Signatory

¹ Partners to confirm execution blocks

SCHEDULE 1– AGREED INDIVIDUAL SCHEMES

As at the Commencement Date the following Individual Schemes shall be treated as having been made under and to be incorporated within this Agreement

Part A - Pooled Fund Individual Schemes

- (a) **Learning Disabilities Section 75 Individual Scheme** as set out in the partnership agreement dated [] and made under Section 75 of the 2006 Act between the Council and [] and relating to learning disabilities services
- (b) **CAMHS Section 75 Individual Scheme** as set out in the partnership agreement dated [] and made under Section 75 of the 2006 Act between the Council and [] and relating to integrated child and adolescent mental health services
- (c) **ICES Section 75 Individual Scheme** as set out in the partnership agreement dated [] and made under Section 75 of the 2006 Act between the Council and [LECCG] and relating to integrated community equipment services
- (d) **Proactive care Section 75 Individual Scheme** as set out in the partnership agreement dated [] and made under Section 75 of the 2006 Act between the Council and [the CCGs] and relating to [] services
- (e) **Corporate Section 75 Individual Scheme** as set out in the partnership agreement dated [] and made under Section 75 of the 2006 Act between the Council and [the CCGs] and relating to []

These Individual Schemes involve the creation of Pooled Funds the value of which count towards compliance with the BCF Minimum.

Part B - Aligned Individual Schemes

- (f) **LCC/LPFT Adult Mental Health Section 75 Individual Scheme** as set out in the partnership agreement dated [] and made under Section 75 of the 2006 Act between the Council and [Lincolnshire Partnership Foundation Trust] and relating to the creation of an integrated provider in respect of adult mental health

This Individual Scheme does not create and does not form part of a Pooled Fund for the purpose of the BCF Minimum or otherwise. This Individual Scheme creates an integrated provider of adult mental health services and is funded wholly by the Council. Whilst the Individual Scheme falls under the provisions of the Agreement it is wholly governed by the terms of its Individual Scheme Agreement including as to risk share and is not covered by the risk share arrangements set out in Schedule 3 of this Agreement.

- (g) **CCG/LPFT Adult Mental Health contract Individual Scheme** as set out in means the [] agreement dated [] and made between [the CCGs] and [Lincolnshire Partnership Foundation Trust] and relating to the provision of adult mental health services

This Individual Scheme does not create and does not form part of a Pooled Fund for the purpose of the BCF Minimum or otherwise. This Individual Scheme is a [] contract between [] and [] for the provision of adult mental health services and is funded wholly by []. Whilst the Individual Scheme falls under the provisions of the Agreement it is wholly governed by the terms of its Individual Scheme Agreement including as to risk share and is not covered by the risk share arrangements set out in Schedule 3 of this Agreement.

SCHEDULE 2 – GOVERNANCE

BETTER CARE FUND

PARTNERSHIP FRAMEWORK AGREEMENT

SCHEDULE 2

GOVERNANCE

Introduction

- 1 This Schedule describes the principles that the Partners agree will be applied to the governance of their Better Care Fund arrangements consisting of this Partnership Framework Agreement and the Individual Schemes that are incorporated within it.
- 2 Governance of the arrangements operates at three levels as follows:-
 - Formal decision-making especially concerning change to approved arrangements and the allocation of resources;
 - Strategic oversight and overall performance, risk and financial management and monitoring of the BCF arrangements and the formulation of recommendations for strategic decision-makers; and
 - Performance, risk and financial management and monitoring of Individual Schemes.
- 3 This Schedule describes general areas of responsibility within each of these tiers of governance and allocates them to specified bodies. It does not seek to prescribe detailed structures, terms of reference or arrangements within those tiers or detailed rules of engagement as to how the different tiers relate to each other. These are left to be determined flexibly within and between the tiers in a way best calculated to be responsive to changing conditions.

Overview

- 4 Strategic formal decision-making is reserved to the Partner corporate bodies – Lincolnshire County Council and the four Clinical Commissioning Groups.
- 5 Strategic oversight and overall performance, risk and financial management and monitoring of the BCF arrangements and the formulation of recommendations for strategic decision-makers will be carried out by:-
 - A Joint Commissioning Board having strategic oversight of and responsibility for the whole of the BCF programme; and
 - [Five] Joint Delivery Boards providing operational oversight and more detailed management of a theme of the programme including one or more Individual Schemes
 - Each Individual Scheme will have its own specified day to day governance arrangement. In some cases this may feed directly into the relevant Joint Delivery Board. In others a specific board or group may be established within the relevant Section 75 Agreement.
- 6 These general agreed arrangements are described in diagrammatic form at Annex A to this Schedule. In the event of any conflict between the body of this Schedule and Annex A, the body of this Schedule shall prevail.

