

Blackburn with Darwen Clinical Commissioning Group (CCG) Governing Body and
East Lancashire CCG Governing Body Meeting in Common

Report Title:	Confirmation of Delegated Actions - Use of the Seal 1st April 2019 – 31st March 2020 (East Lancashire CCG only)	Agenda No:	3.8 a
Meeting Date:	Wednesday, 27 April 2022		
Summary of Report:	The report provides Members with minutes of the Sub Committees of the Governing Body for receipt. Stakeholder Group minutes are also included for information.		
Report Recommendations:	Members are asked to note the content of the report.		
Financial Implications:			
Procurement Implications:			
Report Category:			Tick
	Formally Receipt		√
	Decision Required		
	For Discussion		
	Receive the report for information/to note		
Author:	Mrs Claire Moir, Senior Corporate Business Delivery Manager		
	Report supported and approved by your Senior Lead? Mrs Debra Atkinson, Head of Corporate Business		Y
Presented By:	Mrs Kirsty Hollis, Deputy Chief Officer/Chief Finance Officer		
Other Committees Consulted:	None		
Privacy Impact Assessment (PIA)	Has a PIA been completed in respect of this report? If Yes, please attach If No, provide reason below.		N
Equality Impact Analysis (EIA)	Has an EIA been completed in respect of this report? If Yes, please attach If No, provide reason below.		N
Data Protection Impact Assessment	Is a Data Protection Impact Assessment Required?		N
Risks:	Has a Risk Assessment been undertaken? Have any risks been identified?		N N
Conflict of Interest:	Is there a conflict of interest associated with this report?		N
Clinical Engagement:	Is any clinical engagement/involvement required as part of the proposal being presented?		N
Patient Engagement:	Is any patient engagement/involvement required as part of the proposal being presented?		N
Privacy Status:	Is the report confidential?		N
Which CCG Corporate Objective does the report relate to:			
CO1	To commission the best quality and effective services to deliver optimal healthcare outcomes for our local population.		
CO2	Ensure the balance of our health investment reflects our population's needs and keeps the population well.		
CO3	Deliver the 10-year strategy by engagement with the population we serve and ensure we commission services that meet local needs with a clear focus on population health management strategies.		
CO4	We will focus on population health outcomes through helping to deliver successful Integrated Care Partnerships and ensure decisions, provision and access to local services is based on the needs of our population.		
CO5	As local health leaders, we will focus on increasing life expectancy across Pennine Lancashire to be at, or above, the national average in the next 10 years.		

NHS EL CCG Governing Body
27 April 2022

CONFIRMATION OF DELEGATED ACTIONS

1. USE OF THE SEAL

1.1 The Joint Chief Officer undertook the signing and sealing of legal documents in respect of the following:

- **Section 75 Agreement – Pooled Budget for Integrated Health and Social Care Services relating to the Better Care Fund, Improved Better Care Fund and Winter Pressures Grant**
- **1st April 2019 – 31st March 2020**

between

- NHS Chorley & South Ribble CCG
- NHS East Lancashire CCG
- NHS Fylde & Wyre CCG
- NHS Greater Preston CCG
- NHS West Lancashire CCG
- NHS Morecambe Bay CCG
- Lancashire County Council

2. Recommendations

2.1 Members are asked to confirm the delegated actions as outlined above.

DEBRA ATKINSON
Head of Corporate Business

Dated

2021

LANCASHIRE COUNTY COUNCIL

and

NHS CHORLEY & SOUTH RIBBLE CLINICAL COMMISSIONING GROUP

NHS EAST LANCASHIRE CLINICAL COMMISSIONING GROUP

NHS FYLDE & WYRE CLINICAL COMMISSIONING GROUP

NHS GREATER PRESTON CLINICAL COMMISSIONING GROUP

NHS MORECAMBE BAY CLINICAL COMMISSIONING GROUP

NHS WEST LANCASHIRE CLINICAL COMMISSIONING GROUP

PARTNERSHIP AGREEMENT

Pooled Budget for Integrated Health and Social Care Services Relating to the Better Care Fund, Improved Better Care Fund and Winter Pressures Grant

1st April 2019 to 31st March 2020

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PARTIES

LANCASHIRE COUNTY COUNCIL of County Hall, Preston, Lancashire, PR1 0LD (hereinafter called the "**Council**");

and

NHS CHORLEY AND SOUTH RIBBLE CLINICAL COMMISSIONING GROUP

of Chorley House, Lancashire Business Park, Centurion Way, Leyland, Lancashire PR26 6TT;

NHS FYLDE AND WYRE CLINICAL COMMISSIONING GROUP of Derby Road,

Wesham, Lancashire PR4 3AL;

NHS GREATER PRESTON CLINICAL COMMISSIONING GROUP of Chorley House, Lancashire Business Park, Centurion Way, Leyland, Lancashire PR26 6TT;

NHS EAST LANCASHIRE CLINICAL COMMISSIONING GROUP of Walshaw House Regent Street, Nelson, Lancashire BB9 8AS;

NHS WEST LANCASHIRE CLINICAL COMMISSIONING GROUP of Hilldale, Wigan Road, Ormskirk, Lancashire L39 2JW;

and

NHS MORECAMBE BAY CLINICAL COMMISSIONING GROUP of Moor Lane

Mill, Moor Lane, Lancashire LA1 1QD);

(Hereinafter referred to collectively as the "**NHS Body**". Where an individual Clinical Commissioning Group ("**CCG**") is referred to, it shall be named).

BACKGROUND

- A. In furtherance of the objectives of this Agreement to secure and advance the welfare of the citizens of Lancashire (excluding Blackburn with Darwen and Blackpool) in accordance with the 2006 Act, the Partners have agreed to enter a prescribed arrangement in relation to the exercise of the prescribed functions of the NHS Body and the prescribed health related functions of the Council pursuant to the Regulations.
- B. This Agreement is a partnership prescribed arrangement for contribution, establishment and maintenance of a Pooled Fund by the Partners for the purpose of commissioning Integrated NHS and Social Care Services as detailed in the Schedules.

1. DEFINITIONS

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

2000 Act: means the Freedom of Information Act 2000.

2004 Regulations: means the Environmental Information Regulations 2004.

2006 Act: means the National Health Service Act 2006.

Advancing Integration Board: means the governance group responsible for review of performance and oversight of this Agreement.

Affected Partner: means, in the context of Clause 12 the Partner whose obligations under the Agreement have been affected by the occurrence of a Force Majeure Event.

Agent: means any party the host may delegate administrative duties to in respect of reporting the Better Care Fund

Agreement: means this agreement including its Schedules and Appendices.

Approved Expenditure: means any additional expenditure approved by the Partners in relation to an Individual Service above any Contract Price and Performance Payments.

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

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 and references to the same shall be construed accordingly.

BCF Financial Contributions: means the financial contributions made by each Partner to a Pooled Fund as set out in Schedule 1, Part 1.

Better Care Fund Plan ("BCF Plan"): means the plan attached at Schedule 6 setting out the Partners' plan for the use of the Better Care Fund 2019/2020.

