

Pecyn Dogfennau Cyhoeddus

Cabinet

Man Cyfarfod
**Siambwr y Cyngor - Neuadd y Sir,
Llandrindod, Powys**

Dyddiad y Cyfarfod
Dydd Mawrth, 27 Mawrth 2018

Amser y Cyfarfod
10.00 am

I gael rhagor o wybodaeth cysylltwch â
Stephen Boyd
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Neuadd Y Sir
Llandrindod
Powys
LD1 5LG

22 Mawrth 2018

Mae croeso i'r rhai sy'n cymryd rhan ddefnyddio'r Gymraeg. Os hoffech chi siarad Cymraeg yn y cyfarfod, gofynnwn i chi roi gwybod i ni erbyn hanner dydd ddau ddiwrnod cyn y cyfarfod

AGENDA

1.	YMDDIHEURIADAU
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I dderbyn ymddiheuriadau am absenoldeb.

2.	DATGANIADAU O DDIDDORDEB
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Derbyn unrhyw ddatganiadau o ddiddordeb gan aelodau mewn perthynas ag eitemau sydd i'w hystyried ar yr agenda.

3.	ADRAN 33: GWAITH LLETY CARTREFI GOFAL
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I ystyried adroddiad gan y Cynghorydd Sir Stephen Hayes, Aelod Portffolio ar faterion Gwasanaethau Oedolion.

(Tudalennau 1 - 52)

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

CYNGOR SIR POWYS COUNTY COUNCIL.
Cabinet Executive
27th March 2018

REPORT AUTHOR: County Councillor Stephen Hayes
Portfolio Holder for Adult Services

SUBJECT: Section 33: Care Home Accommodation Functions

REPORT FOR: Decision

1. **Summary**

1.1 This report informs the Cabinet on the Section 33 Agreement for Care Home Accommodation Functions and seeks Cabinet's approval to the Section 33 Agreement to ensure that the Council is compliant with new statutory requirements in April 2018.

1.2 In seeking Cabinet's approval, this report also outlines:

- the reasons and background for seeking to introduce the Section 33 Agreement to pool budgets with Powys Teaching Health Board for the future commissioning of residential care for adults;
- the aims, objectives and benefits of the Agreement;
- the scope and key components of the Scheme;
- key areas for development and issues;
- a high level implementation plan;
- the recommended Lead (Host) Partner for the Scheme;
- next steps for implementation of the agreement.

1.3 A copy of the draft agreement is attached in Appendix 1.

2 **Background**

2.1 Part 9 of the Social Services and Well-being (Wales) Act 2014 provides Welsh Ministers with powers to require partnership arrangements between local authorities and local health boards for the purposes of the discharge of their functions. Under these powers, Powys County council and Powys Teaching Health Board are required to develop and implement a pooled budget for the future commissioning and quality assurance of residential care services for adults by April 2018.

2.2 The Partnership Arrangements (Wales) Regulations 2015 include specific requirements for "*partnership bodies for each of the partnership arrangements to establish and maintain pooled funds*" including in relation to "*the exercise of their care home accommodation functions*".

2.3 The definition of a care home under the Care Standards Act 2000 relates to the provision of accommodation, together with nursing or personal care, for any of the following persons.

(a) persons who are or have been ill;

Tudalen 1

- (b) persons who have or have had a mental disorder;
- (c) persons who are disabled or infirm;
- (d) persons who are or have been dependent on alcohol or drugs.

However, an establishment is not classified within the Act as a care home if it is—

- (a) a hospital;
- (b) an independent clinic; or
- (c) a children's home, or if it is of a description excepted by regulations

The above definition of care homes in Wales was revised by the regulation and Inspection of Social Care (Wales) Act 2016, which define care homes as:

A care home service is the provision of accommodation, together with nursing or care at a place in Wales, to persons because of their vulnerability or need.

However, accommodation together with nursing or care provided at the following places does not constitute a care home service—

- (a) a hospital;
- (b) a school (but see sub-paragraph (3));
- (c) a residential family centre;
- (d) a place providing a secure accommodation service;
- (e) a place providing accommodation for an adult arranged as part of an adult placement service.

2.3.1 Care home accommodation functions means

- (a) The functions of a local authority under section 35 and 36 of the Social Services and Well-being (Wales) Act 2014, where it has been decided to meet adult's needs by providing or arranging to provide accommodation in a care home.
- (b) The functions of a Local Health Board are defined under Section 3 of the NHS Wales Act 2006 in relation to an adult in cases where:
 - i) the adult has a primary need for health care and it has been decided to meet the needs of the adult in a care home (Continuing Health Care), or
 - ii) the adult does not have a primary need for health care but the adults needs can only be met by the local authority arranging for provision of accommodation together with nursing care (Funded Nursing Care).

3 **Proposal**

- 3.1 The development and implementation of the pooled budget relates to all care home accommodation for adults and not solely that for older people, and includes providing and arranging to provide residential accommodation, whether commissioned via the local authority's direct provision, or from the independent sector.

3.2 Welsh Ministers have set out their expectation that these pooled funds should be established jointly at the regional level, between health boards and all local authorities within the partnership area. The new duties under Part 9 of the Social Services and Wellbeing (Wales) Act 2014 in relation to care home accommodation functions come into force in April, 2018.

3.3 Key steps nationally leading to the implementation date in April are summarised below:

- Social Services and Wellbeing (Wales) Act 2014
- Partnerships Arrangements (Wales) Regulations 2015
- Update request from Minister August 2017
- Discussions Welsh Government (WG), Regional Partnership Board (RPB) and national representatives July and August 2017
- Updates from RPBs 30 September 2017
- Letter from the Minister for Social Services and Public Health 1 November 2017
- Partnership bodies for each of the partnership arrangements to establish and maintain pooled funds in relation to the exercise of their care home accommodation functions from April 2018

A copy of the letter from the Minister is attached in Appendix 2. This letter explains that intervention, if necessary, will start in 2019-20.

3.4 **The Aims, Objectives and Benefits of the Agreement**

3.4.1 PTHB and the Council are committed to working together in partnership to improve the lives of Powys residents, so that people can start well, live well and age well – living as independently as possible for as long as possible.

3.4.2 PTHB and the Council are seeking to transform the whole system by focussing on wellbeing, prevention, early help and support, joined up care and developing alternatives to residential care for people's home life.