Formal Decision-making

- 7 Nothing in this Schedule is intended to or shall change responsibilities for formal decision-making. In particular, but subject to paragraphs 8 and 9 below, none of the Partners delegate

any of their decision-making powers to the Joint Commissioning Board, Joint Delivery Boards or any Individual Scheme Boards.

- 8 Where an Individual Scheme Agreement transfers the exercise of an NHS Function to the Council or a Council Function to one or more CCGs, that transfer of function shall take effect and the exercise of that function shall be carried out by the body to whom it has been transferred. However, in the exercise of that transferred function the formal decision-making powers of the body exercising that function shall not be affected by the governance arrangements as set out in this Schedule.
- 9 It shall be for each Partner as a corporate body to take formal decisions in accordance with its own internal constitutional and decision-making arrangements and nothing in this Schedule shall prevent any Partner delegating its decisions within its own organisation in any way it is empowered to do so.
- 10 Without limiting in any way the scope of each Partner's decision-making role, the types of matters relevant to this Partnership Framework Agreement and the Individual Schemes which are reserved to the Partners as corporate bodies include:-
 - 10.1 The termination or extension of the Partnership Framework Agreement or any Individual Scheme
 - 10.2 Approval of changes to the Partnership Framework Agreement or an Individual Scheme Agreement including in particular:-
 - 10.2.1 changes to the functions to be transferred
 - 10.2.2 changes to the amounts of any contributions by any partner and the overall amount of any Pooled Fund
 - 10.2.3 changes to the terms and conditions of the Partnership Framework Agreement and any Individual Scheme Agreement including the management of any underspends or overspends or risk management arrangements generally
 - 10.3 The use of resources within the BCF arrangement at the end of the Partnership Framework Agreement to manage risks in accordance with Schedule 3 (Risk Management) to this Agreement.

Joint Commissioning Board and Joint Delivery Boards

- 11 These Boards between them provide strategic oversight and overall performance, risk and financial management and monitoring of the BCF arrangements.
- 12 The Joint Commissioning Board shall consist of senior officers of all of the Partners and shall fulfil the following general responsibilities:-
 - 12.1 providing assurance to the Partners that the overall BCF arrangements and each Individual Scheme is:-
 - 12.1.1 meeting standards of good governance generally and specifically in relation to the hosting and management of the Pooled Funds;
 - 12.1.2 complying with all applicable performance and financial targets at the level of both the Individual Scheme and the BCF to include savings targets referred to in Appendix B to Schedule 3 (Risk Management) to this Partnership Framework Agreement
 - 12.1.3 meeting the commitments set out in the BCF Plan

- 12.2 the general risk management of the BCF in accordance with Schedule 3 (Risk Management) to this Partnership Framework Agreement and in particular the formulation of recommendations to Partners as to the treatment of the contingency fund and underspends retained in the Corporate Section 75 Agreement
- 12.3 fitness for purpose of the overall framework and Individual Schemes for the achievement of the BCF Plan and the wider strategic direction of health and social care in Lincolnshire and the formulation and making of recommendations to the Partners as to changes to the Partnership Framework Agreement or any Individual Scheme to include changes within an Individual Scheme and proposals for new Individual Schemes involving new or different use of the Section 75 flexibilities.
- 13 The Joint Commissioning Board shall operate on a consensual basis, having no delegated authority as a body to override the wishes of any Partner as expressed by the representative of that Partner.
- 14 The Joint Delivery Boards shall assist the Joint Commissioning Board by being responsible for the more detailed contract management of Individual Schemes assuring they are meeting the matters set out in paragraph 12.1 above, reporting performance on a regular basis and identifying risks and issues that need resolution at a higher level. The Joint Delivery Boards shall also be responsible for identifying potential change and new developments and the detailed formulation of business cases and recommendations for sign-off or not by the Joint Commissioning Board.

Individual Scheme Governance Arrangements

- 15 Where an Individual Scheme Agreement makes provision for the Individual Scheme to be governed by any arrangement other than a Joint Delivery Board and the Joint Commissioning Board such Individual Scheme shall be governed in accordance with its Individual Scheme Agreement subject to this Schedule taking precedence in accordance with clause 4.3 of the Partnership Framework Agreement.
- 16 As a result the governance arrangements in an Individual Scheme shall be subject to the authority of each of the Partner corporate bodies, the Joint Commissioning Board and the Joint Delivery Boards within their areas of responsibility as set out in this Schedule.

