

Appendix 2 – Final Draft Section 31 Agreement

Draft 17th June2005

HARROW PRIMARY CARE TRUST

and

**THE MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF HARROW**

**AN AGREEMENT RELATING TO
THE ESTABLISHMENT OF INTEGRATED
ARRANGEMENTS¹**

1 This draft is based on the previous draft prepared by Bevan Ashford. Where the structure of the agreement fits the present requirements it has been retained. The purpose of the amendments are to set out the structure around pooled funding for the Joint Commissioning unit. Further, as the Joint Commissioning unit cannot exist in a vacuum, governance arrangements consequent upon the report to Harrow Cabinet of June 2005. and the upstream arrangements are incorporated although the detail will be created in Schedules yet to be fully detailed

INDEX

Insert once agreement finalised

SECTION 1 - DATE OF AGREEMENT, PARTIES, BACKGROUND

- 1 Date of this Agreement** **2005**
- 2 Parties**
 - 2.1 HARROW PRIMARY CARE TRUST** of Grace House, Harrovian Business Village, Bessborough Road, Harrow HA1 3EX
 - 2.2 THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF HARROW** of Civic Centre, Harrow, Middlesex HA1 2UL
- 3 Background**
 - 3.1** The PCT commissions and provides health services for people registered with GPs in the London Borough of Harrow.
 - 3.2** The Council commissions and provides social services for people who are resident in the London Borough of Harrow.
 - 3.3** Section 31 of the Health Act 1999 has introduced powers for:
 - 3.3.1** Primary Care Trusts to exercise various prescribed local authority functions and for local authorities to exercise various prescribed NHS functions; and
 - 3.3.2** for Primary Care Trusts and local authorities 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.
 - 3.4** The Partners are committed to establishing a framework for the use of powers under Section 31 of the Health Act 1999 and wish to enter into this Agreement in pursuance of this commitment.
 - 3.5** The Council and the Board of the PCT have approved the terms of this Agreement.
 - 3.6** The Partners are entering into the Arrangements in exercise of the powers referred to in section 31 of the Health Act 1999 to the extent that exercise of these powers is required for the Arrangements.
 - 3.7** The primary aims that underpin the Arrangements:

- 3.7.1 The involvement and participation of users and carers in the development and shaping of the Schemes;
- 3.7.2 The provision of a service that will aim to simplify access to services commissioned under the statutory powers of the Partners ;
- 3.7.3 A single line management structure with clear lines of service and professional accountability within a single integrated service framework for each Scheme.
- 3.7.4 An integrated and co-ordinated approach to the assessment of individual needs
- 3.7.5 A co-ordinated approach to the planning and development of services;
- 3.7.6 A single integrated approach to clinical, case and service audit;
- 3.7.7 Integrated programmes of service improvement based on joint standards and service monitoring;
- 3.7.8 Ensuring that resources are deployed efficiently to avoid overlap and duplication;
- 3.7.9 Effective commissioning and provision of health and social care services in Harrow;
- 3.7.10 Where agreed by the Parties, the establishment of Pooled Funds for the Schemes.

SECTION 2 - INTERPRETATION

4 Interpretation

4.1 In this Agreement the following expressions shall have the following meanings:

4.1.1 “Agreement” means this agreement.

4.1.2 “Arrangements” mean the arrangements described at Clause 6.

4.1.2¹ “Adult Health and Social Care Partnership” means the Partnership responsible for overseeing the development of primary and community-based health and social care services for adults and older people remit and structure

¹ Re number

of which are more particularly detailed in Clause 11 and Schedule 10.

- 4.1.3** “Capital Expenditure” means 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.
- 4.1.4** “Care-Group Partnership Board” means the Partnership Boards established by the partners to advise on the strategic development of local health and social care services for a particular group of service users; and reporting to the Health and Social Care Integration Board.
- 4.1.5** “Carer’s Partnership Group” means the partnership group established by the partners to advise on the strategic development of services to informal carers who provide care and support to another person who is frail or disabled, or mentally or physically ill; and reporting to the Health and Social Care Integration Board.
- 4.1.6** ^{1a}“Children and Young People’s Strategic Partnership” means one of the Partnerships reporting through the Health and Social Integration Board
- 4.1.7** “Client Groups” means the client groups for whom services will be provided by the Partners
- 4.1.8** “Partnership Board” means the advisory board responsible for formulating recommendations and providing advice on the arrangements for commissioning and provision of services for a Client Group and described in more detail at Clause 12. Typical of such a Partnership Board will be the Adults with a Learning Difficulty Partnership.
- 4.1.9** “CNWLT” means the Central and North West London Mental Health NHS Trust
- 4.1.10** “Commencement Date” means the 1st
- 4.1.11** “Council” means the Mayor and Burgesses of the London Borough of Harrow.
- 4.1.12** “Council Functions” means the health-related functions exercised by the Council for the

^{1a} Re number

strategic planning, commissioning and/or provision of social services for the Schemes under the enactments specified in Regulation 6 (a) to (j) of the Regulations as amended or replaced from time to time.

This is insofar as such functions are necessary for the commissioning and provision of services for the Schemes and is subject to any applicable exclusions specified in Regulation 6 (a)(i) to (vi) of the Regulations and such exclusions as are agreed pursuant to Clause 7.4

4.1.13 “Further Schemes” means such Schemes as the may agree upon after the Initial Scheme “

4.1.14 “Financial Year” means each financial year running from 1st April in one calendar year until 31st March in the subsequent calendar year.

4.1.15 “Functions” means the Council Functions and the PCT Functions.

4.1.16 “Head of Joint Commissioning” means the person appointed in accordance with Clause [14.2].

4.1.17 “Initial Schemes” means the Schemes described in Schedule [1] being briefly described as follows:

Schedule 1 – A Joint Commissioning Unit (Adult Services) the composition and operational remit more particularly detailed in Schedule 1

4.1.18 “Initial Pooled Fund” means the Pooled Fund established for the commissioning and/or provision of services for the Initial Scheme or Schemes and subject to such variations as may be agreed between the Partners from time to time.

4.1.19 “Health and Social Care Integration Board means the board established by the Partners in accordance with Clause [11] and Schedule [6].

4.1.20 “Joint Commissioning Unit” means the unit established by the partners and referred to at Clause 14

4.1.21 Joint commissioning manager” means the person jointly appointed by the Council and the

PCT for each Scheme as referred to at Clause [15].

4.1.22 “Ombudsman” means the Health Service Commissioner for England and the Local Government Commissioner for England

4.1.21 “PCT” means Harrow Primary Care Trust or successor body.

4.1.23 “PCT Functions” means the functions of the PCT for strategic planning, commissioning and provision of services for the Schemes under the following enactments:

Sections 2, 3(1), 5(1), 5(1A) and Schedule 1 of the National Health Service Act 1977 (subject to any applicable exclusions specified in Regulation 5(a)(i) of the Regulations), and Sections 25A to 25H and Section 117 of the Mental Health Act 1983.

This is insofar as such functions are necessary for the commissioning and/or provision of services for the Schemes and is subject to any exclusions in accordance with Clause 7.4.

4.1.24 “Partner” means each of the Council and the PCT and “Partners” shall be construed accordingly.

4.1.25 “Patients Forum” means the Public and Patient Involvement Forum established by the Harrow Primary Care Trust in accordance with the requirements of section 11 of the Health and Social Care Act 2001.

4.1.26 “Pooled Fund” means any Pooled Fund established for the commissioning and/or provision of services for a Schemes subsequent to the Initial Scheme

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

1st April to 30th June

1st July to 30th September

1st October to 31st December

1st January to 31st March

and “Quarterly” shall be construed accordingly.

- 4.1.28** “Regulations” means the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 SI No 617 as amended or replaced from time to time
- 4.1.29** “Scheme” means an arrangement between the Partners in respect of some or all services to one or more Client Groups using one or more of the powers under Section 31 of the Health Act 1999 as described in more detail in this Agreement.
- 4.1.30⁴** “Scheme of Delegation” means the Scheme of Delegation at Schedule [7] which sets any powers that are initially delegated by the PCT Board and the Council Cabinet to the Health and Social Care Integration Board , the Pool Manager, the Head of Joint Commissioning and the Joint commissioning manager(The Scheme of Delegation is subject to such variations as the Partners may agree from time to time.
- 4.1.31⁵** “Scheme of Exclusions and Limitations” means the scheme of exclusions and limitations relevant to each individual Scheme and which is subject to such variations as the Partners may agree from time to time.
- 4.1.32** Not Used
- 4.1.33** “Scheme Schedule” means the Schedule which sets out the detailed arrangements applicable to each Scheme and is incorporated in this Agreement.
- 4.1.34** “Strategic Health Authority” means North West London Strategic Health Authority or its successors
- 4.1.35** “Uninsured Liabilities Payment” means any payment in respect of any liabilities of a Partner arising (directly or indirectly) from any of the Functions during the period in which the relevant Functions shall be included in the Arrangements to the extent that such payment shall not be recoverable from any insurance monies (or

⁴ Notwithstanding the arrangements at this stage do not envisage incorporate delegations in the event there are any agreed in future the structure is present

⁵ As with delegations

equivalent under NHS schemes) received or receivable by the relevant Partner.

- 4.2** References to statutory provisions shall be construed as references to those provisions as respectively amended or re-enacted (whether before or after the Commencement Date) from time to time.
- 4.3** The headings of the clauses in this Agreement are for reference purposes only and shall not be construed as part of this Agreement or deemed to indicate the meaning of the relevant clauses to which they relate.
- 4.4** References to Schedules are references to the Schedules to this Agreement and a reference to a paragraph is a reference to the paragraph in the Schedule containing such reference.
- 4.5** References to a person or body shall not be restricted to natural persons and shall include a company corporation or organisation.
- 4.6** Words importing the one gender only shall include the other genders and words importing the singular number only shall include the plural.

SECTION 3 – OUTLINE OF PARTNERSHIP PROJECT

5 Duration of the Agreement

- 5.1** The Arrangements shall come into force on the Commencement Date.
- 5.2** The Arrangements shall continue until terminated:
 - 5.2.1** on not less than 6 months' written notice by the Partners to each other such notice to expire at the end of a Financial Year and to expire no earlier than 31st March [200 X;
 - 5.2.2** in accordance with the provisions of Clauses [22.1.4 24.3.5, and 45] .
- 5.3** Without prejudice to Clause 5.2, this Agreement may be terminated in relation to some but not all of the Functions or Schemes upon one Partner giving 6 months' written notice to the others such notice to end at the end of a Financial Year and to expire no earlier than 31st March 2005 ¹².

6 Brief details of the Arrangements

B A note Completed ¹ What will be the earliest date for termination?

² Yes to be retained Do you want to include partial termination bearing in mind the rules for viring between schemes

- 6.1** The Arrangements are to comprise:
- 6.1.1** the establishment and governance arrangements of :
 - 6.1.1.1** the Health and Social Care Integration Board
 - 6.1.1.2** the Adult Health and Social Care Partnership
 - 6.1.1.3** the inter relationships between the Health and Social Care Integration Board, the Adult Health and Social Care Partnership and existing client group Partnership Boards.
 - 6.1.1.4** the Initial Schemes as described in more detail in Schedule [1] of this Agreement;³
 - 6.1.1.5** the introduction of such other Schemes and such other finance arrangements for revenue expenditure on the Functions as the Partners shall agree from time to time.
- 6.2** The Partners may agree in writing:
- 6.2.1** to add to or vary the Initial Schemes; and/or
 - 6.2.2** to include new Schemes as part of these Arrangements either for:
 - 6.2.2.1** new Client Groups; or
 - 6.2.2.2** Client Groups already included in within the Arrangements

the details of which to be set out in additional Scheme Schedules; and
 - 6.2.3** to establish new Partnership Boards where Schemes for new Client Groups are included in the Arrangements

This is subject to compliance with any applicable legal requirements including such consultation and notification as is required in relation to Section 31 of the Health Act 1999.

³ .