3.4.3 The purpose of this Section 33 Scheme is to assist PTHB and the Council to work in partnership to develop alternatives to residential care and to improve outcomes for all adults with residential care needs.

3.4.4 This Scheme establishes a pooled fund in relation to care home accommodation functions between Powys County Council and Powys Teaching Health Board as required by duties under Part 9 of the Social Services and Wellbeing Act 2014.

3.4.5 There are significant opportunities to build on the integration work in Powys to date. The Scheme will be an important lever in helping to deliver the Health and Care Strategy. The benefits of the Scheme include:

- Improved outcomes for individuals with residential care needs
- A reduction in the number of people who are referred to residential and nursing care homes outside Powys due to insufficient care home capacity within Powys
- Choice of accommodation options
- Improved quality
- Improved safety
- Improved transitions

- Improved co-ordination
- Integrated services
- Sustainable provision
- Improved effectiveness of public sector expenditure through improved care home commissioning, fee setting, market development and market sustainability

3.4.6 Pooled budgets will support and build on the excellent collaborative working practices already taking place, with partners retaining statutory responsibility for their functions carried out under all pooled funding arrangements. This closer collaboration, underpinned by a pooled budget will help ensure a seamless pathway between health and social care, to meet individual needs.

3.5 Scope

3.5.1 This Scheme is for adults of all ages from the 18th birthday and includes:

- Frail Elderly Residential Care
- Frail Elderly Residential Care Elderly Mentally Ill (EMI)
- Residential Learning Disability services (young people and working age adults from the 18th birthday)
- Residential Physically Disabled (young people and working age adults from the 18th birthday)
- Funded Nursing Care (adults from the 18th birthday which may include young people up to the age of 25, working age adults, and older people)
- Continuing Health Care in nursing homes (adults of all ages from the 18th birthday)
- Mental health CHC nursing homes (adults of all ages from the 18th birthday)
- Learning disabilities CHC nursing homes (adults of all ages from the 18th birthday)
- Short-term interim placements to facilitate transfers of care from hospital and choice of accommodation
- Intermediate care beds
- Residential respite (adults of all ages from the 18th birthday)

3.5.2 A decision will be made within the first-year review whether to include additional services such as residential educational facilities. The Scheme notes that there are already Schemes in place under the overarching Section 33 Agreement for “*Commissioning Personal Care and Facilities Management Services at Glan Irfon Integrated Health and Social Care Unit, Builth Wells*” and for the provision of Community Equipment Services.

It is proposed that the Scheme does not cover:

- nationally defined specialised services commissioned via the Welsh Health Specialised Services Committee (WHSSC), which is a Joint Committee of the seven health boards in Wales;
- any services provided in a *hospital; an independent clinic; a children’s home, or excepted by regulations*. (Schedule 1 of the Partnership Arrangements (Wales) Regulations 2015 excludes surgery, radiotherapy, termination of pregnancies, endoscopy, the use of Class 4 laser treatments and other invasive treatments and emergency ambulance services);

- alcohol and substance misuse services, which are covered by a separate Section 33 Agreement;
- prior to the first year review, young people in residential special colleges which are also registered as care homes.

3.6 The Scheme

3.6.1 There is an overarching Section 33 Agreement in Powys of which this Scheme will form part. The Scheme covers:

- The Lead (Host) Partner for the Scheme
- The Scheme Partnership Lead (and the seniority required)
- The Pooled Fund Manager and support arrangement for the Operational Group
- Aims and Objectives
- Principles and approach
- The scope
- The management of funds in 2018/19
- Benefits
- Service improvement objectives
- Supplementary arrangements not part of the pool
- Review arrangements
- A service schedule, access and referral
- Performance monitoring
- Personnel issues
- Confidentiality and information sharing
- Concerns
- Risk Management, escalation and dispute processes
- Resources
- Billing and payment arrangements
- Cost recovery
- Financial protocols
- Treatment of under/overspends
- Cross-subsidisation
- VAT regimes
- Insurance arrangements
- Pension/TUPE
- Hosting and administration costs
- Audit
- The role of the Operational Group
- Planning and reporting requirements

3.7 Assurances

3.7.1 The Agreement covers assurance arrangements including:

- Financial audit
- National and local metrics
- Clinical audit
- Complaints and feedback
- Staff feedback
- Commissioning assurance (quality, safety, timeliness, finance, activity, governance, and the experience of those using services)

3.8 Process for Developing the Scheme

- 3.8.1 During 2017/18 there have been a series of workshops to crystalize the approach in Powys. These are complex matters raising significant challenges for both organisations.
- 3.8.2 Some aspects of the Agreement are unlikely to be resolved by April 2018 and may require further guidance from Welsh Government (for example in relation to young people in special colleges which are also registered as care homes). It is important that long lasting arrangements are put in place and that arrangements for services for vulnerable people remain safe and with clear accountabilities at all times.

3.9 A Phased Approach

3.9.1 Phasing has been necessary due to the level of complexity:

Phase 1 2017/18

- Preparation of the initial Scheme for approval in March 2018.

Phase 2 2018/19

- Implementation of the initial Scheme
- Operational Group and Support Arrangements
- 2018/19 Service improvement objectives
- Mid-year review
- Recommendations and approval of adjustments needed for 2019/20

Phase 3 2019/20

- Adjusted Scheme implemented.

The actions completed in line with the Phase 1 high level plan is set out below.

1 st Mar 2017	Section 33 Residential Care Workshop 1
7 th Jul 2017	Section 33 Residential Care Workshop 2
11 th Dec 2017	Workshop 3 (cancelled due to snow but all papers distributed to participants that day for response prior to Workshop 4)
18 th Dec 2017	Workshop 4 – (participants asked to provide written comments by Friday 22 nd December)
Jan 2018	Informal Cabinet & Management Team Updated
6 th Feb 2018	Workshop 5
9 th Feb 2018	Final comments after third circulation of the draft agreement
12 th -16 th Feb 2018	Legal advice

The Section 33 will be required to be in place on the 1st April 2018.