Health and Wellbeing Board

- 17 The Health and Wellbeing Board will receive regular reports on the performance of the BCF arrangements and emerging issues and risks. As the body with statutory responsibilities for encouraging integration the Health and Wellbeing Board will be involved and consulted by the Joint Commissioning Board on all proposals for extension or change to the existing BCF arrangements prior to any recommendations being made to the Partner corporate bodies for formal decision-making.

Scrutiny

- 18 All governance processes including formal decision-making processes within the Council shall ensure appropriate involvement of relevant Scrutiny Committees.

SCHEDULE 3 RISK MANAGEMENT
BETTER CARE FUND
PARTNERSHIP FRAMEWORK AGREEMENT
SCHEDULE 3
RISK MANAGEMENT

Introduction

- 1 This Schedule sets out the principles against which risk will be managed between the Partners. It operates at two levels
- the level of the Individual Schemes; and
 - The level of this Partnership Framework Agreement

Individual Schemes

- 2 By their very nature Section 75 Agreements and in particular Pooled Fund arrangements provide an appropriate vehicle for managing risk between the associated parties. Each Individual Scheme Agreement will therefore contain risk management arrangements appropriate to the circumstances of that Individual Scheme Agreement.

Partnership Framework Agreement

General

- 3 This Schedule relates to the BCF schemes included in the S75 Pooled funds as detailed in Schedule 1, totalling £129.707m.
- 4 Responsibility for the management of the Pooled budgets referred to on paragraph 3 above is split between the CCGs and the Local Authority by mutual agreement. The assigned responsibility for the different elements of the Pooled budgets is shown in the pooled budget responsibility table below (para 7) and set out in detail in each Individual Scheme Agreement. This is in line with the proposed contract structure and governance arrangements proposed.
- 5 The financial impact of unpredictable incidences on system wide deliverables should be shared proportionately, dependent on the scheme and service, amongst the parties to the agreement. This supports a general principle that all parties are fully engaged and contribute effort to the effectively delivery of the schemes
- 6 Where the impact is so financially significant that individual bodies could be at financial risk, the parties need to work together to mitigate the impact.
- 7 All parties recognise that risks associated with the Better Care Fund need to be funded by it and not be a pressure on individual partner's budgets outside the Better Care Fund.

Principal Risks – CCGs

- 8 The principal risks to the CCGs are those associated with the fact that the CCGs' combined contribution to the BCF funding of £197m is not fully funded either through the BCF itself or the other resources of the CCGs. These funding shortfalls are identified in Appendix A.

Principal Risks – the Council

- 9 The principal financial risk to the Council is the penalty that the Council will suffer if the BCF programme does not achieve its target for reductions in admissions for non-elective care.
- 10 The Better Care Fund Plan contains a commitment on the part of the Partners to reduce admissions for non-elective care in the calendar year 2015 by 3.5% compared with the calendar year 2014. If the target is not reached the Council will be required to pay a set figure

for each admission that should not have occurred had the target been reached to the acute trust to compensate them for savings they would have made had the admissions reductions been achieved. The maximum extent of the financial exposure to the Council is £3.75m.

Managing the Principal Risk to the Council

- 11 In order to fully mitigate the principal risk to the Council a contingency fund will be set up at 1st April 2015. The contingency fund will be in the sum of £3.75m taken from the carried forward surplus from 2014/15 BCF.
- 12 Depending on the performance against the target some or all of the contingency fund will become available for use by the Partners. The extent of such availability is illustrated in the Table below based on 100%, 75%, 50% and 25% achievement against the target.

Extent of Achievement	Amount of Contingency Fund Available
100% achievement	100% contingency fund available (£3.75m)
75% achievement	75% contingency fund available (£2.81m)
50% achievement	50% contingency fund available (£1.875 m)
25% achievement	25% contingency fund available (£0.9375 m)
0% achievement	No contingency fund available

- 13 Performance against the target will be monitored and assessed from 1st January 2015 and reported on a quarterly basis to the [Partnership Board] and the Health Wellbeing Board.
- 14 Performance against the target will be reviewed not later than 1st September 2015 to assess performance to date and any ongoing amounts required to be maintained in the contingency fund for the remainder of the year. The results of this review will be considered by the Partnership Board who will make recommendations to the Partners as to the release of any sums from the contingency fund. The release of such funds shall be subject to agreement of all Partners approved through their internal decision-making processes.