7 The functions to be included in the Arrangements

- 7.1** The Arrangements shall encompass the Functions.
- 7.2** The services currently commissioned or provided by the Council for the Schemes in fulfilment of the Council Functions are set out at Part 1A of the relevant Scheme Schedule.
- 7.3** The services currently commissioned or provided by the PCT for the Schemes in fulfilment of the PCT Functions are set out at Part 1B of the relevant Scheme Schedule⁶
- 7.4** The Functions and services referred to at Clauses 7.2 and 7.3 are subject to such exclusions and additions as are specified in the Scheme of Exclusions and Limitations applicable to the relevant Scheme and as set out in Part 4 of the relevant Scheme Schedule
- 7.5** For the avoidance of doubt it is agreed that the services referred to in Clauses 7.2 and 7.3 may be re-provided elsewhere and may be varied from time to time PROVIDED that no material change to the services is made without the agreement of Partners

8 Fulfilment of Functions

- 8.1** It is the Partners' intention that the Arrangements shall be the mechanism through which the Functions shall be fulfilled.
- 8.2** The Arrangements in this Agreement shall not affect:
- 8.2.1** the liabilities of the Partners to either the other Partner or any third parties for the exercise of their respective functions and obligations.
 - 8.2.2** powers or duty to recover charges for the provision of any services in the exercise of any local authority functions.

9 Notification to the Department of Health

- 9.1** The Partners agree that they shall forthwith notify the Department of Health of the exercise of the flexibilities in Section 31 of the Health Act 1999 in relation to the
- 9.1.1** Initial Schemes
 - 9.1.2** all further Schemes added to the Arrangements or
 - 9.1.3** any variations to Schemes in the Arrangements from time to time

in accordance with the guidance issued by the Department of Health.⁴

- 9.2** The notifications shall be in the form annexed as Part 2 of the relevant Scheme Schedule subject to such amendments as may be agreed in writing between the Partners.

10 General Principles

The Partners will in relation to the Arrangements:

- 10.1** treat each other with respect and an equality of esteem;
- 10.2** be open with information about the performance and financial status of each;
- 10.3** provide early information and notice about relevant problems.

SECTION 3 – DETAILS OF THE ARRANGEMENTS

11 Health and Social Care Integration Board.⁷

- 11.1** The PCT and the Council agree to establish the Health and Social Care Integration Board . The primary role of the Health and Social Care Integration Board
- (i) shall formulate and recommend to the Partners the forward strategy,
 - (ii) ensure clear lines of accountability,
 - (iii) act as an umbrella group to ensure synergy and promote effectiveness in the delivery of three work-streams, 'Healthy Harrow the 'Adult Health and Social Care Partnership' and the 'Children and Young People's Strategic Partnership'⁷
 - (iv) The remit of the Partnerships will incorporate obligations in respect implementation of such of the recommendations of the Health and Social Integration Board relevant to the direction and effectiveness as are approved by the Partners.
- 11.2** The constitution of the Health and Social Care Integration Board and its powers and duties and the rules and

⁴ Notification Forms need to be prepared for each Scheme to be annexed at Part 3 of the relevant Scheme Schedule. Clauses 7.2 to 7.4 are retained to provide flexibility. In the event Schemes are added at a future date the provision will sit within the relevant Scheme Schedule.

⁷
7

⁸ The concept of accountability to the Partners has to be explored as some of the members are from other bodies with potential conflicts of interests and they will expect their degree of accountability to the Partners to be limited.

procedures governing its conduct are set out at Schedule [6].

The Health and Social Care Integration Board will report to the PCT Board and the Council Cabinet.;⁸

11.3 Principles⁶

The Partners acknowledge the following principles in relation to the Health and Social Care Integration Board

11.3.1 The Partners recognise that the members are drawn from a number of bodies and organisations. So far as is practicable the Partners and other members will adopt a policy of mutual openness about information and intentions relevant to the remit of the Health and Social Care Integration Board

11.3.2 The Partners acknowledge that the establishment of the Health and Social Care Integration Board represents an attempt by them to meet common problems and objectives in a co-ordinated way

11.3.3 The Partners recognise that in the operation of the Health and Social Care Integration Board each party will need to take account of problems faced by the other

11.3.4 The Partners recognise that in exercising its functions, the Health and Social Care Integration Board will have regard to the policies and guidance that apply to each of them.

11.3.5 The Partners will take account of the statement of values approved by the Health and Social Care Integration Board from time to time

11.4 The structure chart at Schedule [8] sets out the relationship between the Partners, the Health and Social Care Integration Board the client group Partnership Boards, the the Joint Commissioning Unit, the Head of Joint Commissioning, and the Joint commissioning manager.

12 Partnership Boards

12.1 There will be a Partnership Board for each client group included in the Arrangements. The initial Partnership Boards are detailed in Schedule 11. The Partnership Boards shall be advisory bodies, responsible for overseeing, making recommendations and providing advice to the Partners, the Health and Social Care Integration Board the Head of Joint

Commissioning and the Joint commissioning manager on the arrangements for the commissioning and provision of services for their respective Client Groups. The remit of a Partnership Board will extend to all services in relation to their Client Group commissioned by the Council and the PCT and not just those included in a Scheme.⁷

12.2 The constitution and terms of reference of each of the Client Group Partnership Boards are set out at Part [5] of the Scheme Schedule for the relevant Client Group.

13 Host Partner and Pool Manager⁸

13.1 The PCT shall act as host Partner for the purposes of Regulations 7(4) and (6) of the Regulations for the Initial Pooled Fund and will provide the financial administrative systems for the Initial Pooled Fund

13.2 The PCT I shall appoint the Director of Service Improvement to act as Initial Pool Manager for the purposes of Regulation 7(4) of the Regulations.

13.3 The Initial; Pool Manager will be responsible for:

13.3.1 managing the relevant Pooled Fund; and

13.3.2 submitting to the Partners Quarterly reports on the Pooled Fund and an annual return and all other information required by the Partners in order to monitor the Pooled Fund.

14 Joint Commissioning Unit (Adult Services) and Head of Joint Commissioning

14.1 The Partners have established the Joint Commissioning Unit (Adult Services) to commission services (amongst other things) for the Client Groups. The Joint Commissioning Unit (Adult Services) will be managed by the Head of Joint Commissioning who shall be in attendance at the Health and Social Care Integration Board .

14.2 The first Head of Joint Commissioning shall be employed by the Council. The process of recruiting and appointing the first and any subsequent Head of Joint Commissioning shall be carried out jointly by the Partners. The employer of any subsequent Head of Joint Commissioning shall be agreed between the Partners at the time of the appointment.

14.3 The Head of Joint Commissioning will be accountable in respect of management issues and operation of the Initial Scheme to the PCT Director of Service Improvement.

⁷ Please let us know if this is not correct.-

Decisions on organisational structure and staffing of the Joint Commissioning Unit (Adult Services) shall be made jointly by Council's Director of Community Care and the PCT Director of Service Development in consultation with the Head of Joint Commissioning..

14.4 Details of the role of the Head of Joint Commissioning are set out in Part [A] of Schedule [9] and the ⁹. These may be varied, by agreement, between the Partners from time to time.

15 Joint Commissioning Managers ^{8a}

15.1 As part of the Arrangements, the Partners shall appoint a Joint Commissioning manager for each Client Group. The Joint commissioning managers duties are detailed in Schedule ZZZ

15.2 The joint commissioning manager shall act in accordance with the the directional framework and instructions issued by the Partners.

15.3 The joint commissioning managers shall report to the Head of Joint Commissioning

15.4 Each joint commissioning manager shall also be a member of the Partnership Board for their respective Client Group and shall have regard to the Partnership Board's advice and recommendations.

16 Staff Roles

16.1 Changes in the roles of the Head of Joint Commissioning and the Joint commissioning manager may only be made with the consent of the Partners.

16.2 The powers of the the Head of Joint Commissioning and the Joint commissioning managers to designate roles of individual members of staff working within the Arrangements are subject to:

16.2.1 the ???????

16.2.2 the directions and limitations set by the Partners

16.2.3 Clause [7.5];

16.2.4 PCT employees may carry out Council Functions and Council employees may carry out PCT Functions with the consent of the Partners and in accordance with the requirements of the

^{8a} Exact Schedule numbering to be clarified

Regulations and other relevant law and guidance;

Functions of the PCT which may not be delegated to the Council under the Regulations include emergency ambulance services and the provision and arranging for the provision of surgery, endoscopy and invasive treatments (e.g. ECT).

Functions of the Council which may not be delegated to the PCT under the Regulations include functions under Sections 114 and 115 of the Mental Health Act 1983 and under Sections 22, 23(3), 26(2) to (4), 43, 45 & 49 of the National Assistance Act 1948.

16.2.5 any significant increases or decrease in staffing levels being agreed between the Partners.

17 Staff to be included in the Arrangements

- 17.1** The Staff to be made available by the PCT for the Initial Scheme are set out in Part [8B] of the Scheme Schedule.
- 17.2** The Staff to be made available by the Council for the Initial Scheme are specified in Part [9B] of the Scheme Schedule.
- 17.3** The Staff to be made available by the PCT for the New Schemes are set out in Part [8B] of the Scheme Schedule.
- 17.4** The Staff to be made available by the Council for the New Schemes are specified in Part [9B] of the Scheme Schedule.

18 General Provisions on Staffing¹⁰

- 18.1** In respect of the Initial Schemes, Staff included within the Arrangements shall continue to be employed by the Partner employing them at the date of this Agreement and they shall retain their current terms and conditions of employment
- 18.2** Where a Further Scheme is included within the Arrangements in accordance with Clause 6.2.2, the employment arrangements which will apply to Staff will be

This comment from the previous remains for consideration ¹⁰ This clause deals with the employment arrangements of staff involved in section 31 arrangements. In relation to the initial schemes it may overlap with the terms of the joint appointments of the JCU staff. Our view is that joint appointments are not the preferred structure where there are section 31 arrangements in place, but the joint appointments need to remain in place at the moment as the JCU staff are carrying out joint commissioning roles outside of the section 31 schemes. These provisions are particularly important where larger numbers of staff are involved as in provider schemes. It should be confirmed that these provisions do not conflict with the terms of the joint appointments

set out in the Further Scheme Schedule. For the avoidance of doubt, such arrangements shall, where relevant, be in accordance with and take account of the Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended)

- 18.3** Where Staff are retained by one Partner but made available to the other Partner, the personnel procedures operative in relation to Staff shall be those of their respective employer. Matters relating to terms and conditions of employment, discipline, grievances and all other employment procedures are the responsibility of the Partners in relation to their respective Staff.
- 18.4** The Partners will work together to formulate joint protocols for the management of Staff included in the Arrangements from time to time.
- 18.5** Where it is necessary for the purposes of either Partner's personnel procedures for a member of Staff employed or contracted by the other Partner to co-operate with the operation of such procedures, the employing Partner shall use all reasonable endeavours to ensure that such co-operation is forthcoming.
- 18.6** For the avoidance of doubt, where a member of Staff employed by one Partner (the manager) is the manager of a member of Staff employed by the other Partner (the managed person) , the manager is authorised by virtue of the Arrangements to give instructions to the managed person and to take all appropriate management action in respect of the managed person subject to the terms of the relevant personnel procedure. The manager shall be required to understand the relevant procedure in respect of the managed and may give such instruction as is appropriate within those procedures. Where in the managers reasonable belief any action or omission of the managed person could result in a dispute or disciplinary matter arising the manager shall refer the matter to the managed persons employer for guidance and a decision on appropriate action.
- 18.7** Except as provided at Clauses [13.2] and [14.2] new appointees to the Staff (whether by way of replacement of existing posts or to new posts) will be employed by the agency to which the role which they are to carry out most closely relates.

19 Accountability

- 19.1** The Head of Joint Commissioning and the Joint commissioning managers shall ensure that appropriate arrangements are in place for the professional accountability of the Staff at all times.

19.2 The Partners shall ensure that each of the Staff which is employed or contracted to them shall account to the other Partner (the “non-employing Partner”) for those Functions of the non-employing Partner which the relevant member of Staff is carrying out on behalf of the non-employing Partner pursuant to this Agreement.^{14a}

20 Changes to the structure of the Arrangements

- 20.1** The Partners may agree in writing changes to the structure of the Arrangements described in this Agreement.
- 20.2** Such changes shall only be made in accordance with all applicable law and guidance and after such consultation as shall be required by law and guidance.