3.10 Key areas for development and issues / risks

3.10.1 Some of the key risks and issues considered are set out below:

Governance

- Lead Partner

- Joint scrutiny
- Leadership and support arrangements for Phase 2 implementation
- Professional leadership
- Corporate reputation
- Regulation and Inspection of Social Care Act Wales 2016

Future Commissioning arrangements

- Capacity to develop the Scheme
- Approval route
- Risk mitigation
- Use of all-Wales frameworks within the Scheme
- Demand
- Service continuity

Financial considerations / management of areas such as:

- 2018/19 Financial Settlement for PCC & PTHB
- Financial recovery plans
- Under/overspends
- Rigid funding model
- National Living Wage
- Inflation
- Scheme of reservation and delegation
- Financial control and compliance with Standing Financial Instructions
- Cost recovery from individuals
- VAT Recovery

Regulation / Quality Assurance Frameworks

- Commissioning Assurance
- Concerns and Serious Incidents
- Communication and engagement
- Delayed Transfer of Care

3.11 Lead (Host) Partner Recommendation

3.11.1 The recommendation of the workshop of 18th December 2017 was that Powys County Council should take the role of Lead (Host) Agency. The key reasons were:

- The pooled fund may be about 35% of the adult social care budget
- Democratic accountability
- Residential care involves a larger number of people
- Organisational arrangements for the financial assessment of individuals, cost and debt recovery
- Income arrangements
- The Standing Financial Instructions (SFIs) of the host would apply, but aspects of PTHB's SFIs and Scheme of Delegation could be built into the Scheme
- VAT recharging arrangements (although this is not such a significant issue as initially indicated)
- The use of all-Wales frameworks would be protected within the Scheme

- Professional leadership arrangements would not be altered by the Scheme. Both organisations would ensure corporate commitment to ensuring the success of the Scheme.

3.11.2 The recommendation that the council should become the Lead (Host) Partner for the Scheme was discussed and supported by the March 12th ASC Scrutiny Working Group.

3.12 Phase 2 transitional year

3.12.1 The complexity of the range of services this involves has been recognised nationally and 2018/19 will be a transitional year. Funded Nursing Care, embedding the arrangements dating back to 2005 in Powys, will be pooled as will the support arrangements for the Operational Group. However, the main focus of this agreement is on partnership. This involves staff widely spread across both organisations. There are no plans to TUPE staff from one organisation to another.

3.12.2 The Operational Group, as set out in the Scheme, will cover all the services listed. It is important not to underplay the importance of integrated reporting and assurance processes spanning up to £33 million of services. There will be a mid-year review and work will be undertaken during 2018/19 to extend pooling arrangements for 2019/20

4 Other Options Considered

4.1 The Section 33 Agreement for Care Home Accommodation Functions has been developed through a comprehensive consultation and engagement process. The Council and PTHB already operate a number of other Section 33 Agreements, and area familiar and effective method of implementing a pooled budget in Powys.

5 Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc

5.1 The Regional Partnership Board will provide strategic oversight of the Section 33 Agreement for Care Home Accommodation Functions. It will ensure that critical links and responses are made to all relevant national and local strategies and policies which it may affect or enhance the work it has set out to do

6 Children and Young People's Impact Statement - Safeguarding and Wellbeing

6.1 The Section 33 Agreement for Care Home Accommodation Functions is for adults over the age of 18 only.

7 Local Member(s)

8 Other Front Line Services

9 Support Services (Legal, Finance, Corporate Property, HR, ICT, BPU)

9.1 HR - support will be provided to the Service in respect of any staffing considerations that may arise from the proposal outlined in this report.

9.2 ICT - The WCCIS application would support any joint approach under a s.33 agreement. Shared access to corporate systems e.g. finance, HR etc. is more problematic at the current time

9.3 Finance – The Finance Business Partner notes the content of the report, which is that the recommended Lead (Host) Partner for the Scheme is Powys County Council. There will be a phased approach to the implementation and in 2018/19 only the current arrangement of Funded Nursing Care will be pooled. The delivery of the Section 33 Care Home services as referenced in 3.5.1, must be provided within the financial budget envelope currently available to Adult Social Care.

The Section 33 agreement clearly defines the requirements in terms of financial governance, including the contributions from each body, monitoring arrangements, risk share and cash flow requirements. It is critical that this is in place and reviewed regularly, particularly in light of the significant investment from the Council, with approximately 35% of the Adult Social Care budget.

9.4 Legal – The recommendation can be supported from a legal point of view.

10 Local Service Board/Partnerships/Stakeholders etc

11 Corporate Communications

12 Statutory Officers

12.1 The Solicitor to the Council (Monitoring Officer) has commented as follows: “I note the legal comment and have nothing to add to the report”.

12.2 The Head of Financial Services (Acting Section 151 Officer) notes the contents of the Finance Business Partner. The Section 33 agreement defines the appropriate financial governance for this partnership and this is essential to limit the financial risk to the Council, as Lead partner.

13 Members’ Interests

13.1 The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reason for Recommendation:
That the Cabinet approve the Section 33 Agreement for Care Home Accommodation Functions attached at Appendix 1 of the report for implementation by the 1st April 2018.	<ul style="list-style-type: none">To meet the statutory requirements outlined in Part 9 of the Social Services and Well-being Act.

	<ul style="list-style-type: none"> To support the partnership approach to commissioning health and social services in Powys
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Relevant Policy (ies):			
Within Policy:	N/A	Within Budget:	Yes

Relevant Local Member(s):	N/A
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Person(s) To Implement Decision:	Dylan Owen
Date By When Decision To Be Implemented:	1 st April 2018

Contact Officer Name:	Tel:	Fax:	Email:
Dylan Owen	01597 826603		dylan.owen@powys.gov.uk



SECTION 33 AGREEMENT BETWEEN POWYS COUNTY COUNCIL AND POWYS TEACHING HEALTH BOARD FOR THE POOLED FUND FOR CARE HOME ACCOMMODATION FUNCTIONS

INTRODUCTION

Part 9 of the Social Services and Well-being (Wales) Act 2014 provides Welsh Ministers with powers to require partnership arrangements between local authorities and local health boards for the purposes of the discharge of their functions.

The Partnership Arrangements (Wales) Regulations 2015 includes specific requirements for “partnership bodies for each of the partnership arrangements to establish and maintain pooled funds” including in relation to “*the exercise of their care home accommodation functions*”.

LEAD (HOST) PARTNER FOR THE SCHEME: Powys County Council.