Board: means the Lancashire Health and Wellbeing Board.

CCG Partner: means each of the NHS Clinical Commissioning Group Partners listed at the commencement of this Agreement.

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 1st April 2019.

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; or
- (b) which does not constitute Personal Data or Sensitive Personal Data but which relates to any patient or his treatment or medical history;
- (c) the release of which is likely to prejudice the commercial interests of a Partner or the interests of a Service User respectively; or
- (d) which is a trade secret; or
- (e) which information is otherwise of a confidential nature.

Contract Price means any sum payable to a Provider under a Service Contract as consideration for the provision of Services but excluding any Default Liability or Performance Payment.

Data Protection Legislation means: the UK Data Protection Legislation and (for so long as and to the extent that the law of the European Union has legal effect in the UK) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to privacy.

UK Data Protection Legislation: any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 (DPA 2018) or any successor legislation.

Dispute Resolution Procedure: the procedure set out in clause 34.

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 Partner(s) to the Provider as a consequence of (i) breach by any or all of the Partners 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 Partners are, under the terms of the relevant Services Contract, liable to the Provider.

Financial Contributions means the financial contributions made by each Partner to a Pooled Fund as set out in Schedule 1, Part 1.

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 relevant to the commissioning of the Services and which may be further described in the relevant Scheme Specification.

Host Partner: is the Council.

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.

Improved Better Care Fund: means the Improved Better Care Fund as determined by the Improved Better Care Fund (Revenue) Grant Determination (217/18) No. 31/3064 as relevant to the Partners and references to the same shall be construed accordingly.

Improved Better Care Fund Financial Contributions: means the financial contributions made by the Host Partner to a Pooled Fund as set out in Schedule 1, Part 1.

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

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

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

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 any judgment of a relevant court of law which is a binding precedent in England.

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

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

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 listed in Regulation 5 of the Regulations as are exercisable by the NHS Body in relation to the commissioning of the Services and which may be further described in a Service Schedule

Non-Recurrent Payments: means funding provided by a Partner to a Pooled Fund in addition to any Financial Contributions and which is made pursuant to arrangements set out in Clause 6.3 below.

Overspend: means any expenditure from a Pooled Fund in a Financial Year (including any expenditure which is committed but not yet spent during the Financial Year) which exceeds the Financial Contributions in that Financial Year.

Partner: means each of the NHS Body(s) and the Council, and references to "Partners" shall be construed accordingly.

Partnership Board: means the Advancing Integration Board responsible for review of performance and oversight of this Agreement.

Performance Payment: means any sum which is payable to the Provider in addition to the Contract price in accordance with a Performance Payment Arrangement.

Performance Payment Arrangement: means any arrangement to make a Performance Payment which is agreed between a Partner or Partners and a Provider in relation to the Services on such terms as may be agreed in writing by all of the Partners.

Personal Data shall have the same meaning as set out in the DPA 2018.

Pooled Fund means any pooled fund established and maintained by the Partners as a pooled fund in accordance with the Regulations and for the purposes of this Agreement includes the Better Care Fund Financial Contributions, Improved Better Care Fund Financial Contributions and the Winter Pressures Grant Financial Contributions.

Pooled Fund Manager: means such officer of the Host Partner, being a member of a specified accountancy body in accordance with section 113 of the Local Government Finance Act 1988 for the relevant Pooled Fund established under an Individual Scheme as is nominated by the Host Partner from time to time to manage the Pooled Fund.

Previous Section 75 Agreements: means previous agreements entered into by the Partners or their predecessor bodies under section 75 NHS Act 2006 or the Health Act 1999 in relation to pooled funding and commissioning arrangements as set out in Schedule 7

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:

Quarter 1 1 April to 30 June

Quarter 2 1 July to 30 September

Quarter 3 1 October to 31 December

Quarter 4 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).

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

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

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

Services Contract: means an agreement for the provision of Services entered into with a Provider by one or more of the Partners in accordance with the relevant Individual Scheme. The individual schemes are shown at Appendix 2.

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

SOSH: means the Secretary of State for Health.

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

Winter Pressures Grant Financial Contributions: means the financial contributions made by the Host Partner to a Pooled Fund as set out in Schedule 1, Part 1.

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

2. AGREEMENT PERIOD

- 2.1 This Agreement shall come into force on the Commencement Date and shall continue for a period of 12 months.

3. AIMS AND OBJECTIVES OF THE AGREEMENT

- 3.1 This Agreement is a prescribed arrangement for the establishment and contribution of funds by the Partners into a single Pooled Fund for the purpose of commissioning Services for the benefit of the citizens of Lancashire, excluding Blackburn with Darwen and Blackpool, in accordance with Section 75 of the 2006 Act.

4. SERVICE COMMISSIONING UNDER THIS AGREEMENT

- 4.1 The Partners have each agreed to collaborate with each other to deliver those Individual Schemes described in Appendix 2 to this Agreement. The Lead Commissioner for each Individual Scheme shall be that Partner identified in relation to each individual Scheme in Appendix 2.
- 4.2 The Lead Commissioner for each Individual Scheme shall administer and operate that Individual Scheme and shall be responsible for commissioning the appropriate Service in accordance with the individual Scheme Specification. All Individual Scheme spending shall be in accordance with the Approved Expenditure for that Individual Scheme or as otherwise agreed in accordance with this Agreement.
- 4.3 The Services are set out in the individual scheme specifications as described in Appendix 2 of this Agreement.
- 4.4 Where there are Integrated Commissioning arrangements in respect of an Individual Scheme, Partners 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.
- 4.5 Partners shall be responsible for compliance with and making payments of all sums due to a Provider pursuant to the terms of the relevant Service Contract governing that individual Scheme.
- 4.6 The Partners shall each comply with the arrangements in respect of the Joint or Aligned Commissioning as set out in the relevant Scheme Specification.
- 4.7 Where Lead Commissioning Arrangements are in place in relation to an Individual Scheme the Lead Commissioner shall exercise the Functions as identified in the relevant Scheme Specification and comply with all relevant legal duties and guidance of both the Council and the CCG Partners in relation to the Services being commissioned and shall do so with all due skill, care and attention.
- 4.8 Procurement and contracting will be carried out in accordance with the internal governance procedures of the Lead Commissioners and shall comply with the Public Contracts Regulations 2015 Regulations or other EU directives and case law. All contracts and service level agreements entered into pursuant to a Commissioning Arrangement must be in writing.

- 4.9 The Council delegates to the CCG and the CCG agrees to exercise on the Council's behalf, in conjunction with the NHS Functions, the Health Related Functions to the extent necessary for the purpose of performing the Council's obligations under this Agreement.
- 4.10 The CCG Partners delegate to the Council and the Council agrees to exercise on the CCG's behalf in conjunction with the Health Related Functions the NHS Functions to the extent necessary for the purpose of performing their obligations under this Agreement.
- 4.11 Where the powers of a Partner to delegate any of its statutory powers or functions are restricted, such limitations will automatically be deemed to apply to the relevant Scheme Specification and the Partners shall each agree to such arrangements as are intended to achieve the greatest degree of delegation to the other Partner or Partners for the purposes of this Agreement which are consistent with the relevant statutory constraints.