SECTION 4 – FINANCIAL ARRANGEMENTS AND OTHER RESOURCES

21 Financial Contributions – Initial Scheme First Financial Year

- 21.1** The financial contribution by the PCT to any Pooled Funds for each Scheme is set out in Part 7 of the relevant Scheme Schedule.
- 21.2** The financial contribution by the Council to any Pooled Funds for each Scheme is set out in Part 6 of the relevant Scheme Schedule.
- 21.3** For the avoidance of doubt where the Council has a statutory duty to collect personal contributions payable by the service user towards the cost of the I services covered by the Scheme those contributions will be received directly by the Council and are not included in the financial contributions of the Council.¹¹
- 21.4** The Partners may establish Pooled Funds for revenue expenditure on an individual Scheme or Pooled Funds for revenue expenditure on more than one Scheme.

22 Financial Contributions – Further Schemes First Financial Year of Operation

- 22.1** The financial contribution by the PCT to any Pooled Funds for each Scheme is set out in Part 7 of the relevant Scheme Schedule.
- 22.2** The financial contribution by the Council to any Pooled Funds for each Scheme is set out in Part 6 of the relevant Scheme Schedule.
- 22.3** For the avoidance of doubt in any Further Scheme any personal contributions payable by the service user towards any Council services will be paid directly to the Council and are not included in the financial contributions of the Council.¹²

¹¹ This drafting means that the Council's contributions are gross and therefore the Council carries the risk of personal contributions being less than anticipated. Noted by the Council

^{14a} Some thought needs to be put in to the detailed relationship if as appears the case Council staff will not have a delegation to commit PCT funds from any Pool or the other way round.

¹²

- 22.4** The Partners may establish Pooled Funds for revenue expenditure on an individual Scheme or Pooled Funds for revenue expenditure on more than one Scheme.

23 Financial Contributions – Subsequent Financial Years

- 23.1** When determining the Partners contributions to any Pooled Funds for each Scheme in Financial Years subsequent to the first Financial Year that each Scheme is incorporated in these Arrangements it is the intention of the Partners, in normal circumstances, to apply the following principles:

23.1.1 Each Partner shall take its previous full year's baseline contribution and add to that the relevant inflation factor and any other cost pressure on the relevant services, subject to local and national efficiency savings requirements and commissioning strategies.

23.1.2 Subject to the efficiency requirements set out in clause 23.1.1 where the costs of operation of the Scheme includes a significant element of salaries for PCT and Council employees the Partners shall ensure that the Pool fund is increased for that element of the total Scheme cost to reflect local and or nationally agreed pay and conditions settlements.

In considering the baseline contributions in the previous Financial Year, this shall be the Partner's contribution as agreed at the commencement of the previous Financial Year. Any underspends or overspends during that year shall be ignored.

Where Pooled Funds are introduced during a Financial Year the Partners shall agree when introducing the Pooled or t figures shall be taken as the baseline contributions for that Financial Year for the purposes of this Clause (as though the Pooled Funds were introduced at the commencement of that Financial Year).

23.1.3 In determining financial contributions for subsequent Financial Years the Partners will also consider whether it is possible to fund any growth proposals.

23.1.4 If the Joint Commissioning Partnership Board shall consider, based upon the investment priorities of the Partners that there is over investment in any of the Initial Schemes, it may authorise the redistribution of funds in the Pooled Budgets for the Initial Schemes. In the event of

the addition of further Schemes or variation to the initial Schemes the Partners will agree any rules on redistribution of funds between Schemes at that time.

- 23.1.5** In the event that the Scheme of Exclusions and Limitations for a Scheme shall be modified by agreement between the relevant Partners, the Partners may at such time agree:
 - 23.1.5.1** any appropriate change in their respective contributions for the Financial Year in which the change is made; and
 - 23.1.5.2** the figure that shall be taken as the financial contribution for that Financial Year for the purposes of Clause [23.1.1].
- 23.1.6** The Partners will agree for each Scheme the payments to be made or received from each Partner after considering the cash flow requirements of each Partner in relation to the to the particular Scheme
- 23.1.7** In relation to payments other than for a specific Scheme The Partners will agree from time to time how payments are to be made between themselves in order to reflect the Arrangements in this Agreement.

24 Administration and Expenditure of Pooled Funds

- 24.1** Subject to Clause 24.2 and 24.3 the monies in any Pooled Fund may be expended on PCT Functions and Council Functions in different proportions to that in which the Council and the PCT shall have contributed to the Pooled Fund.
- 24.2** The monies in Pooled Funds shall be spent in accordance with any restrictions agreed between the Partners on the establishment of the Pooled Fund or as varied by agreement between the Partners from time to time.
- 24.3** Subject to any viring powers set out in the Scheme of Delegation¹³, the Partners agree that resources may not be transferred from one Pooled Fund to another Pooled Fund or to a Non Pooled Fund without the consent of both Partners.

¹³The financial framework states that the Pool Manager may, under the direction of the Partners , vire monies between pooled funds. This may change on the addition of further schemes and pooled funds. We believe it would be preferable to refer to this in the scheme of delegation as this can then be varied outside of the main agreement.

25 General provisions on Overspends and Underspends ¹⁴

25.1 The Partners shall use all reasonable endeavours to ensure that:

25.1.1 The PCT Functions and Council Functions funded from any Pooled Funds for each Scheme are carried out within the financial resources available in the relevant Pooled Funds for that Scheme in each Financial Year (subject to any viring arrangements permitted under the Scheme of Delegation)

25.1.2 In the interests of effective running of a Scheme the Partners may agree a to what extent the Pool Manager may authorise expenditure that in the event savings are not made in the remaining period of a Financial Year would result in an overspend to the level of the authorised expenditure. The Partners will in corporate the sum of money to be permitted in Schedule YYYY of a Scheme.

25.1.3 Without prejudice to Clause 25.1 the The host Partner shall keep the other Partner informed of any projection of an overspend or underspend in any Pooled Fund within 15 days of such projection being made.

25.2 Management of Overspends

25.2.1 Whenever an overspend is projected in a Pooled Budget the Partners) shall agree how to manage the overspend and keep the position under review. The Partners shall act in good faith and in a reasonable manner in agreeing the management of the overspend. The management of the overspend may include viring between Pooled Funds to the extent permitted by the Scheme of Delegation.

In the event that the Pool Manager is of the view that the projected overspend cannot be managed within the Pooled Funds (after any relevant virement) the Partners shall consider whether any further funding should be made available. If the parties agree to make additional

Excluded ¹⁴ We have included provisions on non pooled budgets on the basis that this is meant to be a framework agreement and non pooled budgets may be included in the future

funding available towards any it will be apportioned between the partners in accordance with Clause 25.2.3

25.2.3 If at the end of any Financial Year there is an overspend in a Pooled Budget the Partners shall identify the reasons for the overspend. The Partners agree that the overspend shall be covered within the Financial Year in which the overspend is incurred. The Partners shall agree the proportion each Partner shall contribute to cover the overspend. If this is not agreed the overspend shall be apportioned in proportion to their contributions to the relevant Pooled Fund for the Financial Year in question and the Partners shall make such payments as are necessary to reflect such apportionment

25.2.4 Any apportionment of a projected overspend under Clause 25.2.1 or an overspend under Clause 25.2.3 shall be made in a just and equitable manner taking into account the circumstances of and reasons for the overspend and the Partners shall make such payments as shall be required to reflect this allocation¹⁵.

25.2.1 In the event that agreement cannot be reached in respect of any matters referred to in Clauses 25.2.1 and 25.2.2, the Partners shall follow that part of the dispute procedure as set out in Section 53. If agreement still cannot be reached then either Partner may by notice in writing to the other Partner terminate this Agreement as a whole or in relation to the Functions and/or Scheme covered by the Pooled Funds. Termination shall be as from the date of service of such notice or such later date of termination specified in such notice. The determination of the relevant matter may then be determined in accordance with Clause 53.3

25.3 Management of Underspends

25.3.1 Whenever an underspend is projected in a Pooled Fund the monies shall be vired to meet any projected overspend in any other Pooled Fund and if there are none shall be retained as a contingency in the Pooled Fund^{20a}

25.3.2 The Partners shall apply any underspend in relation to any Pooled Funds which arises at the

¹⁵ This clause does not deal with non pooled funds as there are none in the first schemes. However the agreement does generally envisage that there may be non pooled funds in the agreement at some point.

end of a Financial Year or upon termination towards any overspend in any other Pooled Fund. Insofar as not needed for such purposes the underspend shall be apportioned between the Partners in proportion to their contributions to the relevant Pooled Fund and the Partners shall make such payments as are necessary to reflect such apportionment

Without prejudice to Clause 25.3.1 to 25.3.2, the Partners may agree to carry forward any underspend in relation to Pooled or Non-Pooled Funds provided that such carry forward will be in accordance with any relevant statutory or other legal requirement or guidance.

26 Other Resources^{21a}

26.1 The PCT will provide and make available to the Arrangements for each Scheme:

26.1.1 the central services specified at Part [7C] of the relevant Scheme Schedule;

26.1.2 the assets specified in Part [7D] of the relevant Scheme Schedule

26.1.3 all existing contracts exclusively relating to the Functions as specified at Part [7E] of the relevant Scheme Schedule

26.1.4 the use of the premises specified at Part [7F] of the relevant Scheme Schedule

26.2 The Council will provide and make available to the Arrangements:

26.2.1 the central services specified at Part [8C] of the relevant Scheme Schedule;

26.2.2 the assets specified in Part [8D] of the relevant Scheme Schedule

26.2.3 all existing contracts exclusively relating to the Functions as specified at Part [8E] of the relevant Scheme Schedule

26.2.4 the use of the premises specified at Part [8F] of the relevant Scheme Schedule

^{21a} Further instruction required on the arrangements as drafted in this clause

26.3 The arrangements for funding the matters referred to in Clauses 26.1 and 26.2 will be funded as specified in the relevant Scheme Schedule

27 Grants

27.1 The Partners will review and maximise opportunities to obtain such additional grants as may be available to support the Functions from time to time.

27.2 The Partners will agree acting reasonably the manner in which any grant application should be made and the terms on which any such grant shall be administered and applied.

27.3 All grants received will be made available for the Functions and such sums shall, if appropriate, be added into any relevant Pooled Funds.

27.4 The Partners will ensure that all monies from any grants received shall be applied in a proper manner. In the event that a Partner misapplies monies received from any grant the Partner in default shall reimburse the other Partner to the extent that the monies were misapplied.

28 Capital Expenditure

28.1 The financial contributions referred to in Clauses [21 and 22] are in respect of revenue expenditure and shall not be applied towards Capital Expenditure.

28.2 All Capital Expenditure shall be made by one of the Partners. Where appropriate funding support may be transferred between the PCT and the Council under Sections 28A or 28BB of the National Health Service Act 1977 as appropriate in accordance with the following provisions of this Clause.

28.3 The following matters shall be agreed in writing between the Partners before any Capital Expenditure is incurred in relation to the Arrangements:

28.3.1 the capital requirement;

28.3.2 the proportions in which it is to be met by the Partners;

28.3.3 which of the Partners is to make the Capital Expenditure;

28.3.4 the transfers of funding to be made between the PCT and the Council as referred to in Clause 28.2 (using Section 28A or Section 28BB of the National Health Service Act 1977 as appropriate); and

- 28.3.5** ownership of any newly acquired asset and any arrangements for use by the Partners or third parties and
- 28.3.6** the proposed distribution of capital receipts in relation to the disposal of capital assets brought in to the Scheme Pool Fund at the Schemes inception and
- 28.3.7** any requirements for repayment of capital grant sums set out in the terms of the grant and
- 28.3.8** the arrangements in relation to the distribution of the residual value of the asset at Termination.

28.4 Each Partner shall give reasonable consideration to any proposals that it incur any Capital Expenditure but shall not be obliged to provide such funding.

29 VAT

The Partners shall agree the treatment of the Arrangements for VAT purposes. This shall be in accordance with any directions and/or guidance of HM Customs and Excise.¹⁶

30 Audit and Right of Access ^{22a}

30.1 Each Partner shall promote a culture of probity and sound financial discipline and control and shall ensure that full and proper records for accounting purposes are kept in respect of the Arrangements.