The lead partner will: be “organisationally ready” from 1st April 2018 to discharge the functions of the host partner; will provide sufficient and stable corporate support to host the scheme; and will have the mechanisms for cost recovery and VAT recovery. Powys Teaching Health Board is the partner.

SCHEME PARTNERSHIP LEAD

The Scheme Partnership Lead will: have sufficient seniority and appropriate authority within the corporate scheme of delegation; lead and chair the Operational Group; represent the partners in relevant all Wales meetings; have a strong track record in service transformation, risk management, and performance management; have a deep understanding of the legal and policy framework and the needs of people in residential care including mental health, learning disability, young adults, disabled people and older people.

POOLED FUNDS FUND MANAGER

This person will be an officer appointed by the host partner with accountability for the role set out in the partnership agreement to the chair of the Operational Group (The Partnership Lead).

The Pooled Fund Manager will have a strong track record in managing large and complex budgets; managing complex programmes and services; risk management; performance management; and extensive experience in relation to the residential care services.

Funds will be pooled or delegated in line with Table 1.3.4.

This Scheme supersedes the Funded Nursing Care agreement between PTHB and PCC known as “Partnership Agreement for Pooling Budgets for the Lead Commissioning of Individual Packages of Health and Social Care” (which covers individuals jointly assessed by health and social care assessors as requiring social care and nursing care).

It is noted that there are separate agreements in place for “Commissioning Personal Care and Facilities Management Services at Glan Irfon Integrated Health and Social Care Unit, Builth Wells” and for the provision of Community Equipment Services.

This Scheme has been developed under the overarching agreement signed by Powys County Council (PCC) and Powys Teaching Health Board (PTHB). It comes into effect on 1st April 2018. There will be a revision of Schedules for annual agreement, within a phased approach to implementation.

This Section 33 arrangement will be evaluated each year to ensure that it is meeting the agreed aims and objectives. In the first year of operation (1st April 2018 to 31st March 2019) there will also be a mid year review.

Signed by Chief Executive
Powys County Council

Dated.....

Signed by Chief Executive Officer
Name:
Powys Teaching Health Board

Dated.....

SECTION 1: AIMS AND OBJECTIVES OF THE AGREEMENT

1.1 Introduction, Description and Purpose of Agreement

- 1.1.1 PTHB and PCC are committed to working together in partnership to improve the lives of Powys residents, so that people can start well, live well and age well – living as independently as possible for as long as possible.
- 1.1.2 PTHB and PCC are seeking to transform the whole system by focussing on wellbeing, prevention, early help and support, joined up care and developing alternatives to residential care for people's home life.
- 1.1.3 The purpose of this Section 33 Scheme is to assist PTHB and PCC to work in partnership to develop alternatives to residential care and to improve outcomes for all adults with residential care needs.
- 1.1.4 The Scheme establishes a Pooled Fund and non-delegated lead funds under Section 33 of the National Health Service Act 2006.
- 1.1.5 Part 9 of the Social Services and Well-being (Wales) Act provides Welsh Ministers with powers to require partnership arrangements between local authorities and local health boards for the purposes of the discharge of their functions.
- 1.1.6 The Partnership Arrangements (Wales) Regulations 2015 includes specific requirements for "partnership bodies for each of the partnership arrangements to establish and maintain pooled funds" including in relation to *"the exercise of their care home accommodation functions"*.
- 1.1.7 Care home accommodation functions are defined as *"the functions of a local authority under section 35 and 36 of the Act, where it has been decided to meet adult's needs by providing or arranging to provide accommodation in a care home."*
- 1.1.8 This Scheme applies to relevant adults of all ages from their eighteenth birthday.

1.2 Principles and Approach to Delivery of the Agreement

- 1.2.1 The Scheme will be compatible with the guiding principles, values and behaviours of the PTHB and PCC including those set out in the Social Services and Wellbeing Act (Wales) 2014, and the Future Generations Act 2015. This can be summarised as:

The principles enshrined in the Future Generation's Act:

- Integrated
- Involving people
- Preventative

- Collaborative
- Long-term

Integration – working together to improve Powys residents' health and wellbeing.

Voice and control – putting residents and their needs, at the centre of their care, and giving them a voice in, and control over reaching the outcomes that help them achieve well-being.

Prevention and early intervention – increasing preventative services within the community to minimise the escalation of critical need.

Wellbeing – supporting people to achieve their own well-being and measuring the success of care and support.

Co-production and collaboration – encouraging individuals to become more involved in the design and delivery of services.

Sustainability – balancing short-term needs with the needs to safeguard the ability to also meet long-term needs.

WG's "Prudent" principles for healthcare:

- Public and professionals are equal partners
- Care for those with greatest need first
- Do only what is needed and do no harm
- Reduce inappropriate variation through evidenced based approaches

The Principles of the Powys Health and Care Strategy:

- Do what matters
- Do what works
- Focus on greatest need
- Offer fair access
- Be prudent
- Work with people and communities

The Nolan principles of public life:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

The values and behaviours framework of PTHB:

- Working together
- Trust
- Kindness and caring
- Respect
- Fairness and equality
- Integrity

The values framework of PCC:

- Professional
- Positive
- Progressive
- Open
- Collaborative

The Scheme must promote equality for all including those with protected characteristics of:

- Age
- Belief and Non Belief
- Disability
- Gender Reassignment
- Marriage and Civil Partnerships
- Pregnancy and Maternity
- Race
- Sex (gender)
- Sexual Orientation

It must ensure:

- Person centred services;
- Equitable services for people of comparable health needs within Powys;
- Good governance - compliant with essential legal, quality and safety requirements regardless of setting (including for mental health, carers and the Welsh Language);
- Parity is given to physical health and mental health;
- A balanced approach to improving health and wellbeing and improving services;
- Those at risk are safeguarded;
- The resources available are used wisely to meet the needs of local people;
- Fair and transparent eligibility criteria and access to services / support;
- People can live as independently as possible, using the least restrictive and distant options wherever possible;
- A Powys patient's pathway must be safe, effective, efficient, timely and well-co-ordinated at all times;

- Provision will be understood within a whole-pathway approach.
- Use of the evidence base.