5. GOVERNANCE AND MANAGEMENT

- 5.1 This Agreement shall be governed in accordance with those arrangements set out in Schedule 2.
- 5.2 Each Partner shall in performing its' responsibilities under this Agreement comply with the obligations set out in Schedule 3.
- 5.3 The responsibilities of the Advancing Integration Board are set out at Schedule 4.
- 5.4 The responsibilities of the Health and Wellbeing Board are set out at Schedule 5.

6. FINANCIAL CONTRIBUTIONS/ AND FINANCIAL MANAGEMENT ARRANGEMENTS

- 6.1 In exercise of their respective powers under Section 75 of the 2006 Act, the Partners have each agreed to establish and maintain such Pooled Funds as set out in the Scheme, breakdown set out in Appendix 2 BCF Plan and as follows:

Better Care Fund ("BCF") Pooled Fund

- 6.2 The table sets out the BCF Financial Contributions made by each of the Partners into the Pooled Fund for the Financial year 2019/2020 (as set out in Schedule 1 Part 1).

BCF	
Financial Contributions to the s75 Pooled Fund	Annual Income
	£000
NHS Chorley & South Ribble CCG	8,436
NHS East Lancashire CCG	24,574
NHS Fylde & Wyre CCG	13,732
NHS Greater Preston	9,359
NHS Morecambe Bay	10,796

NHS West Lancashire CCG	8,006
Lancashire County Council	12,493
Lancashire County Council (Disabled Facilities Grant)	14,731
Total	102,127

Which sums shall be broken down into 1/12th shares and payable monthly by each partner (the "Monthly Amount").

6.3 The Council shall act as the Host Partner for the Pooled Fund and will account for the Contributions and invoice each Partner at the beginning of each month for a Monthly Amount. Each Partner shall charge back to the Pooled Fund any expenditure incurred by it directly in relation to a Service for which it acts as Lead Commissioner, up to the maximum amount indicated in the income and expenditure table set out in Schedule 1, Part 1. The Host Partner will record the actual expenditure incurred against the Pooled Fund in relation to the Services.

Improved Better Care Fund ("IBCF") Pooled Fund

6.4 The table below sets out the IBCF Financial Contributions made by the Host Partner into the Pooled Fund as set out in Schedule 1, Part 1.

IBCF	19/20
Financial Contribution to the s75 Pooled Fund	Annual Income £,000s
Lancashire County Council via Department for Communities and Local Government	47,813

IBCF Grant Conditions

6.5 The IBCF grant conditions are set out at Appendix 3 'The Improved Better Care Fund Grant Determination 2017/2018 No 31/3064 and the Partners in consideration of receiving IBCF monies acknowledge and agree to comply with the terms of the grant conditions.

Use of the Grant - conditions

6.6 The Partners acknowledge that the IBCF paid to the Host Partner may be used only for the purposes of meeting adult social care needs; reducing pressures on the NHS, including supporting more people to be discharged from hospital when they are ready; and ensuring that the local social care provide market is supported.

6.7 The Partners acknowledge and agree to assist and provide whatever information that is required for the Host Partner to achieve the following:

- 6.7.1 pool the IBCF into the local Better Care Fund;
- 6.7.2 work with the relevant CCG and providers to meet National Condition 4 (Managing Transfers of Care) in the Integration and Better Care Fund Policy Framework and Planning Requirements 2017 – 2019; and
- 6.7.3 provide quarterly reports as required by the secretary of state.

6.8 Without prejudice to clause 6.23 (open book clause below clause) for the purposes of 6.7.3, 6.9., 6.9.1 and 6.9.2 and 6.10 the Partners must keep their own adequate records of expenditure and outcome and any other information to evidence spend and any of the IBCF conditions and provide the same as and when the Host Partner requests for such records and/or information.

Financial Management – conditions

6.9 Without prejudice to the open book clause below at 6.23 the Partners acknowledge and agree to assist and provide whatever information is required for the Host Partner to comply with the following financial management conditions;

6.9.1 maintaining a sound system of internal financial controls; and

6.9.2 where there are any grounds for suspecting financial irregularity in the use of any IBCF, the Host Partner must notify the Department for Communities and Local Government (the 'Department'), explain what steps are being taken to investigate the suspicion and keep the Department informed about the progress of the investigation. For these purposes "financial irregularity" includes fraud or other impropriety, mismanagement, and the use of grant for purposes other than those for which it was provided.

Clawback

6.10 If any Partner fails to comply with any of the above conditions, the Partners acknowledge that the Secretary of State (SoS) may reduce, suspend or withhold IBCF payments or require the repayment of the whole or any part of the IBCF monies paid, as may be determined by the SoS and notified in writing to the Host Partner. Such sums as has been notified will immediately become payable to the Secretary of State who may set off the sum against any future amount due to the Host Authority from the Government.

6.11 For the avoidance of doubt the Partners agree that clause 7.3 of this agreement will apply in the event of repayment, reduction, suspension or withholding of the whole or any part of the IBCF monies due to the breach any of the IBCF Grant conditions (Appendix 3) by any one or more Partner(s).

Winter Pressure Grant ("WP Grant") Pooled Fund

6.12 The table below sets out the WP Grant Financial Contributions made by the Host Partner into the Pooled Fund as set out in Schedule 1, Part 1.

Winter Pressure Grant	
-	
Financial Contributions to the s75 Pooled Fund	Annual Income
	£000
Lancashire County Council - Winter Pressure Grant	5,518
Total	5,518

Winter Pressure Grant Conditions

- 6.13** The WP Grant conditions are set out at Appendix 3 'The Winter Pressures (Revenue) Grant Determination (2019-20) No. 31/3696' and the Partners in consideration of receiving WP Grant monies acknowledge and agree to comply with the terms of the WP Grant conditions therein (as applicable) and below.

Use of the Grant - conditions

- 6.14 The Partners acknowledge that the WP Grant paid to the Host Partner may be used only for the purposes of supporting the local health and care system to manage demand pressures on the NHS with particular reference to seasonal winter pressures including on interventions which support people to be discharged from hospital, who would otherwise be delayed, with the appropriate social care support in place, and which help promote people's independence.
- 6.15 The Partners acknowledge and agree to assist and provide whatever information that is required for the Host Partner to achieve the following:
- 6.15.1 pool the WP Grant into the local Better Care Fund;
 - 6.15.2 work with the relevant CCG and providers to meet National Condition 4 (Managing Transfers of Care) in the 2019-20 Better Care Fund Policy Framework and Planning Requirements; and
 - 6.15.3 provide quarterly reports as required through the Better Care Fund (BCF).
- 6.16 Without prejudice to clause 6.2.3 (open book clause above) for the purposes of 6.15.3, 6.17, 6.17.1 and 6.17.2 and 6.18 the Partners must keep their own adequate records of expenditure and outcome and any other information to evidence spend and any of the WP Grant conditions and provide the same as and when the Host Partner requests for such records and/or information.