30.2 The Partners shall co-operate with each other in preparation of accounts in relation to the Arrangements.

^{22a}The Host Partner shall arrange for the audit of the accounts of all Pooled Funds 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. The Partners will supply all information reasonably required by:

30.2.1 persons exercising a statutory function in relation to either Partner including the external auditor of either Partner, the Department of Health, the audit commission, the Social Services Inspectorate, the Commission for Health Improvement, the Social Care Institute for Excellence, or their successor bodies, the

¹⁶ Noted Need to agree which VAT model is to be adopted – see DoH guidance on this – i.e. Lead Partner or Agency basis.

Council's Monitoring Officer (appointed under section 5 of the Local Government and Housing Act 1989) and the Council's Section 151 Officer (as defined by the Local Government Act 1972);

30.2.2 other persons or bodies with an authorised monitoring or scrutiny function, including a Council Overview and Scrutiny Committee, or its sub committees having regard to the Partner's obligations of confidentiality, and such information sharing protocols as shall be agreed between the Partners from time to time.

30.3 The Partners may agree protocols in relation to the management of and provision of information relating to the finances of the Arrangements from time to time

30.4 The right of access under Clause 30.4 applies equally to premises or equipment used in connection with the Arrangements covered by this Agreement. Access may be at any time without notice, provided there is good cause for access without notice.

31 Liabilities

31.1 In this clause 31, "liabilities" shall be deemed to include all costs claims liabilities proceedings expenses and demands made against or suffered or incurred by the relevant Partner including (but not limited to) the following matters:

31.1.1 public liability;

31.1.2 employer's liability;

31.1.3 professional indemnity (including but not limited to officers liability and clinical negligence);

31.1.4 employment claims including (but not limited to) claims for:

31.1.4.1 damages, costs and expenditure including (but not limited to) claims for wrongful and unfair dismissal and under Transfer of Undertakings (Protection of Employment) Regulations 1981;

31.1.4.2 damages, costs and expenditure in relation to sex, race or disability discrimination and equal pay claims;

31.1.4.3 other claims for breach of employment contract;

- 31.1.5** Ombudsman awards;
- 31.1.6** claims for breach of the Human Rights Act 1998 and claims in public law;

and “liability” shall be construed accordingly.

- 31.2** Uninsured Liabilities Payments shall include such payment arising as a result of any liability to make any payment under the indemnities in Clause 31.4. It shall also include any payment to the extent which it is not recoverable under any insurance arrangements (or equivalent) due to the excess provisions in such arrangements.

31.3 Events Prior to Commencement Date

Each Partner (the “First Partner”) will indemnify and keep the other Partner indemnified against all liabilities arising directly or indirectly from any events acts or omissions in relation to the First Partner’s Functions occurring prior to the date on which they are included in the Arrangements. For the avoidance of doubt (and without limitation) this includes all claims by Staff whose employment may have transferred under the Transfer of Undertaking (Protection of Employment) Regulations 1981.

31.4 Events Post Commencement Date

Each Partner (“the First Partner”) will indemnify and keep indemnified the other Partner against all liabilities arising directly or indirectly from any events acts or omissions of the First Partner or its employees or contractors in respect of the Functions which shall occur during the period in which the relevant Functions shall be included in the Arrangements save to the extent that such liability shall arise out of any act or omission of the other Partner or its employees and contractors.

31.5 Insurance arrangements

- 31.5.1** The Partners shall, so far as is possible at reasonable cost and allowable by law or guidance, agree and effect appropriate insurance arrangements in respect of all potential liabilities arising from the Arrangements. In the case of the PCT it may effect, through the National Health Service Litigation Authority, alternative arrangements in respect of NHS schemes in lieu of commercial insurance.

The obligations in this clause shall include insurance (or equivalent) arrangements after the

date of determination of this Agreement in respect of any events acts or omissions prior to such determination.

31.5.2 The Partners' insurers (or equivalent alternative providers to cover NHS schemes) may agree from time to time, common policies and protocols for the handling of claims covered by the Partners' insurance arrangements (or equivalent) for the Functions. Such policies and protocols as are agreed may be applied to the Arrangements.

31.5.3 Each Partner agrees to discuss with their insurers (or equivalent providers) and request their agreement not to enforce any subrogated rights against the other Partner arising out of any liability under the Arrangements to the extent that the sum claimed is not recoverable under the other Partner's insurance (or equivalent) arrangements.

31.6 Uninsured Liability Payments

Where a Partner makes an Uninsured Liability Payment it may elect that the same be paid from the following:

31.6.1 any Pooled Funds (with the agreement of the Partners only¹⁷)

31.6.2 other financial resources available to the Partner.

Where the source of the payment is the Pooled Fund and the payment shall result in an overspend in the relevant Pooled Funds the provisions of Clause 25.2.4 shall apply.

31.7 Alternative Arrangements¹⁸

The Partners may agree alternative insurance and indemnity arrangements to the foregoing from time to time.

32 Termination reconciliation

32.1 Any underspend in relation to any Pooled Funds or upon termination shall be apportioned between the Partners in proportion to their contributions to that Pooled Fund and the Partners shall make such payments to each other as shall be required to reflect this.

¹⁸ Discussion may be required with the Partners insurers on how a claim would view in relation to decisions made by Council staff in relation PCT functions and the other way round.

- 32.2** Any overspend existing at the date of termination shall be apportioned between the Partners in a just and equitable manner taking into account the circumstances of and reasons for the overspend.
- 32.3** When determining whether there has been an underspend or overspend as at the date of determination any unquantified liabilities shall not be taken into account.
- 32.4** The provisions of Clause 32.3 to 32.6 shall apply after termination in respect of all unquantified liabilities in relation to the Arrangements as at the date of determination and any liabilities which shall be notified to either of the Partners post termination.
- 32.5** The Partners shall act in good faith and in a reasonable manner in reaching agreement on the matters referred to in Clause 32.3 and 32.5. In default of agreement the Partners shall refer the matter to be determined in accordance with the disputes procedure specified in Clause [53]. The Partners shall make such payments to each other as are necessary to reflect such apportionment of liabilities as may be agreed or determined.

SECTION 5 – OPERATIONAL AND GOVERNANCE ISSUES

33 Contracting¹⁸

- 33.1** In respect of PCT Functions, all NHS contracts and other contracts with third parties for such matters shall be entered into by and in the name of the PCT
- 33.2** In respect of Council Functions all contracts with third parties in respect of such matters shall be entered into by and in the name of the Council.
- 33.3** In respect of a contract covering both Council Functions and PCT Functions the following provisions shall apply,
 - 33.3.1** Where the Partners acting in accordance with their governance requirements approve a Further Scheme and a mixed contractual arrangement is identified at the inception of the Scheme the Partners shall agree in the Scheme which of the Partners shall enter into that contract. The Partner entering into that contract shall use reasonable endeavours to ensure that the contract is capable of being assigned or novated to the other Partner.
 - 33.3.2** Where a mixed contractual arrangement is identified at a later stage in the operation of the Scheme the Partners

¹⁸ agreed We have retained this structure to allow for different arrangements to be adopted on new schemes in the future if appropriate e.g. for contracts with other NHS bodies the PCT should enter into SLA s as these will then not be legally enforceable agreements

shall ensure the decision process delegating the contracting function is in accordance with the Partners respective governance requirements.

- 33.4** The above arrangements are subject to any contrary intention set out in the details of the Scheme¹⁹

34 Information sharing

- 34.1** Both Partners will follow and ensure that the Arrangements comply with all legislation, regulations and guidance on information sharing produced by the Government.

- 34.2** The Partners will establish and keep operational and ensure that there are kept operational:

34.2.1 procedures (including forms) for handling service user access and consent;

34.2.2 documentation for service users which explains their rights of access, the relevance of their consent, rules and limits on confidentiality, and how information about them is treated; and

34.2.3 such additional policies, procedures and documentation as shall be necessary in order to meet the purposes, guidance and requirements of Government and of all relevant data protection legislation as they apply to the Partners and the Arrangements.

35 Joint Working Protocols with other agencies

- 35.1** The Partners shall use all reasonable endeavours to develop such joint working protocols as shall be required for the sharing of information with:

35.1.1 other agencies who work with common service user groups; and

35.1.2 any third parties with whom the Partners have contracts.

36 Standards of Conduct

The Partners will comply and will ensure the Arrangements comply with all statutory requirements national and local and other guidance on conduct and probity and to ensure good corporate governance, which apply to the Partners (including the Partners respective Standing Orders and Standing Financial Instructions).

37 Standards of Service

37.1 Best Value

The Council is subject to the duty of Best Value under the Local Government Act 1999. The Arrangements will therefore be subject to the Council's obligations for Best Value and the PCT will co-operate with all reasonable requests from the Council which the Council considers necessary in order to fulfil its Best Value obligations

37.2 Clinical Governance

The PCT is subject to a duty of Clinical Governance, that is a framework through which they are accountable for continuously improving the quality of its services and safeguarding high standards of care by creating an environment in which excellence in clinical care will flourish. The Arrangements will therefore be subject to clinical governance obligations.

37.3 Corporate Governance

The Partners must comply with the principles and standards of corporate governance relevant to Primary Care Trusts and local authorities.

37.4 General Service Standards

General service standards for the Arrangements will be set in accordance with legislation and guidance produced by the Department of Health and as may be agreed locally by the Partners.

37.5 Equality and Equal Opportunities

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.

37.6 Development of new policies

The Partners shall:

37.6.1 develop policies which build on the best practice of each Partner.

37.6.2 develop a quality assurance system which builds on the best practice of each Partner.

37.7 Use of existing policies

Until new policies and procedures are established the Partners will use the pre-existing policies as applied to the Functions prior to the Commencement Date. Where conflicting procedures are identified one will be designated by agreement between the Partners.

38 Performance Management and Inspection

The Partners will be subject to performance management by the Strategic Health Authority and Social Services Inspectorate Social Care Region and inspection by the CHAI and the Commission for Social Care Inspection or their successor bodies. The Arrangements will be subject to the scrutiny of the Partners' internal and external auditors.

39 Monitoring arrangements

39.1 The Partners, will monitor the effectiveness of the Arrangements using a range of performance measures to develop their work.

39.2 The Partners jointly agree to make a general commitment to transparency for risk management arrangements.

40. Reporting and Review

The Health and Social Care Integration Board shall throughout the Financial Year provide the Partners such reports as the Partners may require to comply with the monitoring requirements of Clause 39 on:-

40.1.1 the Arrangements; and

40.1.2 the statutory functions of each Partner which have been carried out by the other Partner.40.2 The Partners shall review the report and within 28 days after each review prepare a joint report documenting the matters discussed at the review.

41 Annual review and reporting

41.1 The Partners agree to carry out an annual review by no later than 42 days after the end of each Financial Year of the operation of this Agreement including:

41.1.2 an evaluation of performance against agreed performance measures targets and priorities;

41.1.3 review of the targets and priorities for the forthcoming year;

41.1.4 service delivery;

- 41.1.5 service changes proposed;
- 41.1.6 shared learning and apportionment for joint training;
- 41.1.7 an evaluation of any statistics or information required to be kept by the Department of Health from time to time; and
- 41.1.8 the statutory functions of each Partner which have been carried out by the other Partner using the flexibilities in Section 31 of the Health Act 1999.

41.2 The Partners shall within 60 days of the annual review prepare a joint annual report documenting the matters referred to in Clause 41.1

42 Conflicts of Interest

The Partners shall develop policies for identifying and managing conflicts of interest.

43 Substandard Performance

In the event that either Partner shall have any concerns on the operation of the Arrangements or the standards achieved in connection with the carrying out of the Functions it may convene a review with the other Partner with a view to agreeing a course of action to resolve such concerns. Nothing in this clause shall prejudice the Partner's rights to terminate this agreement pursuant to Clauses 5.2, 25.2.1, and 46.

44 Complaints

The Partners' own statutory complaints procedures shall apply to the Arrangements. The Partners shall agree a protocol to assist one another in the management of complaints arising under the Arrangements.