1.3. Details of the Service Provider and Services

1.3.1 Care home has the same meaning as under the Care Standards Act 2000. Care Home accommodation means (a) *“the functions of a local authority under section 35 and 36 of the Act, where it has been decided to meet adult’s needs by providing or arranging to provide accommodation in a care home”* (b) *“the functions of a Local Health Board are defined under Section 3 of the NHS Wales Act 2006 in relation to an adult in cases where i) the adult has a primary need for health care and it has been decided to meet the needs of the adult in a care home or ii) the adult does not have a primary need for health care but the adults needs can only be met by the local authority arranging for provision of accommodation together with nursing care”*.

1.3.1.1 (i) is known as “Continuing Health Care” and ii) is known as Funded Nursing Care.

1.3.2 Residential and Nursing Care homes are defined within The Registered Homes Act 1984, as amended by the Care Homes (Wales) Regulations 2002. It should be noted that categories of registration are due to change with the implementation of The Regulation and Inspection of Social Care (Wales) Act (2016).

1.3.3 The services covered by this Scheme include all aspects of adult residential care irrespective of whether services are commissioned or procured through direct payments:

- Frail Elderly Residential Care
- Frail Elderly Residential Care Elderly Mentally Ill (EMI)
- Residential Learning Disability services (young people and working age adults from the 18th birthday)
- Residential Physically Disabled (young people and working age adults from the 18th birthday)
- Funded Nursing Care (adults from the 18th birthday which may include young people up to the age of 25, working age adults, and older people)
- Continuing Health Care in nursing homes (adults of all ages from the 18th birthday)
- Mental health CHC nursing homes (adults of all ages from the 18th birthday)
- Learning disabilities CHC nursing homes (adults of all ages from the 18th birthday)
- Short-term interim placements to facilitate transfers of care from hospital and choice of accommodation
- Intermediate care beds
- Residential respite (adults of all ages from the 18th birthday)
- A decision will be made within the first year review whether to

include additional services such as residential educational facilities.

Continuing Health Care is not defined by a medical diagnosis but is based on the assessed needs of the individual. The “primary health” need is assessed by considering four key areas:

- Nature – the needs (e.g. physical, mental or psychological); the effects of the needs; and the type of help required to managed the needs;
- Intensity –one or more needs which may be so severe as to require on going care
- Complexity – this describes how symptoms interact, making them difficult to manage or control, requiring increased skill to monitor the symptoms, treat the condition and/or manage care
- Unpredictability – how needs fluctuate and how difficult those needs are to manage. It also describes the level of risk to a person’s health if the right care isn’t provided quickly.

1.3.4 The Scheme covers expenditure of just under £31m. In the first year the key components of the scheme will be managed as set out in the table below. In the transitional year of 2018/19 all the funds below will be subject to the work of the Operational Group, however, only Funded Nursing Care together with the Operational Group support arrangements will be pooled. The Operational Group will undertake further work during 2018/19 to extend the pooling arrangements from 2019/20 forwards.

Funding Stream	Client Group	Fund Status	Fund Manager	Value 18/19
Adults assessed as needing social care services	Older People	Managed by PCC	Senior Manager Older Peoples Services	£14m
	People with Learning Disabilities	Managed by PCC	Senior Manager Mental Health & Disabilities	£4.9m
	People with mental health needs	Managed by PCC	Senior Manager Mental Health & Disabilities	£0.9m
	Physically disabled people	Managed by PCC	Senior Manager Mental Health & Disabilities	£0.7m
Adults assessed as needing social care and Funded Nursing Care (FNC)	Adults aged from the 18 th birthday to end of life.	Pooled	Pooled Fund Manager	PTHB Funded Nursing Care £2.2 m

Adults assessed as needing residential continuing health care	Adults (18+) North Powys	Managed by PTHB	Locality General Manager (North Powys)	North £0.724m
	Adults (18+) Mid Powys	Managed by PTHB	Locality General Manager (South Powys)	Mid £0.396m
	Adults (18+) South Powys	Managed by PTHB	Locality General Manager (South Powys)	South £1.371m
	People with mental health and/or dementia (18+)	Managed by PTHB	Assistant Director Mental Health and Learning Disabilities PTHB	£5.275m
	People with learning disabilities (18+)	Managed by PTHB	Assistant Director Mental Health and Learning Disabilities PTHB	£0.288m
Operational Group Support Arrangements	Scheme Partnership Lead, Pooled Fund Manager and administrative Support for the Operational Group	Pooled	Scheme Partnership Lead	Intermediate Care Fund

1.3.5 The Funded Nursing Care rate is approved at health board level within a national context for NHS Wales. In 2017/18 it was £149.67 per week

1.3.6 This Scheme excludes:

1.3.6.1 Nationally defined specialised services commissioned via the Welsh Health Specialised Services Committee (WHSSC), which is a Joint Committee of the seven health boards in Wales including:

- High and medium secure forensic services
- Specialised adult eating disorder services
- Specialised perinatal services
- Specialised spinal injury rehabilitation
- Specialised neuro-rehabilitation

(Further information can be found on the WHSSC website)

<http://www.whssc.wales.nhs.uk/policies-and-procedures-1>

- 1.3.6.2 Any services provided in a *hospital; an independent clinic; a children's home, or excepted by regulations.* (Schedule 1 of the Partnership Arrangements (Wales) Regulations 2015 excludes surgery, radiotherapy, termination of pregnancies, endoscopy, the use of Class 4 laser treatments and other invasive treatments and emergency ambulance services.)
- 1.3.7 Alcohol and substance misuse services are covered by a separate Section 33 Agreement.
- 1.3.8 The Scheme will not include during 2018/19 young people in residential special colleges which are also registered as care homes.

1.4. Key Aims and Objectives of the Agreement

- 1.4.1 This Scheme establishes a pooled fund in relation to care home accommodation functions between Powys County Council and Powys Teaching Health Board as required by duties under Part 9 of the Social Services and Wellbeing Act 2014, which come into force on 6 April 2018.
- 1.4.2 The benefits of the Scheme will be:
- Improved outcomes for individuals with residential care needs
 - A reduction in the number of people who are referred to residential and nursing care homes outside of Powys due to insufficient care home capacity within Powys.
 - Choice of accommodation options
 - Improved quality
 - Improved safety
 - Improved transitions
 - Improved co-ordination
 - Integrated services
 - Sustainable provision
 - Improved effectiveness of public sector expenditure through improved care home commissioning, fee setting, market development, and market sustainability.
- 1.4.3 Whilst the Scheme applies only to those above their 18th birthday, the Scheme will ensure appropriate working with children's services to ensure a smooth transition into adult services, especially for vulnerable children placed away from home before their 18th birthday.