Financial Management – conditions

- 6.17 Without prejudice to the open book clause below at 6.23 the Partners acknowledge and agree to assist and provide whatever information is required for the Host Partner to comply with the following financial management conditions;
- 6.17.1 maintaining a sound system of internal financial controls; and
- 6.17.2 where there are any grounds for suspecting financial irregularity in the use of any WP Grant, the Host Partner must notify the Department for Communities and Local Government (the 'Department'), explain what steps are being taken to investigate the suspicion and keep the Department informed about the progress of the investigation. For these purposes "financial irregularity" includes fraud or other impropriety, mismanagement, and the use of grant for purposes other than those for which it was provided.

Clawback - breach of conditions

- 6.18 If any Partner fails to comply with any of the above conditions (and as set out in appendix x), the Partners acknowledge that the Secretary of State (SoS) may reduce, suspend or withhold WP Grant payments or require the repayment of the whole or any part of the WP Grant monies paid, as may be determined by the SoS and notified in writing to the Host Partner. Such sums as has been notified will immediately become payable to the Secretary of State who may set off the sum against any future amount due to the Host Authority from the Government.

6.19 For the avoidance of doubt the Partners agree that clause 7.3 of this agreement will apply in the event of repayment, reduction, suspension or withholding of the whole or any part of the WP Grant monies due to the breach any of the WP Grant conditions Annex 4) by any one or more Partner(s).

Pooled Fund (BCF, IBCF and WP Grant) continued

- 6.20 The Pooled Fund will be used solely for commissioning those Services set out in Appendix 2 BCF Plan.
- 6.21 Each Partner will be responsible for adhering to its own standing orders and financial or accounting requirements in respect of the Financial Contributions any expenditure charged by it to the Pooled Fund. The Host Partner shall be entitled to assume that in its dealings with each of the other Partners that they have at all times complied in full with their respective internal governance arrangements and is under no obligation at any time to take steps ensure the other Partners' compliance in this regard.
- 6.22 Lead Commissioning Arrangements outlined in Appendix 2 BCF Plan will continue for the duration of this Agreement. The responsibility for payment to Providers will remain with the respective Lead Commissioner for each individual Scheme.
- 6.23 Each Partner shall maintain and report on complete and accurate financial and non-financial information on an open book policy basis such that ensures transparency and which is sufficient to enable the Host Partner to provide the Advancing Integration Board with regular (at least Quarterly) financial and non-financial reports on:
- a) full funding and spend on the Pooled Fund in order to ensure that each funded scheme offers best value and does not duplicate effort or costs currently expended by each Partner;
 - b) IBCF which is sufficient to demonstrates whether or not the IBCF Grant Conditions set out at clauses 6.5 to 6.11 and Annex 3 in this Agreement have been complied with; and
 - c) WP Grant which is sufficient to demonstrates whether or not the WP Grant conditions set out in Annex 3 and clauses 6.5 to 6.11 in this Agreement have been complied with.
- 6.24 The Advancing Integration Board shall have overall responsibility for performance managing and monitoring actual income and expenditure in relation to the Pooled Fund. The Host Partner (or its delegated agent) will provide regular financial and non-financial reports to the Advancing Integration Board and each Partner (at least Quarterly), using information from its accounting system and/or information provided by each Partner or Agent, where appropriate and to be able as required under clause 6.23 above.
- 6.25 The Advancing Integration Board shall consider forecasts of income and expenditure as against the predicted Year End position from the Second Quarter of the Agreement and shall identify any potential costs pressures relating to individual Schemes and/or a Pooled Fund. The Advancing Integration Board shall consider whether any reasonable mitigating actions can be taken to limit a possible overspend on any Pooled Fund. The Advancing Integration Board may recommend to any Lead Commissioner that it report a predicted overspend to that Partner's management in accordance with its internal governance procedures.
- 6.26 The Advancing Integration Board shall have overall responsibility for scheme evaluation and review to allow for flexibility of the Pooled Fund which could result in recommended changes (changes in value from scheme to scheme, partner to partner or changing the nature of the purpose of the schemes) to the HWB.

- 6.27 All reports submitted to the Advancing Integration Board pursuant to clause 6 shall be supported by appropriate activity reports.
- 6.28 Each Partner shall bear its own operational costs incurred in respect of non-Pooled Fund services/activity and no such expense shall be met from the Pooled Fund.
- 6.29 Each Partner shall comply with the reporting requirements relating to individual Schemes for which that Partner is the Lead Commissioner, using the formats for finance and performance illustrated at Schedule 1, Part 2 along with a performance management framework which shall be developed by the Advancing Integration Board and circulated to all Partners.
- 6.30 The Host Partner will provide the information required for the year end accounts to each Partner and its auditors, where appropriate.
- 6.31 The internal auditor of the Host Partner will conduct an internal audit of the Pooled Fund and will include its audit plans in relation to the Pooled Fund as part of a report to the Audit Committee of the Host Partner. Any internal audit of the Pooled Fund shall form part of the audit plan of the Host Authority.
- 6.32 The external auditor of the Host Partner will be responsible for the external audit of the Pooled Fund. It will agree its audit plans in relation to the Pooled Fund with the Audit Committee of the Host Partner.
- 6.33 Copies of all audit reports in relation to the pool budget will be made available to the Lancashire Health and Wellbeing Board and to each Party to this agreement.
- 6.34 The Partners shall each co-operate in the prompt provision of information, and access to premises and staff, to ensure compliance with any statutory inspection requirements, or any other monitoring or scrutiny requirement. The Partners shall implement recommendations arising from these inspections, where appropriate.

7. RISK AND INDEMNITIES

- 7.1. Each Partner when acting as Lead Commissioner will manage the risk, of the relevant Individual Scheme, in accordance with current contractual arrangements. Including meeting the cost of any Overspend arising in relation to that Individual Scheme, unless agreed in accordance with the Risk Sharing Agreement (at Schedule 8). Where an Individual Scheme is underspent at Year End the Lead Commissioner for that Individual Scheme shall be entitled to retain the underspent sums provided that in considering whether the Individual Scheme is underspent the Lead Commissioner takes account of any sums committed but not yet spent during that Financial Year.
- 7.2. Each Partner shall inform the Advancing Integration Board of any risks identified in relation to the Pooled Fund or to an Individual Scheme. The Partners shall develop a recovery plan for addressing risks and where appropriate for ensuring that steps are taken to balance the Pooled Fund.
- 7.3. Each Partner (the "Indemnifying Partner") shall indemnify and keep indemnified the other Partner (the "Indemnified Partner") against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever, whether arising in tort (including negligence), default or breach of this Agreement, to the extent that any loss or claim is due to the breach of contract, negligence, wilful default or fraud of the Indemnifying Partner, the Indemnifying Partner's employees, or any of its Representatives or sub-contractors, except to the extent that the loss or claim is directly caused by or directly arises from the negligence, breach of this Agreement, or applicable Law by or on the part of the Indemnified Partner or its Representatives.