45 Ombudsmen

The Partners will co-operate with any investigation undertaken by their respective Ombudsmen in connection with the Arrangements.

SECTION 6 – TERMINATION AND OTHER PROVISIONS

46 Early termination^{23a}

46.1 Either Partner may at any time by notice in writing to the other Partner terminate this Agreement either as a whole or in part as from the date of service of such notice if:

46.1.1 the other Partner commits a material breach of any of its obligations hereunder which is not capable of remedy or

46.1.2 the other Partner commits a material breach of any of its obligations hereunder which is capable of remedy but has not been remedied within a reasonable time after receipt of written notice from the terminating Partner serving notice requiring remedy of the breach.

46.2 Either Partner may by written notice to the other Partner terminate this Agreement in whole or in part if:

46.2.1 as a result of any change in law or legislation it is unable to fulfil its obligations hereunder;

46.2.2 the fulfilment of its obligations hereunder would be in contravention of any guidance from any Secretary of State issued after the date hereof;

46.2.4 the fulfilment of its obligations hereunder would be ultra vires;

46.2.5 and the Partners shall be unable to agree a modification or variation to this Agreement so as to enable the Partner to fulfil its obligations in accordance with law and guidance.

46.3 In the case of notice pursuant to Clause 46.2.1 or 46.2.2 the Agreement shall terminate after such reasonable period as shall be specified in the notice having regard to the nature of the change referred to in Clause 46.2.1 or the guidance referred to in Clause 46.2.2 as the case may be. In the case of notice pursuant to Clause 46.2.3 this Agreement shall terminate as from the date of service of such notice.

46.4 Termination of this Agreement (whether by effluxion of time or otherwise) shall be without prejudice to

46.4.1 to the parties' rights in respect of any antecedent breach and

46.4.2 the provisions of Clauses [check cross references].

^{23a} note the context of early termination is in relation to 5.2.1

and the provisions of check cross references apply in respect of the period to termination

47 Winding Down

In the event that this Agreement is terminated as a whole or in respect of an individual Scheme or Schemes the Partners agree to co-operate to ensure an orderly wind down of their joint activities for the relevant Scheme or Schemes as set out in this Agreement

48 Confidentiality

48.1 Except as required by law, each Partner agrees at all times during the continuance of this Agreement and after its termination to keep confidential all documents or papers which it receives or otherwise acquires in connection with the other and which are marked with such words signifying that they should not be disclosed.

48.2 Prior to the issue of any press release about matters relating to the Arrangements or making any contact with the press on any issue attracting media attention the Chief Executive of the PCT (or such person as he/she shall designate) and the Executive Director People First of the Council (or such person as he/she shall designate) will consult with each other to agree a joint strategy for the release or handling of the issue. The provisions of this clause are subject to any alternative arrangements that the Partners may agree for press relations in particular situations.

49 Waivers

49.1 The failure of either Partner to enforce at any time or for any period of time any of the provisions of this Agreement shall:

49.1.1 not be construed to be a waiver of any such provision and

49.1.2 shall in no matter affect the right of that Partner thereafter to enforce such provision.

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

50 Entire Agreement

50.1 The terms herein contained together with the contents of the Schedules constitute the complete agreement between the Partners with respect to these Arrangements and supersede all previous communications representations understandings and agreement and any

representation promise or condition not incorporated herein shall not be binding on either Partner.

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

51 Changes in Legislation, etc.

The Partners may review the operation of the Arrangements and all or any procedures or requirements of this Agreement on the coming into force of any relevant statutory or other legislation or guidance affecting the Arrangements so as to ensure that the Arrangements comply with such legislation.

52 Governing Law

This Agreement shall be governed by and construed in accordance with English Law.

53 Disputes

- 53.1 In the event of a dispute between the Partners in connection with this Agreement the Partners shall refer the matter to the *Chief Executive* of the PCT (or his/her nominated deputy) and the Executive Director People First of the Council as appropriate, (or a nominated deputy). The Partners representatives to whom the dispute is referred shall endeavour to settle the dispute between themselves.
- 53.2 In the event that the Partners' representatives as referred to in Clause 52.1 cannot resolve the dispute between themselves within a reasonable period of time having regard to the nature of the dispute, the matter may be referred to mediation.
- 53.3 If, having followed the procedure in Clause 53.1 and 53.2, a dispute is still not resolved, either Partner may, as a last resort, refer the matter to the courts.
- 53.4 For the avoidance of doubt nothing in this Clause shall require the parties to resort to the procedures in Clause 52.3 before terminating this Agreement in accordance with its provisions.

54 Transfers

The Partners may not assign mortgage transfer sub-contract or dispose of this Agreement or any benefits and obligations hereunder without the prior written consent of the other except to any statutory successor in title to the appropriate statutory functions.

55 No Partnership

Nothing in this Agreement shall create or be deemed to create a legal partnership or the relationship of employer and employee between the parties.

56 Notices

56.1 Any notice of communication shall be in writing.

56.2 Any notice or communication to the relevant Partner shall be deemed effectively served if sent by registered post or delivered by hand at an address set out above and marked for either the Executive Director People First of the Council or the Chief Executive of the PCT or to such other addressee and address notified from time to time to the other Partner.

56.3 Any notice served by delivery shall be deemed to have been served on the date it is delivered to the addressee. Where notice is posted it shall be sufficient to prove that the notice was properly addressed and posted and the addressee shall be deemed to have been served with the notice 48 hours after the time it was posted.

57 The Contracts (Rights of Third Parties) Act 1999

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.

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

Signed for and on behalf of
HARROW PRIMARY CARE TRUST:

Signed (Authorised Officer):

Name/Position:

Signed (Authorised Officer):

Name Position:

Signed for and on behalf of the
**MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF HARROW:**

Signed (Authorised Officer):

Name/Position:

Signed (Authorised Officer):

Name/Position:

SCHEDULE 1

JOINT COMMISSIONING UNIT (ADULT SERVICES)_

In this Scheme Schedule the following expressions shall have the following meanings:

- 1.1 “Joint Commissioning Unit (Adult Services)” means the Unit set up by the Partners to facilitate commissioning of Adult Services necessary to meet the strategic objectives of the Council and the PCT.²⁰
- 1.2. “Adult Health and Social Care Partnership ” the Partnership established by the Partners to co-ordinate the work of the Adult Social Care and Carers Partnership Boards
- 1.3 “Joint Commissioning Pooled Fund” means the Pooled Fund to fund the revenue costs of the Joint Commissioning Unit more details of the cost base are provided in[]
- 1.4 “Head of Joint Commissioning ” means the person appointed in Clause 14.2 in Section 3 of the arrangements. .
- 1.5 “Joint Commissioning Manager ” means a person jointly appointed by the Council and the PCT for each Client Group under the Arrangements

2. Joint Commissioning Unit (Adult Services)

- 2.1 This Schedule 1 forms part of the Arrangements and sets out the detail of the Joint Commissioning Unit (Adult Services)
- 2.2 The Joint Commissioning (Unit Adult Services) Scheme includes:

3. Aims and Benefits

- 3.1 The aims and benefits of the Partners in entering in to these Arrangements in respect of the Joint Commissioning Unit (Adults Services) are to²¹:
- 3.2 Integrate and improve the commissioning and co-ordination of services for Adults across the health and social services functions provided by the Council and PCT
- 3.3 The Joint Commissioning Unit (Adults) will better equip the Council and the PCT to meet the targets and objectives set out in [

].

²⁰ Please confirm that this is correct

4. The Joint Commissioning Unit (Adult Services)

The Joint Commissioning Unit (Adult Services) forms part of a wider Joint Commissioning system, which is the mechanism for joint planning and strategic decision making for commissioning (planning with money) and the use of resources, investment and disinvestment in order to provide appropriate and improved services across the health and social care spectrum.

4.1 Role of the Joint Commissioning Unit (Adult Services)

Initial discussions have defined the role of the unit as follows:

Preparation of Joint Strategies

- Ensuring that there is appropriate needs analysis, interpretation and option development.
- Commissioning ensuring engagement of Partnership Boards.
- Advising on priorities and ensuring that Strategies contain clear appraisal of alternatives.
- Producing clear development paths for the relevant service based on priorities agreed.

Preparation of Implementation Plans for Joint Strategies

- Drafting action plans.
- Establishing realistic timescales based on staff resources available etc.
- Identifying budget requirements to implement priority schemes.
- Producing detailed definitions of new schemes to be implemented.

Monitoring & Supporting Strategy Implementation

- Developing appropriate monitoring framework in conjunction with Finance staff, linking to existing frameworks.
- Link to continue to monitor information re children's services.
- Supporting managers in monitoring implementation.

Development of Policy/Strategy in key areas

- Establishing priorities for use of Continuing Health Care Budgets.
- Identifying opportunities for more effective resource allocation within and across organisational boundaries.

Supporting service & practice development e.g.

- New service models.
- Quality assurance in single and joint services.
- Evaluation of performance vs. NSF's and other national standards.
- Contract monitoring.
- Contributing to the integration agenda.

5. Accountability

6 Consultation

The Council and the PCT have carried out consultations on the funding ,remit and structure of the Joint Commissioning Unit (Adults) [with user groups, staff, non-statutory providers, NHS Trusts, Primary Care Trusts and Community Health Councils in the London Borough of Harrow as required to satisfy the terms of the Regulations.]

SCHEDULE1 PART 1

A – Services commissioned by the Council

B – Services commissioned by the PCT²²

Save for the services, staffing and operating arrangements set out elsewhere in this Schedule1 there are no other commissioned services under this Scheme

SCHEDULE 1 PART 2

Notification Form²³ when completed

SCHEDULE 1 PART 3

Scheme of Exclusions and Limitations²⁴ To be developed

SCHEDULE 1 PART 4

Scheme of Delegations To be developed

²³ Notification form to be supplied

²⁴ To be supplied (Neil N leading)

SCHEDULE 1 PART 5

CONTRIBUTIONS TO THE JOINT COMMISSIONING UNIT (ADULT SERVICES) POOLED BUDGET ²⁵

1 Baseline Budget

The service will be managed within an agreed baseline budget that reflects the national / local terms of conditions of the employing organisations. Changes to these terms and conditions will be reflected when compiling the annual budget. Variations to the baseline budget will be jointly agreed.

2 Scope of Charges

The parties will share cost for the joint commissioning unit. The charges would include:-

- direct staff costs
- stationery & office consumables
- Training
- Recruitment
- IT equipment
- Human Resource and Payroll overhead costs
- Accommodation charges (as part of a wider exercise of Joint accommodation charges).

3 Quarterly Monitoring

The Host organisation will provide a quarterly comparison of budget to expenditure for review by both parties.

4 In Year Expenditure Variance

Any action resulting in an anticipated overall expenditure variance to budget within £5,000 of baseline budget within each financial year can be taken by the hosting organisation without the prior approval of the partner. Any expenditure variance will be borne by both parties and these costs shared in proportion to the initial share of budget.

5 Exceptional Additional Charges

Expenditure variance beyond the above tolerance would be borne by both parties and these costs shared in proportion to the initial share of budget. The partner should be informed about these issues and approve the course of action before additional expenditure is incurred. Items that would be charges under these arrangements are:

- Maternity Leave costs
- Long Term staff absence
- Additional costs of temporary staff arrangements to fill established posts.
- Special projects agreed in-year by both parties to fund.

6 Fundamental Restructure

If both parties agree to fundamentally restructure how the service is to be provided both parties will determine how the costs relating to change management and redundancy costs are to be borne by both parties. Broader change management initiatives initiated by an individual party will be met by initiating the change process..

7 Fraud / Serious Untoward Incident

The net impact of any net loss in the event of fraud or a serious untoward incident shall be dealt with in accordance with Clause 31 of the Arrangements.

8 Performance Monitoring

Notwithstanding the Scheme reporting requirements of the Arrangements Agreement the Partners shall directly receive a quarterly report on the operation of the Joint Commissioning Unit (Adult Services). The report to include but not limited to the following:

- Performance against agreed service objectives
- Staff absence / vacancy
- Training / CPD

9 Governance Arrangements

Without prejudice to the requirements set out in Clause 18 of the Arrangements Agreement the Parties shall develop a protocol dealing with governance issues appropriate to joint working of staff in accordance with Clause 18.8 of the Arrangements Agreement.