1.5. Service Improvement Objectives

1.5.1 The Scheme will ensure that PCC and PTHB are able to meet their statutory requirements within the Social Services and Wellbeing Act (Part 9 Section 62) to:

- Undertake a population assessment
- Undertake market analysis to include the needs of self-funders
- Agree an integrated Market Position Statement and commissioning strategy
- Agree common contract and specification
- Develop an integrated approach to agreeing fees with providers
- Develop an integrated approach to quality assurance
- And the transparent use of budgets/pooled resources

1.5.1.1 Part 9 confirms that such arrangements can be introduced prior to 6th April 2018.)

1.5.2 In delivering the above requirements, in the first year of operation, the Scheme will ensure the development of:

- A shared Commissioning Assurance Framework for residential care. This is a process to identify and escalate emerging patterns of poor performance and risk across residential care services covering five domains of quality and safety; access; finance and activity; user experience; governance and strategic change
- Integrated performance management, including measurement and minimum datasets
- Joint service specifications
- Joint market position statement
- Joint commissioning strategies, and future investment priorities / proposals
- Shared approaches to engaging and listening to the views of people using services, their families and carers to ensure they influence service development and reviews
- Improved transition planning and the movement to “strengths led” as opposed to “age-defined” approaches
- A shared understanding of the totality of expenditure on residential care across health and social care in the context of the whole pathway of care
- A shared understanding of the pressures, gaps and potential solutions across residential provision
- A shared understanding of the core services which can be developed to prevent the need for residential care
- Publication of an annual report with recommendations, including for the next phase of integration and pooling
- Joint audit and evaluation arrangements
- A mid-year review.

1.6 Supplementary arrangements not part of the pool

1.6.1 The Operational Group (see Section 5) will be informed by trends and expenditure in relation to delayed transfers of patients in hospital awaiting residential care.

1.7. Service Standards

1.7.1 Service standards are set out in specific service specifications and agreements including

- Service Specification for Residential and Nursing Care Home Provision for Older People in Powys
- Service specification for the provision of respite support to people with learning disabilities
- The PTHB Statement of Aims and Individual Service Specification for Continuing NHS Healthcare
- Relevant all Wales Frameworks such as for Mental Health and Learning Disabilities

1.8. Review Arrangements

1.8.1 There will be an annual review of this Scheme which will be incorporated in an annual report to the Joint Partnership Board for approval. In the first year of operation there will also be a mid year review. The Regional Partnership Board will provide oversight and assurance in relation to the annual review. The Terms of Reference of the Joint Partnership Board and the Regional Partnership Board are attached as Annex 1 and 2.

1.8.1.1 Under The Partnership Arrangements (Wales) Regulations 2015 PCC and PTHB are required to establish an Regional Partnership Board to manage and develop services to secure strategic planning and partnership working between the local authority and Local Health Board and to ensure effective services, care and support are in place to best meet the needs of their respective population. The Regional Partnership Board plays a vital role in the oversight and governance of partnership arrangements.

1.9. Post-termination

1.9.1 There is a statutory requirement for the Pooled Fund to be in place. The disputes procedure is set out in Section 4. Any issues in relation to this Agreement will not affect any other Agreement in operation, commissioned under the overarching Section 33 Agreement between PCC and PTHB.

SECTION 2: SERVICE SCHEDULE: SERVICE USERS, LOCATION AND ACCESS

2.1. Definition and Description of Service

2.1.1 The Care Standards Act 2000, and the Social Services and Wellbeing Act (Wales) 2014 Act define a care home as:

An establishment that provides accommodation, together with nursing or personal care, for any of the following persons.

- (a) persons who are or have been ill;*
- (b) persons who have or have had a mental disorder;*
- (c) persons who are disabled or infirm;*
- (d) persons who are or have been dependent on alcohol or drugs.*

An establishment is not a care home if it is

- (a) A hospital;*
 - (b) An independent clinic; or*
 - (c) A children's home,*
- or if it is excepted by regulations.*

Residential Care	<p>Care homes offer accommodation and personal care for people who may not be able to live independently. Some homes also offer care from qualified nurses or specialise in caring for particular groups such as younger adults with learning disabilities, or people with dementia.</p> <p>Care home places can be funded publicly but many people pay for their own care</p> <p>Residential care home</p> <ul style="list-style-type: none"> • Range in size from very small homes with few beds to large-scale facilities. • Offer care and support throughout the day and night. • Staff help with washing, dressing, at meal times and with using the toilet <p>Residential care homes are regulated services. In Wales the</p>
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	<p>Statutory regulator is Care Inspectorate Wales.</p> <p>Nursing homes</p> <p>This type of home will normally offer the same type of care as residential ones but with the addition of:</p> <ul style="list-style-type: none"> • 24-hour care from a qualified nurse. <p>Nursing Care homes are regulated services. In Wales the Statutory regulator is Care Inspectorate Wales.</p> <p>EMI (Elderly Mentally Infirm) care homes</p> <p>Specialist elderly mentally infirm (EMI) homes care for people with dementia who are no longer able to be looked after at home. EMI beds are also available in residential care and nursing home settings.</p>
<p>Funded Nursing Care</p>	<p>Pooled budget for individuals with nursing and social care need where joint packages of care are required, and are stipulated in agreed individual care plans.</p> <p>(These are funds provided to people in nursing homes derived from Section 49 of the Health and Social Care Act 2001 which excluded nursing care by a registered nurse being services which could be provided by local authorities.)</p>
<p>Continuing Health Care</p>	<p>This Scheme includes CHC provided in residential settings (CHC can be provided in non residential settings. CHC covers individuals whose primary need has been assessed as health based.</p>

2.1.2 There are separate agreements in place for “*Commissioning Personal Care and Facilities Management Services at Glan Irfon Integrated Health and Social Care Unit, Builth Wells*”, and for the provision of Community Equipment Services that supply a range of equipment to residential and nursing care homes.