8. LIABILITIES

- 8.1. Subject to clause 8.2, no Partner shall be liable to the other Partners for claims by third parties arising from any acts or omissions of the other Partners in connection with the Services before the Commencement Date.
- 8.2. Liabilities arising from Services provided or commissioned under the Previous Section 75 Agreements shall remain with the Host Partner or lead partner for the Service under the relevant agreement.
- 8.3. Each Partner shall, at all times, take all reasonable steps to minimise and mitigate any loss or damage for which that Partner is entitled to bring a claim against the other Partner under this Agreement.

9. TERMINATION & DEFAULT

- 9.1. An Individual Scheme may be terminated in accordance with the terms set out in the relevant Scheme Specification provided that each Partner shall ensure that the Better Care Fund requirements continue to be met.
- 9.2. 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 10.
- 9.3. 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.
- 9.4. Upon termination of this Agreement for any reason whatsoever the following shall apply:

- 9.4.1 the Partners agree that they will work together and co-operate to ensure that the winding down and disaggregation of the integrated and joint activities to the separate responsibilities of the Partners is carried out smoothly and with as little disruption as possible to service users, employees, the Partners and third parties, so as to minimise costs and liabilities of each Partner in doing so;
- 9.4.2 where a Partner acting as Lead Commissioner has entered into a Service Contract which continues beyond termination of this Agreement, each Partner shall continue to contribute to the Contract Price in accordance with the Approved Contribution for that Service and will enter into all appropriate legal documentation required in respect of this;
- 9.4.3 A Partner acting as the Lead Commissioner for an Individual Scheme shall make reasonable endeavours to amend or terminate a Service Contract relating to that individual Scheme (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 Partners request this in writing provided that the Lead Commissioner shall not be required to make any payment to the Provider in order to agree such amendment or termination ("Termination Payment") unless the Partners shall have agreed in advance how such Termination Payment shall be funded.
- 9.4.4 Where a Service Contract held by a Lead Commissioner relates wholly or in part to another Partner's Functions then provided that the Service Contract makes provision for such an event, the other Partners may request that the Lead Commissioner assigns the Service Contract to the Partner responsible for the relevant Functions.
- 9.4.5 The Partnership Board shall continue to operate for the purposes of Functions associated with this Agreement for the duration of any Service Contracts and/or commitments arising out of or in connection with this Agreement; and
- 9.4.6 Termination of this Agreement shall have no effect on the liability of any rights or remedies of either Partner already accrued, prior to the date upon which such termination takes effect.

10. DISPUTE RESOLUTION

- 10.1 In the event of a dispute between the Partners arising out of this Agreement, a Partner may serve written notice of the dispute on another Partner, setting out full details of the dispute.
- 10.2 The Authorised Officer of the affected Partners 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 10.1, at a meeting convened for the purpose of resolving the dispute.
- 10.3 If the dispute remains unsettled after the meeting detailed in Clause 10.2 has taken place, the Partner's respective chief executives or nominees shall meet in good faith as soon as possible after the relevant meeting and in any event with fourteen (14) days of the date of the meeting, for the purpose of resolving the dispute.
- 10.4 If the dispute remains unsettled after the meeting detailed in Clause 10.3 has taken place, then the affected 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 mediation, a Partner may give notice in writing (a "Mediation Notice") to another Partner or Partners involved in the dispute 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 affected by the dispute and involved in the mediation 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 affected Partners will each 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.

- 10.5 Nothing in the procedure set out in this Clause shall in any way affect a Partner's right to terminate this Agreement in accordance with any of its terms or take immediate legal action.
- 10.6 A Partner not affected by the dispute shall not be obliged to participate in the dispute resolution procedure set out in this clause 10. In clause 10 any reference to a "Partner" or "Partners" shall unless the meaning is otherwise clear, refer to a Partner affected by the dispute.

11. NOTICES

- 11.1 Notices shall be in writing and shall be sent to the other Partner marked for the attention of the chief executive (or equivalent) or another person duly notified by the Partner for the purposes of serving notices on that Partner, at the address set out for the Partner in this Agreement.
- 11.2 Notices may be sent by first class mail. Correctly addressed notices sent by first class mail shall be deemed to have been delivered 72 hours after posting.

12. FORCE MAJEURE

- 12.1 No Partner shall be entitled to bring a claim for a breach of obligations under this Agreement by any other Partners or incur any liability to the other Partners for any Losses 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.
- 12.2 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.
- 12.3 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 review to the other Partner. For the avoidance of doubt, no compensation shall be payable by either Partner as a direct consequence of this Agreement being terminated in accordance with this Clause 12.3.

13. CONFIDENTIALITY

- 13.1 In respect of any Confidential Information a Partner receives from another Partner (the "Discloser") and subject always to the remainder of this Clause 13, 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:

- 13.1.1 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
- 13.1.2 The provisions of this Clause 13 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.
- 13.2 Nothing in this Clause 13 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.
- 13.3 Each Partner:
- 13.3.1 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
 - 13.3.2 will ensure that, where Confidential Information is disclosed in accordance with Clause 13.3.1, the recipient(s) of that information is made subject to a duty of confidentiality equivalent to that contained in this Clause 13;
 - 13.3.3 Shall not use Confidential Information other than strictly for the performance of its obligations under this Agreement.

14. EQUALITY DUTIES

The Partners acknowledge their respective duties under equality legislation to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between different groups.

15. FREEDOM OF INFORMATION

The Partners acknowledge that each is subject to the requirements of FOIA and the EIR, and shall assist and cooperate with one another to enable each Partner to comply with these information disclosure requirements, where necessary.

16. DATA PROTECTION AND INFORMATION SHARING

- 16.1 The Partners acknowledge that each Partner for the purposes of the Data Protection Legislation is itself the Controller and the Processor (as appropriate) and each Partner shall (and shall procure that any of its representatives involved in the provision of the Services shall) comply with the Data Protection Legislation. Partners shall duly observe all of their obligations under the Data Protection Legislation, which arise in connection with this Agreement.

16.2 The Partners shall share information about Service Users to improve the quality of care and enable integrated working. The Partners shall adhere to the Information Sharing Protocol when sharing information under this Agreement.

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

16.4 Any and all agreements between the Partners as to confidentiality shall be subject to their duties under the 2000 Act and 2004 Regulations. No Partner shall be in breach of Clause 16 if it makes disclosures of information in accordance with the 2000 Act and/or 2004 Regulations

17. INSURANCE

Each Partner shall effect and maintain a policy or policies of insurance, providing an adequate level of cover for liabilities arising under any indemnity in this Agreement.

18. PUBLICITY

The Partners shall use reasonable endeavours to consult one another before making any press announcements concerning the Services or the discharge of either Partner's Functions under this Agreement.

19. NO PARTNERSHIP

Nothing in this Agreement shall be construed as constituting a legal partnership between the Partners or as constituting either Partner as the agent of the other for any purpose whatsoever, except as specified by the terms of this Agreement.

20. THIRD PARTY RIGHTS

No one other than a party to this agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

21. ASSIGNMENT AND SUBCONTRACTING

No party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without the prior written consent of the other parties.

22. SEVERABILITY

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of

a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

23. WAIVER

23.1 The failure of either Partner to enforce any of the provisions of this Agreement at any time or for any period of time shall not be construed to be a waiver of any such provision and shall in no matter affect the right of that Partner thereafter to enforce such provision.