10 Base Line Costs

The starting point for calculating each Partner's total contributions to the Pooled Budgets for the Initial Schemes in the first Financial Year will be the out turn expenditure of 2004/5. It will also take into account and cover the committed expenditure for the Joint Commissioning Unit (Adult Services) Budgets in the first Financial Year.

11 Budget Setting

Budget setting will take account of the efficiency requirements set out in clause 23.1.1 of the Arrangements Agreement.

12 Current Staffing Establishment

<u>Post</u>
Head of Joint Commissioning
Learning Disability Joint Commissioner
Physical Disability Joint Commissioner
Elderly Services Joint Commissioner
Mental Health Joint Commissioner

Prevention & Carers Substance Misuse Joint Commissioner
Personal Assistants 2 number
Support post (supports Eligibility Panels & inputting health care data)
Joint Commissioning Support Manager
Finance and Information Support Officers x 3

13 Initial Scheme Pooled Fund Budget Analysis

LONDON BOROUGH OF HARROW & HARROW PRIMARY CARE TRUST

JOINT COMMISSIONING UNIT BUDGET SCHEDULE

POOLED BUDGETS

FOR THE PERIOD:

Description	Contribution Rate	YEAR 2005/06
		FULL YEAR COST @ 2005/2006 PRICES
		GROSS BUDGET POOLED
		£
<u>HARROW PCT</u>	-	-
-	-	-
<u>SALARY COSTS</u>	-	-
Head of Joint Commissioning	50%	35,205
Joint Commissioning Managers		
Learning Disabilities	50%	21,850
Mental Health	50%	26,335
Physical Disabilities	50%	22,095
Older People	50%	26,210
Substance Misuse Joint Commissioner	100%	?
Prevention & Carers	0%	0
Support Staff		

Support Post Eligibility Panels	100%	29,700
Joint Commissioning Support Manager	100%	29,700
PA posts x2	50%	22,980
Finance & Information Support Officers x3	100%	?
<u>NON SALARY COSTS</u>		
Venue Hire	100%	1,570
Printing & Stationery	100%	200
Travelling & Subsistence	100%	2,500
Hospitality	100%	500
Total PCT Contribution		218,845
<u>HARROW COUNCIL</u>		
-	-	-
-	-	-
<u>SALARY COSTS</u>		
Head of Joint Commissioning	50%	35,205
Joint Commissioning Managers		
Learning Disabilities	50%	21,850
Mental Health	50%	26,335
Physical Disabilities	50%	22,095
Older People	50%	26,210
Substance Misuse Joint Commissioner	0%	?
Prevention & Carers	100%	50,000
Support Staff		
Support Post Eligibility Panels	0%	0
Joint Commissioning Support Manager	0%	0
PA posts x2	50%	22,980
Finance & Information Support Officers x3	0%	?
<u>NON SALARY COSTS</u>		
Travel and Hospitality	100%	2,500
Total Harrow Council Contribution		207,175
Sc. 31 - Pooled Budget - Total		
		426,020

SCHEDULE1 PART 6

Council Contributions

A – Financial

(1) Financial contribution to Joint Commissioning Unit Pooled Fund

See Schedule 5

(2) Financial contribution to Non Pooled Funds

There are no non-pooled funds in the Joint Commissioning Unit (Adult Services) Scheme

B – Staff²⁶ Contributions to staff Costs

50% of the employment costs of:-

- the Head of Joint Commissioning,
- the Joint Commissioner Learning Disability
- the Joint Commissioner Physical Disability
- the Joint Commissioner Elderly Services
- the Joint Commissioner Mental Health

100% of the employment costs of:-

- The Prevention and Carers Post

C – Central Services

50% of the reasonable:-

- administrative, personnel and IT support to the Joint Commissioning Unit (Adult Services), (that part of the activities of which relate to the Joint Commissioning Unit Adult Services)
- .Appropriate health input to enable the case management function to be undertaken and for the review of services provided to service users.
- .
- .Appropriate social care input to enable the case management function to be undertaken and for the review of services provided to service users. Appropriate contract management (including procurement payment and monitoring)

D – Assets

E - Contracts

F – Premises

SCHEDULE 1 PART 7

PCT Contributions

A – Financial

1) Financial contribution to Initial Pooled Fund

See Schedule 1 Part 5

(2) Financial contribution to Non Pooled Funds

There are no non-pooled funds in the Joint Commissioning Unit (Adult Services) of Scheme.

B – Staff

100% of the employment costs of:-

- the Joint Commissioner Substance Abuse
- Joint Commissioning Support Manger
- one number support post
- three number support officers (not permanent staff)

50% of the employment costs of:-

- the Head of Joint Commissioning,
- the Joint Commissioner Learning Disability
- the Joint Commissioner Physical Disability
- the Joint Commissioner Elderly Services
- the Joint Commissioner Mental Health
- the Personal Assistant post(s)

Staff funded by the PCT from sources other than the PCT or the Council

100% of the employment costs of:-

- Joint Commissioner Substance Abuse

C – Central Services

50% of the reasonable:-

- administrative, personnel and IT support to the Joint Commissioning Unit (Adult Services), (that part of the activities of which relate to the Joint Commissioning Unit Adult Services)

Appropriate financial support in order to carry out its role as host partner for the Joint Commissioning Unit (Adult Services.)

The PCT will be providing reasonable accommodation for the Joint Commissioning Unit (Adult Services). These premises will be funded by the PCT.

D – Assets

E - Contracts

F – Premises²⁷

SCHEDULE 2
HEALTH AND SOCIAL CARE INTEGRATION BOARD^{28 91a}

ADOPTED on the day of 2005

By HARROW PCT

AND

THE LONDON BOROUGH OF HARROW

Background

- A** The parties to this agreement have entered into the Integrated Arrangements Agreement ('the Arrangements') amongst other matters in order to establish the a number of partnership arrangements of which this agreement shall be one
- B** The parties have agreed as part of the Arrangements that there should be a Health and Social Care Integration Board as set out in this agreement.
- C** The parties are committed to seeking to co-operate in the Arrangements with a view to the development of modern and effective services for people with health or social care needs in Harrow.
- D** The parties recognise that the operation of the Health and Social Care Integration Board will involve the parties and members in a significant commitment in time and resources. The parties expect and anticipate the Health and Social Care Integration Board to contribute significantly to the success of the Arrangements.
- E** This constitution shall be read in conjunction with the Integrated Arrangements Agreement

1 Definitions

- 1.1** The "Integrated Arrangements Agreement" ('The Arrangements') means the Agreement dated [] made between the PCT and the Council relating to (amongst other things) the establishment of various arrangements under Section 31 of the Health Act 1999
- 1.2** Defined terms in this Constitution shall have the same meanings as in the Partnership Agreement
- 1.3** The "Delegated Officers" means Officers of the Partners that are members of the Health and Social Integration Board referred to at paragraphs 2.1.1 to 2.1.2 or their alternates

91athe amended drafting is to reflect the advisory and monitoring nature of the HASCIB ²⁸

2 Membership Of Health and Social Care Integration Board

2.1 The membership of the Health and Social Care Integration Board shall comprise the following full members:

- 2.1.1** The Chief Executive of the PCT
- 2.1.2** The People First Executive Director of the Council
- 2.1.3** Two non executive director of the PCT
- 2.1.4** Two elected members of the Council

Members of the Health and Social Care Integration Board shall have the power to appoint alternates for any meeting of the Health and Social Care Integration Board

2.2 The following shall also be invited to attend the Health and Social Care Integration Board ²⁹

- 2.2.1** The Pool Manager
- 2.2.2** The Head of Joint Commissioning
- 2.2.3** The Chairs of all of the client group Partnership Boards
- 2.2.4** The Chair of the Carers Partnership Group³⁰

The Chairs referred to at paragraph 2.2.3 and 2.2.4 may appoint alternates

2.3 The Health and Social Care Integration Board may invite any other persons to attend the meetings of the Health and Social Care Integration Board and to speak at meetings either generally or on specific issues. The Health and Social Care Integration Board shall give consideration to the scope for attendance by service users and carers representatives^{92a}

3 Status of the Health and Social Care Integration Board

3.1 The Health and Social Care Integration Board will act in an advisory capacity.

3.1 For the avoidance of doubt it is agreed that the Health and Social Care Integration Board will not comprise a committee under Regulation 10 (2) of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (as amended from time to time).

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4 Role

The principal Role of the Health and Social Care Integration Board to provide advice and recommendations to the PCT and the Council-

- 4.1** To formulate and recommend to the Partners measures to ensure clear lines of accountability, synergy and effective delivery strategic alignment and coherence in respect of three work streams
 - (i) Healthy Harrow
 - (ii) Adult Health and Social Care Partnership,
 - (iii) Children and Young Peoples Strategic Partnership

5 Duties And Principal Functions Of Health and Social Care Integration Board

- 5.1** To advise, recommend and report to the Harrow Strategic Partnership Executive and the Partners on the following areas:-
- 5.2** The overall strategic direction for service development including:-
 - 5.2.1** Ensuring coherence of commissioning across the Client Groups plus any other client groups as deemed appropriate in future by the partners
 - 5.2.2** Agreeing strategic shifts in resource allocations between the Client Groups
 - 5.2.3** Resolving differences between the Partnership Boards
 - 5.2.4** Agreeing how cross Client Group and transition issues are progressed
 - 5.1.6** agree formal recommendations to the partners in relation to variation to existing and the addition of new schemes
- 5.3** Considering and advising on balancing priorities derived from local plans against key national agendas.
- 5.4** Monitor and support the Partnership Boards including
 - 5.4.1**
 - 5.4.2** advising on their Joint Commissioning Strategies and annual work plans
 - 5.4.3** take into account their recommendations
- 5.5** Monitoring of the Schemes³¹, including:-
 - 5.5.1** Reporting to the Harrow Strategic Partnership and the Partners on the performance of Head of

Joint Commissioning and the Joint commissioning manager in respect of their duties under the Arrangements Agreement and

5.5.2 To monitor by way of received reports from the Partnership Boards and any other relevant sources of information the outcomes of the services commissioned and/or provided by the Schemes; and make such any recommendations as are appropriate.

5.5.3 To make recommendations in respect of any other service providers performance in the delivery of services commissioned through the Schemes; and

5.6 Financial responsibilities in its capacity as a monitoring body on behalf of the Harrow Strategic Partnership Executive and the Partners -

5.6.1 To receive reports on the performance of the financial arrangements covered by the Partnership Arrangements including the the Initial Pooled Fund and any Further Scheme Pooled Fund.

5.6.2 To report on the performance of the host Partner of each Pooled Fund under the Partnership Agreement.

5.6.3 To make recommendations regarding the establishment and maintenance of effective financial mechanisms.

5.6.4 To promote best value for money

5.7 give guidance to and have regard to recommendations from the Head of Joint Commissioning and Joint commissioning manager relating to the operation of the Arrangements

5.8 ensure that consultation with key stakeholders takes place when considering and making decisions

6 Corporate Governance And Reporting

6.1 The Health and Social Care Integration Board shall carry out its functions in a manner that is consistent with the regulatory framework, including the Standing Orders and Standing Financial Instructions of the PCT and the Council.

6.2 The Health and Social Care Integration Board will produce annually a report of its actions to the Council and the PCT and wider public. This report will describe how the Health and Social Care Integration Board has discharged its responsibilities as set out in paragraphs 5.1 to 5.8 above.

It should include commentary on financial pressures and changes in need or service delivery. It will also set out recommendations for commissioning for the period covered by any medium term strategy jointly adopted by the PCT and the Council .

6.3 The minutes of meetings of the Health and Social Care Integration Board shall be reported to the Partners ,the Harrow Strategic Partnership Executive and to the Partnership Boards.

6.4 The Health and Social Care Integration Board shall also report any matters of interest or concern to the Partners and The Harrow Strategic Partnership Executive as it may consider appropriate.

6.5 The Health and Social Care Integration Board shall be subject to the overview and scrutiny arrangements of the Council.