2.2 Service Requirements

2.2.1 There will be compliance with statutory and Welsh Government requirements. The service standards to be achieved are summarised in the relevant service agreements including:

- i) The PCC specification for residential care
- ii) Service specification for the provision of respite support to people with learning disabilities
- iii) The PTHB Statement of Aims and Individual Service Specification for Continuing NHS Healthcare
- iv) All Wales Framework Agreements including Mental Health, Learning Disabilities, and residential care for Working Age Adults.

2.3 Location of Service

2.3.1 The Scheme applies to Powys residents. Services will be provided within Powys wherever possible, however placements may be out of county. This includes patients subject to Section 117 of the Mental Health Act 1983 in care homes.

2.3.2 For adults living in a county bordering Powys, but who are registered with a GP in Wales (and vice versa), the “*Protocol for Cross-Border Healthcare Services*” 2013, as agreed and up-dated by NHS Wales and NHS England, will apply in determining the responsible NHS commissioner, together with other Government legal and policy requirements.

2.3.3 Where National Framework agreements are in place these should be used, for example for Mental Health rehabilitation and low secure settings; for those with learning disability; and for working age adults in residential care.

2.3.4 The Scheme includes the use of residential care homes/estates owned or leased by Powys County Council and the Powys Teaching Health Board, alongside care placements commissioned by either organisation.

2.4 Eligibility Criteria for Access to Service

2.4.1 Services are for relevant adults aged above their 18th Birthday. Access to services will be compliant with statutory, Welsh Government requirements and published eligibility criteria.

2.5. Referral and Access Arrangements

- 2.5.1 Services will be based upon holistic individual needs assessment, care planning and review, in line with statutory requirements.

2.6. Information Service Provider is to maintain and provide to the Lead Organisation

- 2.6.1 This is subject to specific service level agreements and specifications for residential care, funded nursing care and continuing health care.

2.7 Performance Monitoring Arrangements

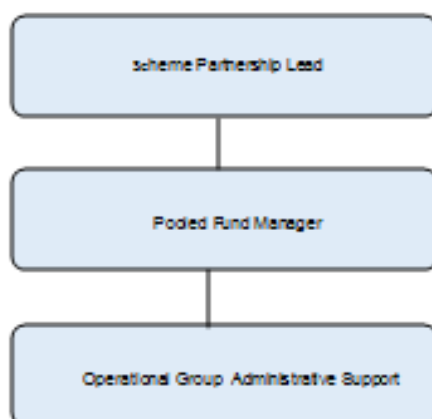
- 2.7.1 The Operational Group will ensure that a joint commissioning assurance framework is in place which will enable routine monitoring and the escalation of indicators of increasing risk or poor performance. Please see Section 5.
- 2.7.2 The Operational Group will ensure that a comprehensive Integrated Performance Report is in place. This must satisfy both national, agency and joint requirements for reporting in terms of content and timing. It must include finance, activity and efficiency; access; quality and safety; and user experience. The Operational Group will also monitor delayed transfer of care within a “whole system” approach. (Please see Section 5 for further detail)

SECTION 3: PERSONNEL, MANAGEMENT AND STRUCTURE

3.1. Number of Staff Involved in the Provision of Services under the Agreement

3.1.1 In 2018/19 the only personnel included within the Scheme will be the Pooled Fund Manager and administrative support for the Operational Group. It will not include those managing delegated funds or associated staff.

3.2. Details of Staff and Management Structure



3.3. Job Evaluation Process Followed and Outcomes

3.3.1 Each employing partner will be responsible for reviewing grades under their own job evaluation schemes. These will be managed and reviewed by the employing partner with no responsibility being shared by a host partner.

3.4. Recruitment / Retention / Redeployment Management Arrangements (*set out secondment arrangements and reference the Secondment agreement if applicable*)

3.4.1 Existing vacancies that arise during the defined term of any local partnership agreement will be recruited to following the respective recruitment policies of the employing partner. If this triggers the respective partner's redeployment process, then this procedure will need to be complied with in the first instance.

3.4.2 Changes in the roles and skill mix of staff and increases/or decreases in staff numbers shall be agreed by partners acting through the Joint Partnership Board and in consultation with the partners professional leads. The respective partners will follow their management of change policy and procedures in these circumstances.

3.4.3 Any new positions created to support the ongoing development and operation of the Pooled Budget will need to be agreed as to who will be the employing organisation. The arrangements for the management of funds during 2018/19 are set out in table 1.3.4.

3.4.4 Each employing organisation will be responsible for its own workforce planning procedures in line with the Management /Organisational Change, redundancy and associated policies.

3.5. Overview of Consultations with Recognised Trade Unions

3.5.1 Consideration and agreement needs to be given to consultation processes in line with recognised trade unions and partnership agreements and arrangements.

3.5.2 The respective partners will be required to follow their own policies and procedures with regard to Management of Change and/or Organisational Change processes.

3.5.3 PTHB recognises the following professional organisations and trade unions:

- British Medical Association (BMA)
- Royal College of Nursing (RCN)
- Royal College of Midwives (RCM)
- UNISON
- GMB
- UCATT
- British Orthoptic Society
- Society of Radiographers
- British Dental Association
- Society of Chiropodists and Podiatrists
- Federation of Clinical Scientists
- Chartered Society of Physiotherapy (CSP)
- British Dietetic Association
- British Association of Occupational Therapists (BAOT)

3.5.4 Powys County Council has an informal Joint Consultative Committee and formal Joint Committee for Negotiation and Consultation and recognises the following Trade Unions:

- UNISON
- GMB
- UNITE

3.6. DBS (Disclosure and Barring Service) Checks

3.6.1 Adherence to the PTHB and PCC DBS policies and procedures are essential.

3.6.2 The employing organisation will ensure compliance with their respective DBS process.

3.6.3 Further checks may be applicable for some positions and the respective organisation's policies and procedures will apply.

3.7. Training and Professional Development

- 3.7.1 All staff included within the Agreement will be provided with the necessary training and development commensurate with their role. Training programmes will be jointly developed and linked to professional training requirements where they affect the development or operation of the pooled budget. Overall responsibility for training will rest with the employing organisation.
- 3.7.2 Staff performance systems within partnerships need to relate to the outcomes of the partnership and not just to the individual organisation's needs.
- 3.7.3 Internal training and development opportunities can be accessed by either partner, dependent on competency requirements.