Managing the Principal Risk to the CCGs

- 15 There are two elements to managing the risk to the CCGs.
- 16 The first is that, as set out in Appendix A, savings targets have been set which should bridge the funding gap if achieved. [The Partners commit themselves to using all reasonable endeavours to achieve the savings targets.]
- 17 If these savings are not achieved then there are potentially two sources of funding that could be used to manage this risk:-
- Amounts released from or left in the contingency fund once final performance against the reduction in non-elective admissions target is known; and
 - Underspends within any Individual Scheme over and above any savings targets identified in Appendix A.
- 18 Where such funding as is referred to in paragraph 17 exists it will be treated in accordance with paragraphs 20 to 25 below.

Overspends

- 19 The management of the financial overspends on each element of the BCF scheme are the responsibility of the organisation who is fixed with that responsibility in accordance with the

Individual Scheme Agreement and will not be funded through the BCF, unless agreed by all the Partners following a recommendation from the [Partnership Board].

Contingency Fund and Underspends

- 20 The contingency fund shall form part of the Corporate Section 75 Agreement and will be managed in accordance with paragraphs 11 to 14 above.
- 21 Any net financial underspend on an element of the BCF scheme [at the end of []] will be transferred to the corporate S75 Agreement.
- 22 Not later than [] after the end of [], the [Partnership Board shall meet to consider how to use any amount left in the Contingency Fund at the end of [] and any underspends transferred to the corporate Section 75 Agreement under paragraph 21 above. The options available to the [Partnership Board] separately or in any combination shall be:-
- 22.1 allocation to any of the Individual Schemes or investment otherwise in the achievement of the Better Care Fund Plan;
- 22.2 allocation to the CCGs to cover wholly or partly the funding gap set out in Appendix A to the extent that it has not successfully been managed by the delivery of planned savings; or
- 22.3 return to the Partners in proportion to their contribution to the BCF.
- 23 The results of the [Partnership Board's] deliberations shall be a recommendation to the Partners which it shall deliver to the Partners within [] of reaching a conclusion in its deliberations.
- 24 Use of such sums as referred to in paragraph 17, whether in accordance with a recommendation of the Partnership Board or otherwise shall be subject to agreement by all Partners through their internal decision-making processes.
- 25 If the Partnership Board is not able to reach agreement on a recommendation or having reached agreement on a recommendation such recommendation is not agreed by all the Partners any dispute shall be subject to dispute resolution procedure at clause [21] of the Partnership Framework Agreement.

Delivery Risk

- 26 The following national conditions must be met in local delivery:
- a) Protection for social care services
 - b) 7 day working in health and social care to prevent unnecessary hospital admissions and facilitate timely discharge
 - c) Data sharing based upon the NHS number
 - d) Joint assessments and care planning, including an accountable professional
 - e) Agreement on the impact on acute care
- 27 Individual Partners will not undertake any material change in services during 2015 which will have a negative impact on the BCF targets.

Reputational Risk

- 28 Reputational risk will be managed through an aligned communications and engagement plan.

General Risk Management

- 29 A comprehensive risk register will be in place to manage or mitigate known and emerging risks associated with the development and implementation of the Better Care Fund Plan
- 30 Resources to support the development and maintenance of the risk register will be identified by the parties.
- 31 The Risk Log will be reviewed by groups that are responsible for the individual identified risks – e.g. the finance risks will be reviewed on a monthly basis by the finance group who will