6.6 The Health and Social Care Integration Board and the Partnership Boards shall make such information available to the Council Overview and Scrutiny Committee and its sub committees and NHS Review bodies as they may reasonably and lawfully require.

6.7 In order to avoid doubt it is agreed that

6.7.1 Nothing in this Agreement shall affect the statutory duties and responsibilities of the Partners

6.7.2 Each Partner bears its own risk in relation to any liabilities arising in relation to its respective statutory duties and responsibilities.

7 Running Of Health and Social Care Integration Board³²

7.1 The Health and Social Care Integration Board shall alternate the role of Chair between the PCT and the Council on a regular basis.

7.2 The Board shall hold at least 4 meetings each year.

7.3 The Health and Social Care Integration Board may appoint one or more sub-groups for the purpose of making any inquiry or producing reports which in the opinion of the Health and Social Care Integration Board would be more conveniently undertaken or carried out by a sub-group. This is provided that all acts and proceedings of any such sub-

group shall be fully and promptly reported to the Health and Social Care Integration Board at its next meeting.

7.4 The Health and Social Care Integration Board shall keep minutes of the proceedings at its meetings and any sub-groups. Such minutes shall be approved by the Health and Social Care Integration Board at its next meeting and signed by the Chair.

7.5 Health and Social Care Integration Board may from time to time make and alter rules for the conduct of their business, the summoning and conduct of their meetings including adjournments, and the custody of documents. No rule may be made which is inconsistent with this constitution. No rule may be made which would conflict with the legislation, regulations or standing orders governing either the Council, or the PCT including the Council's constitution and the underlying legislative framework

8 Leaving Health And Social Care Integration Board

A Member of the Health and Social Care Integration Board shall cease to hold office if:

8.1 he or she notifies to the Health and Social Care Integration Board a wish to resign; or

8.2 he or she ceases to be a member of the Council or a member of the PCT Board as the case may be; or

8.3 the PCT or the Council as the case may be notifies the Health and Social Care Integration Board of their withdrawal

9 Interests Of Health And Social Care Integration Board Members

9.1 No Member of the Health and Social Care Integration Board shall acquire any interest in property belonging to the Council or the PCT or receive remuneration or be interested (otherwise than as a Member of the Joint Commissioning Partnership Board) in any contract recommended by the Health and Social Care Integration Board .

9.2 Members of the Health and Social Care Integration Board , observers and officers attending the Health and Social Care Integration Board shall comply with both the Local Government Code on Members Interests and the National Health Service Guidance on Business Ethics, to the extent that the same may properly be applied to the circumstances of this Health and Social Care Integration Board .

9.3 Health and Social Care Integration Board Members must declare interests which are relevant and material to the Health and Social Care Integration Board If Health and Social Care Integration Board Members have any doubt about the relevance of an interest, this should be discussed

with the Chair . Any declaration or discussion of the Chair's interests should be made to the Vice-Chair.

9.4 Health and Social Care Integration Board Members shall declare in advance of a meeting any conflict of interest in relation to the agenda for that meeting . When such a conflict of interest is declared the relevant Health and Social Care Integration Board Member shall appoint an alternate for that meeting in accordance with paragraph 2.1 of this Agreement. If notwithstanding this during the course of a meeting, a conflict of interest is established, the relevant decision shall be adjourned.

9.5 The Chair of the Health and Social Care Integration Board will ensure that a register of interests is established to record formally declarations of interests of Health and Social Care Integration Board . These details will be kept up to date by means of an annual review of the register of interests in which any changes to interests declared during the preceding twelve months will be incorporated.

10 Alterations To The Constitution

10.1 The Constitution may be amended by agreement between the PCT and the Council

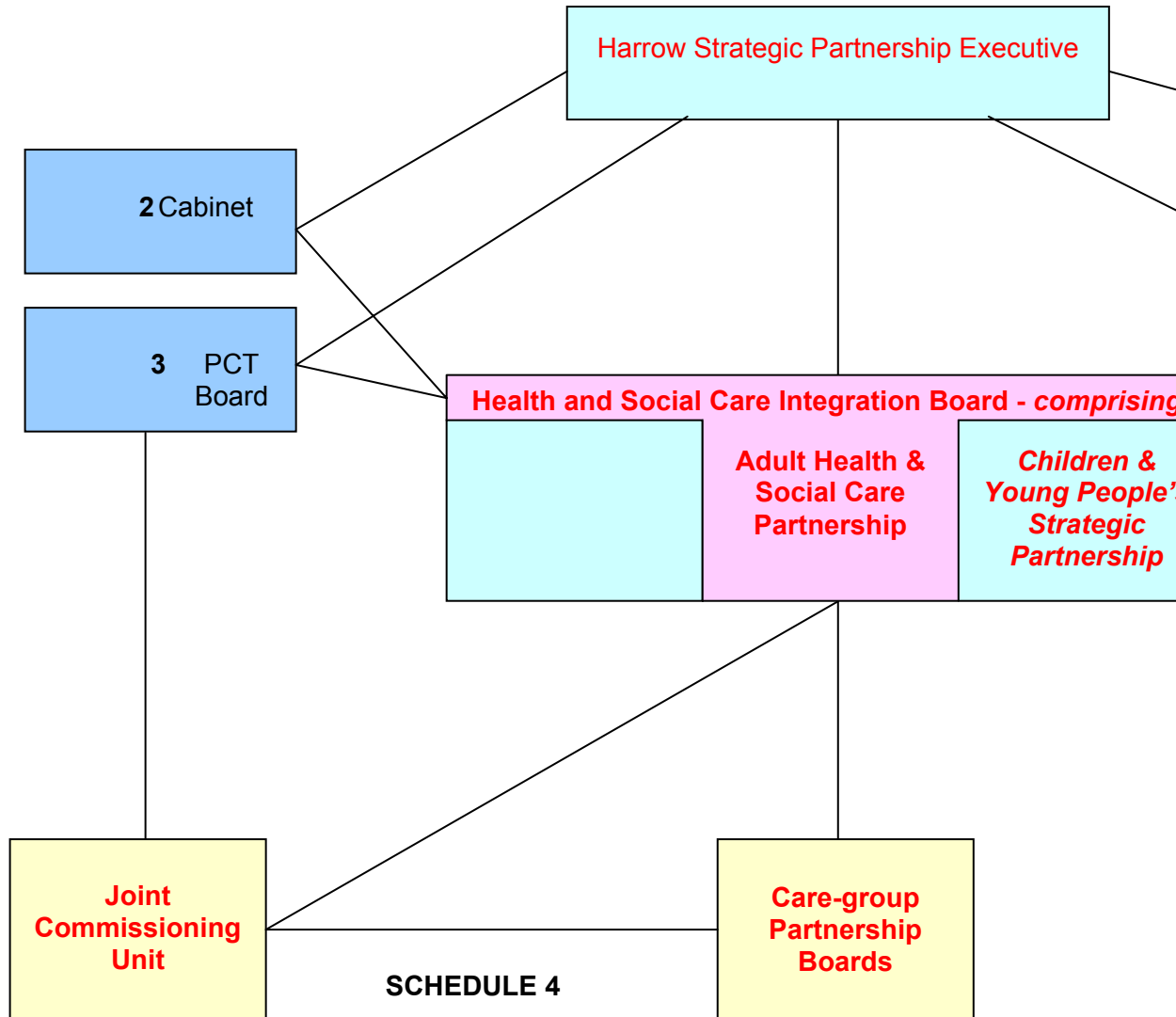
10.2 The Health and Social Care Integration Board will be dissolved by agreement between the Partners or in the event that the Partnership Agreement is determined

11 The Contracts (Rights Of Third Parties) Act 1999

11.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and accordingly the PCT and the Council do not intend that any third party should have any rights in respect of this Constitution by virtue of that Act.

SCHEDULE 3

Overall Governance Structure



PART A: ROLE OF HEAD OF JOINT COMMISSIONING

ROLE PROFILE

Title: Head of Joint Commissioning
Accountable to: Director of Service Modernisation, Harrow PCT
 Director of Community Care, London Borough of Harrow
Employed by: London Borough of Harrow ('the Council')
Grade: Local Authority M1/NHS Senior Manager
Salary: To be determined through pay evaluation November 2002
Base: Harrow PCT Harrovian Business Centre
Manages: Joint Commissioning Manager – Older People
 Joint Commissioning Manager – Mental Health
 Joint Commissioning Manager – Learning Disability
 Joint Commissioning Manager – Physical / Sensory Disability
 Joint Commissioner – Drug & Alcohol Services
 Carers and Prevention Manager

OBJECTIVES:

1. To develop and implement a programme of joint commissioning between the Council and Harrow Primary Care Trust.
2. To develop use of the flexibilities provided by the Health Act 1999 to achieve integrated services responsive to local needs.
3. To oversee the joint commissioning of health and social care for older people, adults with mental health problems and learning disabilities to meet the requirements of the National Service Frameworks and other national guidance.
4. To ensure the effective involvement of all stakeholders in planning and monitoring health and social care by maintaining a partnership approach to supporting and developing involvement.
5. To work with partners in developing and implementing commissioning strategies that address the wider determinants of health and tackling health and social care inequalities as they relate to these communities
6. To develop effective, responsive and robust commissioning strategies for Harrow Primary Care Trust and the Council.

KEY RESPONSIBILITIES:

Health Improvement

- To work with colleagues in the Primary Care Trust and the Council People First Directorate, with service providers, statutory, voluntary and private, and with users and carers, to assess the health needs of the local community as a basis for service planning, bearing in mind the need to address inequalities of access to health and healthcare within our diverse communities. While health needs assessment will be led by Public Health, the post-holder will influence the programme of assessments to be carried out and contribute to the process.
- To work with the Primary Care Trust Professional Executive Committee and other colleagues to develop and implement a clear work programme to deliver the Health Improvement and Modernisation Programme through service planning and commissioning.

Commissioning

- To lead the implementation of Health Act partnership arrangements between Harrow Council and Harrow Primary Care Trust, developing a programme of work to integrate health and social care to provide responsive, effective, best value services for the Harrow population.
- To report to Harrow Council, the Professional Executive Committee and the Primary Care Trust Board on the development and implementation of Health Act partnership arrangements and the service outcomes achieved.
- To oversee the joint commissioning of health and social care services for older people and adults with mental illness or learning disabilities to ensure the provision of an integrated continuum of care to meet the whole range of needs.
- To participate actively in the commissioning of regional and other specialist services for all these care groups.

- To work with the Commissioning Manager for Children's Services (PCT) and the Council's *Director* of Children Services to improve joint working on children's services, to consider different models for commissioning children's services in the future and to develop proposals for the integration or joint commissioning of children's services.
- To work with colleagues in Housing to ensure effective partnership in relation to Supporting People and other areas at the interface between housing, health and social care.
- To ensure that robust service level agreements with statutory and non-statutory providers are in place, monitored and regularly reviewed, managing the portfolio of service agreements within agreed budgets.
- To ensure that service agreements reflect national and local priorities, especially those identified within the Primary Care Trust Service and Financial Framework and the Social Service Performance Plan, including the implementation of National Service Frameworks and other national guidance.
- To work with the Primary Care Trust Finance Department and the People First Contracts Department, to monitor the performance against service agreements, highlight areas of concern to the Professional Executive Committee and the PCT Board and the Council and implement appropriate remedial action.
- To identify and address areas of common interest across the care groups, such as single assessment, direct payments, intermediate care and continuing care, ensuring a consistency of approach towards all clients, regardless of age.
- To use the commissioning process to encourage and implement agreed changes to care pathways in the best interests of the local population, including the development of intermediate care in accordance with government guidance.

Partnership and Public Involvement

- To facilitate the effective working of the Health and Social Care Integration Board, working with the chairs of the Partnership Boards to ensure a consistent approach and common understanding on issues of mutual interest.
- To provide information, advice and support to other teams within the Primary Care Trust and People First on the effective involvement of stakeholders; the local voluntary and community sector, statutory colleagues, General Practitioners and primary care teams, the private health and social care sector.
- To identify sources of funding for such initiatives and work with partners to submit applications to obtain such funding.