23.2 No waiver in any one or more instances of a breach of any provision of this Agreement shall be deemed to be a further or continuing waiver of such provision in other instances.

24. ENTIRE AGREEMENT

This Agreement, the Schedules and the documents annexed to it or otherwise referred to in it contain the whole agreement between the parties relating to the subject matter of it and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

25. GOVERNING LAW AND JURISDICTION

Subject to clause 10, this Agreement and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England and the Partners irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement.

26. FAIR DEALINGS

The Partners recognise that it is impracticable to make provision for every contingency which may arise during the life of this Agreement and they declare it to be their intention that this Agreement shall operate between them with fairness and without detriment to the interests of either of them and that if in the course of the performance of this Agreement, unfairness to either of them does or may result then the other shall use its reasonable endeavours to agree upon such action as may be necessary to remove the cause or causes of such unfairness.

27. COUNTERPARTS

27.1 This Deed may be executed and delivered in any number of counterparts, each of which so executed will be an original, but together will constitute one and the same instrument.

27.2 Delivery of an executed signature page of a counterpart in Adobe™ Portable Document Format (PDF) or other agreed form sent by email shall take effect as delivery of an executed counterpart of this Deed. If this method is adopted, without prejudice to the validity of such agreement, each party shall provide the other with the original of such page as soon as reasonably practicable thereafter.

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

**EXECUTED as DEED by the affixing of
THE COMMON SEAL of THE LANCASHIRE
COUNTY COUNCIL**
was hereunto affixed in the presence of:

Authorised Signatory

**EXECUTED as DEED by the affixing of
THE COMMON SEAL of THE NHS CHORLEY & SOUTH RIBBLE CLINICAL
COMMISSIONING GROUP** was affixed to this Deed

Authorised Signatory

**EXECUTED as DEED by the affixing of
THE COMMON SEAL of THE NHS EAST LANCASHIRE CLINICAL COMMISSIONING
GROUP was affixed to this Deed**

A handwritten signature in black ink, appearing to read "Julie Higgins". The signature is written in a cursive style and is positioned diagonally.

Authorised Signatory – **Dr Julie Higgins, Chief Officer – 04.05.2021**

**EXECUTED as DEED by the affixing of
THE COMMON SEAL of THE NHS FYLDE & WYRE CLINICAL COMMISSIONING GROUP was affixed to this Deed**

Authorised Signatory

**EXECUTED as DEED by the affixing of
THE COMMON SEAL of THE NHS GREATER PRESTON CLINICAL COMMISSIONING GROUP was affixed to this Deed**

Authorised Signatory

**EXECUTED as DEED by the affixing of
THE COMMON SEAL of THE NHS MORECAMBE BAY CLINICAL COMMISSIONING GROUP was affixed to this Deed**

Authorised Signatory

**EXECUTED as DEED by the affixing of
THE COMMON SEAL of THE NHS WEST LANCASHIRE CLINICAL COMMISSIONING GROUP** was affixed to this Deed

Authorised Signatory

**SCHEDULE 1 PART 1
FINANCIAL CONTRIBUTIONS**

Pooled Fund income and expenditure

The table below sets out the pooled fund planned income and expenditure. It shows the allocations to the pool and breakdown of payments to health and social care from the pooled fund.

Summary of Lancashire Better Care Fund Income and Expenditure

POOLED FUND INCOME AND EXPENDITURE

INCOME: FINANCIAL CONTRIBUTIONS	
	-
<u>BCF</u>	
Financial Contributions to the s75 Pooled Fund	Annual Income
	£000
NHS Chorley & South Ribble CCG	8,436
NHS East Lancashire CCG	24,574
NHS Fylde & Wyre CCG	13,732
NHS Greater Preston	9,359
NHS Morecambe Bay	10,796
NHS West Lancashire CCG	8,006
Lancashire County Council	12,493
Lancashire County Council (Disabled Facilities Grant)	14,731
Total	102,127
<u>iBCF</u>	
Financial Contributions to the s75 Pooled Fund	Annual Income
	£000
Lancashire County Council - iBCF	47,813
Total	47,813
<u>Winter Pressure Grant</u>	
-	
Financial Contributions to the s75 Pooled Fund	Annual Income
	£000
Lancashire County Council - Winter Pressure Grant	5,518
Total	5,518

TOTAL CONTRIBUTIONS TO THE POOLED FUND:	155,458
--	----------------

EXPENDITURE: PAYMENTS TO HEALTH & SOCIAL CARE	
Payments to Health from the Pooled Fund	Annual Expenditure
	£000
NHS Chorley & South Ribble CCG	8,929
NHS East Lancashire CCG	19,405
NHS Fylde & Wyre CCG	9,095
NHS Greater Preston	9,559
NHS Morecambe Bay	7,393
NHS West Lancashire CCG	5,363
Total	59,744
Payments to Social Care from the Pooled Fund	Annual Expenditure
LCC - Social Care	27,652
LCC Disabled Facilities Grant	14,731
LCC iBCF	47,813
LCC Winter Pressure Gap	5,518
Total	95,714
TOTAL PAYMENTS FROM THE POOLED FUND:	155,458

SCHEDULE 1 PART 2

FINANCIAL AND PERFORMANCE REPORTING

Finance and Performance reporting will be managed by each Partner to provide assurance for that organisation's Governing Body and Local Partnership that each scheme within the BCF is operating as envisaged within the scheme plan and delivering the outcome gains anticipated. Where the scheme requires additional actions to mitigate shortcomings in, either;

- the original scheme design or implementation,
- or outcome performance,

that organisation's Governing Body will agree, execute and report against those actions.

The Finance and Performance reporting managed by each organisation for its locality, which sets out the forgoing information, will be consolidated into a BCF Performance Report to the Advancing Integration Board. This consolidation process will be overseen by the Programme Managers Group. Once consolidated the BCF Performance Report will be presented at the Advancing Integration Board to enable the Advancing Integration Board:

- 1.... to be assured that scheme performance is on track and if not on track appropriate mitigating actions are being managed at the locality level;
2. ...agree key points for discussion with the Lancashire Health and Well Being Board. The Advancing Integration Board Chair will present the Report to the Lancashire Health and Wellbeing Board, highlighting exceptions, performance variation and action taken, significant risks and mitigation plans. The BCF Performance Report will be produced monthly.

The Lancashire Health and Wellbeing Board will receive the BCF Performance Report from the Advancing Integration Board and advise/act on non -performance and hold to account the constituent Governing Bodies and Local Partnerships for delivery. This will be delegated to the S Advancing Integration Board which will ensure appropriate onward communication.

The aim is to provide a finance and performance reporting format that is suitable for both locality reporting and county wide reporting. Thus, a single reporting format can be used to serve more than one audience. Standardising the reporting formats will also make consolidation easier for reporting the County wide position.