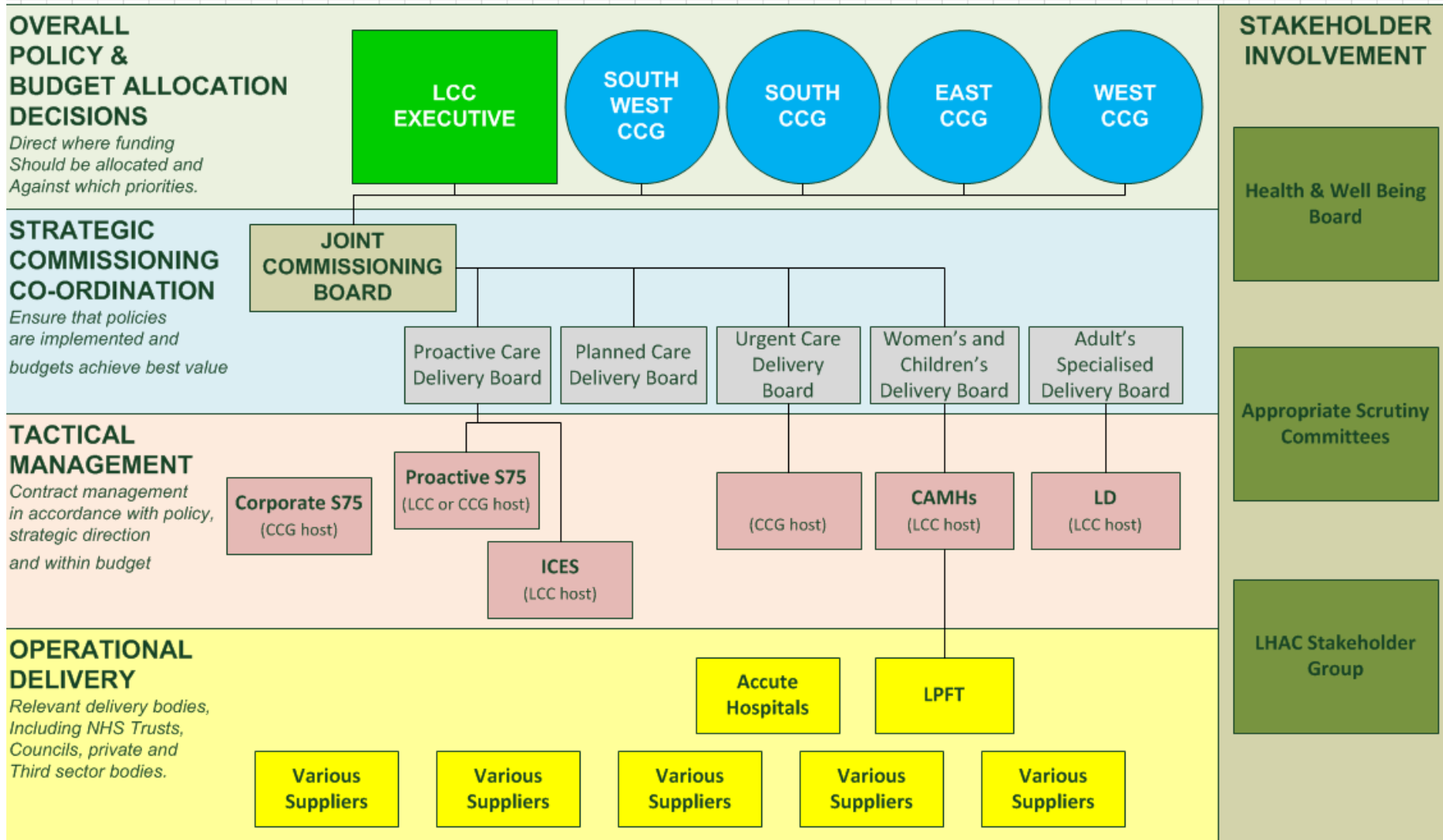
update the Risk log and provide these updates for inclusion into the Master Risk Log. The Risk Log will be updated regularly and reported to the Joint Commissioning Board. Significant risks will be escalated to the Joint Commissioning Board and the Health and Well Being Board as appropriate.

Appendix A - Opening Financial Gap

	£m Original Gap	£m Revised Gap	£m Proposed Saving Target
Difference between LCC £20m and £15.45 BCF allocation 2014/15	4.55	4.55	4.55 Allocated on basis of % of gross budget of individual delivery Boards
Post 30 day discharge 2014/15 cost pressure	1.75	1.75	1.75 Proactive Care Board saving target to deliver Intermediate Care Strategy within the recurrent funding envelope
SEND – “health” contribution to new national initiative in 2014	1.00	1.0 (TBC)	1.00 Women and Children Board saving target to deliver SEND within the recurrent funding envelope
CR&R health reablement schemes	2.10	1.2	CCGs to review schemes and if ongoing funding requirement to be picked up by Individual CCG
TOTAL	9.40	8.50	7.30 (Prior to Delivery Boards achieving required savings)

LHAC, BCF AND OVERALL GOVERNANCE ARRANGEMENTS

Annex 1



SCHEDULE 4– PERFORMANCE AND REPORTING ARRANGMENTS

SCHEDULE 5– POLICY FOR THE MANAGEMENT OF CONFLICTS OF INTEREST

SCHEDULE 6 – INFORMATION GOVERNANCE PROTOCOL

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