Staff Management

- To be responsible for the management and development of staff within the Joint Commissioning (Adult Services) Team, ensuring that all staff have a regular opportunity to discuss their objectives, performance and development needs.

General

- To represent and promote the PCT and People First locally, regionally and nationally as required, especially with reference to joint commissioning issues.
- To keep up to date with all relevant guidance and the NHS and People First targets and performance indicators, ensuring the effective dissemination of this information to appropriate people.
- To advise the Professional Executive Committee and the PCT Board and the Council on issues relating to integration of health and social care and joint commissioning.
- To function as a senior officer of the Primary Care Trust and People First in the formulation and implementation of strategic policy and planning, sharing responsibility with other members of the team for delivery of the PCT's and Social Services values, objectives and aspirations.
- To undertake any other duties that may be required commensurate with the grading of the post.

SCHEDULE 5 ADULT HEALTH AND SOCIAL CARE PARTNERSHIP

ADOPTED on the day of 2005

By HARROW PCT

AND

THE LONDON BOROUGH OF HARROW

Background

- A** The parties to this agreement have entered into the Partnership Agreement in order to establish the Partnership Arrangements
- B** The parties have agreed as part of the Integrated Arrangements that there should be a Adult Health and Social Care Partnership as set out in this agreement.
- C** The parties are committed to seeking to co-operate through the Partnership Arrangements with a view to the development of modern and effective services for people with health or social care needs in Harrow.

D This constitution shall be read in conjunction with the Integrated Arrangements Agreement

1. Definitions

The “Integrated Arrangements Agreement ” means the Agreement dated [] made between the PCT and the Council relating to (amongst other things) the establishment of various arrangements under Section 31 of the Health Act 1999

1.2 Defined terms in this Constitution shall have the same meanings as in the Integrated Arrangements Agreement t

1.3 The “members Delegated Officers” means the members of the Adult Health and Social Care Partnership referred to at paragraphs 3.1.1 to 3.1.4 or their alternates

2. Membership Of Adult Health and Social Care Partnership

2.1 The Council through an elected Member, the PCT through a Non Executive director shall provide the Chair alternately the alternation to operate every twelve months]The decision as to which Council elected Member or which PCT Non Executive Director will Chair is for the Council or PCT respectively to decide. Alternation is by rotation of the Council or PCT.

2.2 Membership of the Adult Health and Social Care Partnership shall comprise the following members:

- 2.2.1 Two Elected Members of the Council
- 2.2.2 Two Non Executive Directors of the PCT.
- 2.2.3 The People First Executive Director of the Council
- 2.2.4. The Chief Executive of the PCT
- 2.2.5. The Chief Executive of the North West London Hospitals NHS Trust
- 2.2.6 The Chief Executive of the Central and North West London Mental Health NHS Trust.
- 2.2.7 The Chairs of the Care–Group Partnerships details of which are set out in Schedule 11 of the Integration Arrangements Agreement.
- 2.2.8 The Chair of the Carers Partnership Group
- 2.2.9 A Member nominated by the PPI Patient Forum
- 2.2.10 Other interests shall be represented through members appointed by the Care Group Partnership Boards and Carers Partnership Group together electing a member one for each of the following groups :- service users, carers, providers and the voluntary sector.

Members of the Adult Health and Social Care Partnership shall have the power to appoint alternates to attend any of their meetings

2.3 The following shall also be invited to attend the Adult Health and Social Care Partnership

2.3.1 The Pool Manager

2.3.2 The Head of Joint Commissioning

2.4 The Adult Health and Social Care Partnership may invite any other persons to attend their meetings and to speak at meetings either generally or on specific issues

3 Status of the Adult Health and Social Care Partnership

3.1 The Adult Health and Social Care Partnership will not hold any delegated executive or decision making powers.

3.2 For the avoidance of doubt it is agreed that the The Adult Health and Social Care Partnership will not comprise a committee under Regulation 10 (2) of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (as amended from time to time).

4 Role

The principal Role of the Adult Health and Social Care Partnership to provide advice and recommendations to the PCT and the Council by way of reports to the Health and Social Care Integration Board.

4.1 The Remit

Strategic-level oversight, direction and performance-monitoring of all service integration and joint-working arrangements for community health and social care services (adults and older people), including those covered by formal S.31 Agreements.

4.2 More specifically, its role would be one of:

- (i) Ensuring strategic oversight and co-ordination of service delivery arrangements and service development proposals across all local community and primary health care services provided by NHS organisations and the social care services provided by the Council;
- (ii) Setting the broad strategic direction for this range of services in the context of the Community Strategy and the needs of Harrow's diverse community - balancing the requirements of locally-set policies, needs and priorities against nationally-determined priorities, targets and imperatives; and securing strategic balance across universal services, preventative initiatives, and the development of targeted provision for special-needs groups;
- (iv) Formal consideration of future service integration proposals, including those which make use of any Health Act flexibilities,

and considering whether to recommend their formal approval by the main partner organisations;

- (v) Overseeing formal consultation processes connected with such schemes;
- (vi) Monitoring the implementation of current and future joint working / service integration schemes;
- (vii) Receiving final-draft joint commissioning strategies and broad service strategies for all adult care groups and for carers, and considering whether to recommend their formal approval by the main partner organisations;
- (viii) Ensuring coherence in the overall commissioning intentions across the main care-groups, and ensuring an appropriate approach is taken to managing and developing the local provider market;
- (ix) Approving the membership of the main Care-Group Partnership Boards and the Carers Partnership Group, and receiving and approving their Annual Work-Plans;
- (x) Being accountable for, monitoring, supporting and performance-managing the work of the main Care-Group Partnership Boards and the Carers Partnership Group;
- (xi) Resolving any disputes between the main Care-Group Partnership Boards, and maintaining strategic oversight of all transition and interface planning;
- (xii) Receiving proposals for the strategic deployment of any jointly-held funding or resources, and for the management and deployment of any formally pooled funds; and considering whether to recommend formal approval of such proposals by the main partner organisations;
- (xiii) Monitoring expenditure against all jointly-held funds and any pooled budgets, and considering whether to recommend any action to the main partner organisations;
- (xiv) Considering (and, when required, overseeing negotiations between them regarding) the strategic deployment of the resources held by the main partner organisations, especially as regards the making of strategic shifts in the deployment of resources across and between major service areas; and considering whether to make formal recommendations to one or more of the main partner organisations about such matters;
- (xv) Reporting on a regular basis to the Overview and Scrutiny (Health and Social Care) Sub-Committee of the Council, and to the Professional and Executive Committee of the PCT;
- (xvi) Being formally accountable to the PCT Board, the Council Cabinet, and (through the Health & Social Care Integration Board) to the Harrow Strategic Partnership Board; and reporting to them on a regular basis.

- 4.3 To formulate and recommend to the Partners measures to ensure clear lines of accountability, synergy and effective delivery strategic alignment and coherence in respect of three work streams

5 Corporate Governance And Reporting

- 5.1 The Adult Health and Social Care Partnership shall carry out its functions in a manner that is consistent with the regulatory framework, including the Standing Orders and Standing Financial Instructions of the PCT and the Council.
- 5.2 The Adult Health and Social Care Partnership will produce [annually] a report of its actions to the through the Health and Social Integration Board to the Council and the PCT and wider public. This report will describe how the Adult Health and Social Care Partnership has discharged its responsibilities as set out in paragraphs 4.1 to 4.2.
- 5.3 The minutes of meetings of the Adult Health and Social Care Partnership shall be reported through the Health and Social Integration Board to the Partners, the Harrow Strategic Partnership Executive and to the Partnership Boards.
- 5.4 The Adult Health and Social Care Partnership shall also report any matters of interest or concern to the Health and Social Integration Board, Partners and The Harrow Strategic Partnership Executive as it may consider appropriate.
- 5.5 The Adult Health and Social Care Partnership shall be subject to the overview and scrutiny arrangements of the Council.
- 5.6 The Adult Health and Social Care Partnership and the Partnership Boards shall make such information available to the Council Overview and Scrutiny Committee and its sub committees and NHS Review bodies as they may reasonably and lawfully require.
- 5.7 In order to avoid doubt it is agreed that
- 5.7.1 Nothing in this Agreement shall affect the statutory duties and responsibilities of the Partners
- 5.7.2 Each Partner bears its own risk in relation to any liabilities arising in relation to its respective statutory duties and responsibilities.

6 Running Of Adult Health and Social Care Partnership³³

- 6.1 The Board shall hold at least []4 meetings each year.

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- 6.2 The Adult Health and Social Care Partnership may appoint one or more sub-groups for the purpose of making any inquiry or producing reports which in the opinion of the Adult Health and Social Care Partnership would be more conveniently undertaken or carried out by a sub-group. This is provided that all acts and proceedings of any such sub-group shall be fully and promptly reported to the Adult Health and Social Care Partnership at its next meeting.
- 6.3 The Adult Health and Social Care Partnership shall keep minutes of the proceedings at its meetings and any sub-groups. Such minutes shall be approved by the Adult Health and Social Care Partnership at its next meeting and signed by the Chair.
- 6.4 Adult Health and Social Care Partnership may from time to time make and alter rules for the conduct of their business, the summoning and conduct of their meetings including adjournments, and the custody of documents. No rule may be made which is inconsistent with this constitution. No rule may be made which would conflict with the legislation, regulations or standing orders governing either the Council, or the PCT including the Council's constitution and the underlying legislative framework

7 Leaving Adult Health and Social Care Partnership

A Member of the Adult Health and Social Care Partnership shall cease to hold office if:

- 7.1 he or she notifies to the Adult Health and Social Care Partnership a wish to resign; or
- 7.2 he or she ceases to be a member of the Council or a member of the PCT Board as the case may be; or
- 7.3 the PCT or the Council as the case may be notifies the Adult Health and Social Care Partnership of their withdrawal
- 7.4.1 Whose membership appointment is by reason of one of the bodies detailed in Clause(s) 2.2.5 to 2.2.10 above and that body notifies the Adult Health and Social Care Partnership that the member shall no longer represent that body.
- 7.5. 1 Whose membership appointment is in accordance with Clause 2.2.10 above and the Care Group Partnership Boards and Carers Partnership Group together notifies the Adult Health and Social Care Partnership that the member shall no longer represent the interest group.

8. Interests Of Adult Health and Social Care Partnership Members

- 8.1 No Member of the Adult Health and Social Care Partnership shall acquire any interest in property belonging to the Council or the PCT or receive remuneration or be interested (otherwise than as a Member of the Joint Commissioning Partnership Board) in any

contract recommended by by the Adult Health and Social Care Partnership .

8.2 Members of the Adult Health and Social Care Partnership , observers and officers attending the Adult Health and Social Care Partnership shall comply with both the Local Government Code on Members Interests and the National Health Service Guidance on Business Ethics, to the extent that the same may properly be applied to the circumstances of this Adult Health and Social Care Partnership .

8.3 Adult Health and Social Care Partnership Members must declare interests which are relevant and material to the Adult Health and Social Care Partnership If Adult Health and Social Care Partnership Members have any doubt about the relevance of an interest, this should be discussed with the Chair . Any declaration or discussion of the Chair's interests should be made to the Vice-Chair.

8.4 Adult Health and Social Care Partnership Members shall declare in advance of a meeting any conflict of interest in relation to the agenda for that meeting . When such a conflict of interest is declared the relevant Adult Health and Social Care Partnership Member shall appoint an alternate for that meeting in accordance with paragraph 2.1 of this Agreement. If notwithstanding this during the course of a meeting, a conflict of interest is established, the relevant decision shall be adjourned.

8.5 The Chair of the Adult Health and Social Care Partnership will ensure that a register of interests is established to record formally declarations of interests of Adult Health and Social Care Partnership . These details will be kept up to date by means of an annual review of the register of interests in which any changes to interests declared during the preceding twelve months will be incorporated.

9 Alterations To The Constitution

9.1 The Constitution may be amended by agreement between the PCT and the Council

9.2 The Adult Health and Social Care Partnership will be dissolved by agreement between the Partners or in the event that the Partnership Agreement is determined

10 The Contracts (Rights Of Third Parties) Act 1999

10.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and accordingly the PCT and the Council do not intend that any third party should have any rights in respect of this Constitution by virtue of that Act.