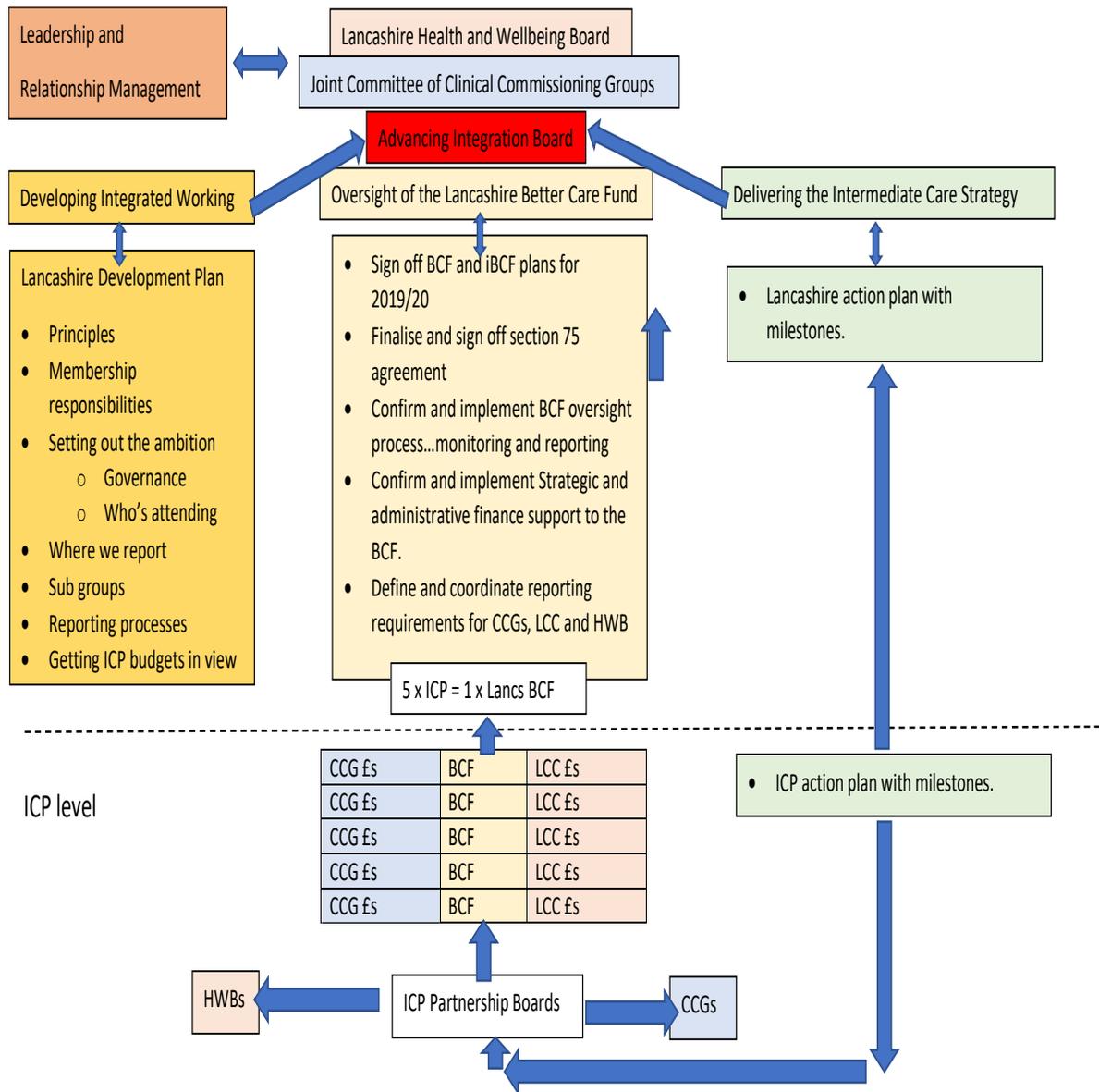
The proposed financial reporting format is as follows:

PARTNER:																	
PERIOD END:																	
			PLEASE ENTER CUMULATIVE SPEND TO DATE														
SCHEME No.	SCHEME NAME	SCHEME LEAD	Acute Service - NHS	Acute Service - Non-NHS	MH Services - NHS	MH Services - Non-NHS	Community Services - NHS	Community Services - Non-NHS	Continuing Care Services	Primary Care Services	Social Care Services	Other Programme services	ACTUAL SPEND TO DATE	FORECAST TOTAL SPEND	PLANNED SPEND	(SURPLUS) / DEFICIT	
BCF01	Transforming Lives, Strengthening communities - Building capacity in the voluntary sector	East Lancs CCG Lead											£0	£0	£0	£0	
BCF21	Facing the future together	West Lancs CCG											£0	£0	£0	£0	
		GRAND TOTAL	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	

NB abbreviated format shown.

The reporting framework for KPIs is a set out in the BCF monitoring dashboard. An example is provided at Appendix 1.

Schedule 2 –



Schedule 3 – Partners' Aims/ Responsibilities

- Drive transformation and collaborative working across the County
- Drive shared learning and opportunities to work at pace and scale
- Ensure communication and engagement with all stakeholders, patients and public
- Be responsible for ensuring frequent engagement with patients and populations to ensure their priority areas are captured in our strategic plans and translate into our Better Care Plan to deliver them
- Be responsible for ensuring both County wide and local engagement
- Collectively assess any changes to commissioned services should be commissioned as a result of BCF delivery
- Promote collaborative, integrated working and services
- Promote activities that bring about sharing of best practice, delivery of quality standards and improved performance

Schedule 4 - Advancing Integration Board/Partnership Board Responsibilities

Underpinning and accountable to the Health and Wellbeing Board is an Advancing Integration Board which receives regular updates on progress and reporting information and identification of risks and appropriate mitigating actions.

Each member of the Advancing Integration Board shall be an officer of one of the Partners and will have individual delegated responsibility from the Partner employing them to make decisions which enable the Partnership Board to carry out its objects, roles, duties and functions in accordance with the aims/responsibilities set out in Schedule 3.

Each Partner has secured internal reporting arrangements to ensure the standards of accountability and probity required by each Partner's own statutory duties and organisation are complied with.

The Advancing Integration Board will work in accordance with its agreed terms of reference which are subject to ongoing review.

The Advancing Integration Board is a focused group of senior executive leaders, bringing together key commissioners and the county council. It has delegated authority to drive forward implementation of the BCF on behalf of its representative organisations, agreeing plans and overseeing delivery. This is a platform local organisations have confidence in from successful experience and from which they can build further.

The group will manage the delivery of Better Care Fund schemes, review progress against plan, scrutinise performance and finances and raise exceptions to the HWB Through strong interfaces to its constituent organisations, it will ensure remedial action is taken should the plan not be delivering.

The Advancing Integration Board will be supported by a **dedicated Programme Management Office**, which will:

- Provide a common and consistent framework for monitoring and reporting
- Work to and develop an industry standard programme methodology tailored to suit local circumstances
- Build and maintain relationships across the Lancashire system
- Manage plan activities
- Report and escalate risks
- Create a positive and efficient environment for people to work together

The **Health and Wellbeing Partnerships at local level** will provide strategic input to the BCF, Advancing Integration Board and HWB, ensuring that local needs and priorities fit within the overall Lancashire governance and delivery structure. These will interface with the **5 transformation programmes**, which will report progress against BCF scheme delivery.

Schedule 5 – Health and Wellbeing Board Responsibilities

The Lancashire Health and Wellbeing Board will take overall accountability and strategic oversight of the implementation of the BCF, operating within the structure illustrated at Schedule 2, which brings together the delivery of transformation and integrated care across the county. The Health and Wellbeing Board shall make recommendations to the Partners in respect of any action it considers necessary.

Schedule 6 – The Better Care Fund Plan.

The Better Care Fund Plan is at Appendix 2.

Schedule 7 – Lancashire Better Care Fund 2017-2019 Pooled Fund and Section 75 Agreement

During the period 2017-2019 complexities around CCG contributions to the pooled fund and delays in work to produce a final version prevented the completion of and sign off of the section 75 agreement for the whole Lancashire BCF plan.

The risk that this represented was recognised and owned by the Lancashire BCF steering group, the antecedent of the Lancashire Advancing Integration Board. In mitigation the steering group strengthened financial monitoring arrangements and proceeded with an agreement to act in the spirit of the agreement being fully in place. This was noted in the steering group minutes and reported to the Lancashire Health and Wellbeing Board.

Schedule 8

RISK SHARING AGREEMENT

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Terms of this Agreement

Consultation and Approval

- 1.1. This Agreement is intended to support and supplement, to the extent set out in 3.1 below, the 'Section 75 Partnership Agreement for the Pooled Budget for Integrated Health and Social Care Services relating to the Better Care Fund, Improved Better Care Fund and Winter Pressures Grant' for the period 1 April 2019 to 31 March 2020 ("the S75 Partnership Agreement") and dated on or about the date of this Agreement.
- 1.2. In this Agreement, unless the context otherwise requires, capitalised terms defined in the S75 Partnership Agreement, as the context requires (unless defined in this Agreement) have the same meaning in this Agreement.
- 1.3. The process of consultation for this Agreement will be aligned with the development of the S75 Partnership Agreement.
- 1.4. The process for consulting on management and oversight of this Agreement will include, as a minimum:
 - Approval of the Advancing Integration Board;
 - Approval of the CCG Chief Officer; and
 - Approval of the Council CMT.
- 1.5. This Agreement is referred to in the S75 Partnership Agreement as the "Risk Sharing Agreement" and appended as a Schedule 8.

2. Frequency of Review and Renewal

- 2.1. This Agreement will be reviewed and revised, as necessary or as a minimum on an annual basis. This review will involve the designated financial leads and governance leads of both Partners.
- 2.2. Amendments to this Agreement will require approval of each Partner.

3. Scope of this Agreement

- 3.1. This Agreement sets out the requirements and makes provision for treatment of risk in the S75 Partnership Agreement. Its intention is to expand clause 7.1 'Risks and Indemnities' in respect of Overspends of the S75 Partnership Agreement and in the event that the provisions of this Agreement are inconsistent with the terms of the S75 Partnership Agreement, the terms of the S75 Partnership Agreement prevail to the extent of any inconsistency.

4. Partner Responsibilities

- 4.1. The Partners roles and responsibilities are set out in the S75 Partnership Agreement and include:
 - The responsibilities of Partner organisations leadership;

- The responsibilities of the Host Partner;

5. Termination of the S75 Partnership Agreement and implications on this Agreement

- 5.1. Termination of Pooled Fund arrangements are dealt with under the S75 Partnership Agreement. On the termination of the S75 Agreement any risk share arrangements pursuant to the S75 Partnership Agreement or this Agreement, would cease.

6. Scope of Integrated Commissioning through the Pooled Fund

- 6.1 The Partners have agreed that the scope of the Pooled Fund shall be the maximum commissioning resource that it makes sense to pool to deliver joined-up commissioning subject to it also meeting the requirements of the Pooled Fund conditions prescribed financial minimums.

7. Prior year and in-year Overspends

- 7.1. The Partners recognise that differences in funding regimes and freedoms result in a different response to recorded “Overspend”:

- The CCG must deliver a control total determined by NHS England. In circumstances of financial distress the control total can be adjusted such that 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 must manage within the resources available to it with any revenue overspend at year-end having to be met through its reserves. Reserves are both limited and non-recurrent and the s151 officer has a responsibility annually to advise all elected members of the adequacy of the council’s reserves position, and the ability to set a legal balanced budget for the following financial year.

- 7.2. The Partners agree, in principle, that they will use these differing “flexibilities” in a combined approach to maximise protection to integrated commissioning.

8. Treatment of underlying and emerging risk

- 8.1 This Agreement relates to budgetary pressures that crystallise in either Partner which have linkage with relevant services in scope of the Pooled Funds. We recognise interdependency of expenditure of joint interest in Partners for example Continuing Health care, service users with Learning Disability, s.117 complex packages and Mental Health out of area placements.

- 8.2 Overspends in these areas of joint interest can be offset to the benefit of the Partner experiencing the cost pressure by reducing their contribution into the Pooled Fund, while Partner(s) without the cost pressure increases their contribution into the Pooled Fund to a total equal amount.

9. Risk Scenarios

- 9.1 The Partner(s) agree to work together to identify responses to potential risks such as emerging unfunded demand pressures and growth in demand. The sections that follow set out a range of scenarios of risk that this Agreement is intended to cover:
- 9.2 Pressures within either Partner which results in shortfall in growth funding and/or increased savings targets. Possible scenarios are:
- Shifting priorities in Council directorates and services;
 - Internal pressure on overall CCG position resulting in pressure on budget allocation for patients;
 - Changes in targets set (externally) for performance in specific service area(s) within the Pooled Fund;
 - Increased savings targets set (externally).
- 9.3 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.
- 9.4 Agreed saving plans, either fully or partially, applied within budgets become undeliverable. Possible scenarios are:
- A Partner is unable to show robust plans for achieving the savings expectations;
 - Savings were based on estimates which have proven to be overstated;
 - Savings proposals would have an adverse and costly effect on other elements of the overall service delivery;
 - Legislative changes.

10. Setting subsequent years' budgets

- 10.1 Considering the risk scenarios in 9.1-9.4 above, any circumstances which evoke the use of this Agreement and cause flexing of contributions in a particular year, Partners will ensure that the Pooled Fund remains in balance over the course of this Agreement.
- 10.2 Treatment of resource gaps will be addressed within the Pooled Fund on a rolling basis with Partners agreeing to vary contributions to mitigate pressures in health and care services.
- 10.3 Partners will seek to avoid the use of this risk share mechanism and will mitigate financial risk by agreeing 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.

Appendix 1 Better Care Fund Monitoring Dashboard

Attached.

Appendix 2 Better Care Fund Plan

Attached

Appendix 3

Attached:

- (i) IBCF Grant conditions contained in 'The Improved Better Care Fund Grant Determination 2017/2018 No 31/3064'; and
- (ii) Winter Pressures Grant contained in 'The Winter Pressures (Revenue) Grant Determination (2019-20) No. 31/3696'.