3.8. Payment and Expenses

- 3.8.1 The focus of this Scheme is partnership working. There are no plans to second staff from one partner to another organisation. Should a proposal to second any member of staff be made any seconded staff will continue to receive payment via their seconding organisation in line with contractual arrangements. The seconding organisation will continue to pay the seconded staff's wages and all connected costs (in particular income tax and national insurance contributions).
- 3.8.2 If a seconded member of staff is absent for any substantial period, for instance, maternity or sick absence, the seconding organisation will determine whether this is back-filled.
- 3.8.3 Any expenses incurred by seconded staff must be claimed through the employing organisation and paid in the normal manner. Expenses will be claimed and paid in accordance with the employing organisation's policies and procedures.

3.9. TUPE (Transfer of Undertakings Legislation)

- 3.9.1 The focus of this Scheme is partnership working involving wide numbers of staff across PCC and PTHB who are increasingly working within integrated teams in line with the Health and Care Strategy. There are no plans to permanently transfer a service from one partner to another organisation.
- 3.9.2 Should a proposal to permanently transfer a service from one partner organisation to another be made, consideration of transferring the employment of employees employed by the relevant services to the partner organisation should be considered. Any transfer of employment will need to be consulted upon and managed under the Transfer of Undertakings (Protection of Employment) regulations 2014, including the Code of Practice on Workforce Matters 2014.

3.9.3 Where partners have TUPE Policies or Procedures in place, those policies and/or procedures should be followed in respect of any transfer.

3.10. Data Protection and Freedom of Information Requirements

3.10.1 An information sharing agreement will be in place.

3.10.2 Sharing of personal information will be in accordance with WASPI (Welsh Accord Sharing Personal Information) and all applicable laws, regulations and regulatory rules which govern the processing of personal data including (i) the Data Protection Act 1998 (as amended) (DPA), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended) and any subsequent legislation enacted and duly in force from time to time including, from 25 May 2018, Regulation (EU) 2016/679 the General Data Protection Regulation (GDPR); and (ii) all Guidance and / or codes of practice issued from time to time by the Information Commissioner or relevant Government department, and any relevant rulings from time to time of the Information Commissioner or of the Courts of England and Wales relating to the processing of personal data.

3.10.3 Information sharing protocol and procedures will be in place.

3.10.4 A fair processing notice will need to be developed to ensure employees are aware of the purpose for processing their data in accordance with Principle 1 of the Data Protection Act 1998 (DPA) and employee consent will need to be obtained.

3.10.5 There will be sufficient information to meet scrutiny and assurance requirements.

3.11. Confidentiality Requirements

3.11.1 In addition to the provisions regarding confidentiality in the Employee's Contract of Employment, the Employee will not disclose during or after their employment any confidential information to which the Employee became privy during the course of their employment, including but not limited to all trade secrets, lists or details of customers, suppliers, patients and service users, information relating to the working of any process or invention carried on or used by any subsidiary or associate, research projects, tenders and any proprietary Powys Teaching Health Board, Powys County Council or Joint Partnership Board information.

3.12. Health and Safety Requirements

3.12.1 Staff working from partner organisations premises will be made aware (or trained where applicable) with regards to observing health and safety policies and procedures of their host organisation to ensure a safe method of working.

3.12.2 The Employee is required under Section 7 of the Health and Safety at Work Act 1974, to take reasonable care for his/her own Health and Safety and that of others who may be affected by his/her acts or omissions at work.

3.13. Disputes and Escalation Procedures

3.13.1 There is a statutory requirement for a pooled fund to be in place. If a dispute arises between the partners on any matter, the disputes process in Section 4 will be followed.

3.13.2 Chief Executives will also be informed without delay of serious incidents which must be reported to Welsh Government or catastrophic or major risks and the mitigating actions being taken to manage the risk, in line with the PTHB and PCC approved policies.

3.14 Concerns procedures

3.14.1 Complaints regarding the Service shall in the first instance be directed to the provider and if not will be managed according to The National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 or the Council's Complaints Procedure as appropriate. Procedures will take account of Welsh Government guidance to the NHS "Putting Things Right" and also of compliments.

3.14.2 The Council will ensure that all Services commissioned and arrangements for complaints are in accordance with its policy and that of the Council for Equal Opportunities and all or any policies and procedures approved by PTHB as available through its web site under the Freedom of Information Act 2000.

3.14.3 Providers will have in place procedures for reporting trends in relation to critical incidents.

3.14.4 Procedures will be in place to ensure reporting of serious untoward incidents by the appropriate statutory agency in line with Welsh Government requirements.

SECTION 4: RESOURCES

4.1. Financial Governance and Financial Management Arrangements

- 4.1.1 This Schedule provides details of the budgets, goods and services to be made available by Powys County Council and Powys Teaching Health Board (“the Partners”) and also outlines the principles governing budget setting, management and accounting for the use of resources.
- 4.1.2 The Joint Partnership Board will agree each year financial procedures and arrangements for the operation of this agreement for the financial year. This will act as a Revised Annual Finance Agreement which sets out the budget.
- 4.1.3 The Lead (Host) Partner (Powys County Council) Pooled Funds Manager will provide bimonthly reports to the Joint Partnership Board including monthly financial performance against agreed funding. Annual statements of spend and performance will also be provided in line with any statutory timescales required by either Powys County Council or Powys Teaching Health Board. (Please also see Section 4.8.)
- 4.1.4 The Lead (Host) Partner will produce and keep updated the financial governance arrangements and scheme of delegation in respect of the provision of services within this agreement and operation of the Pooled Fund.
- 4.1.5 For the avoidance of doubt, termination of this Scheme shall not affect any other Scheme then in operation, commissioned by the Section 33 Agreement.
- 4.1.6 Where a fund is managed by a PTHB Manager (as set out in clause 1.3.4 of Section 1) the Standing Financial Instructions of PTHB will apply. With regard to Continuing Health Care and Funded Nursing Care the following Scheme of Delegation will apply.

PTHB Scheme of Delegation

Agreements for the purchase of services	Authority delegated to
Individual Continuing Healthcare Placements/Packages Authorisation of individual placements/packages following recommendation from the CHC panel: i. Annual value up to £30,000 ii. Annual value between £30,000 and £50,000	i Chair of CHC Panel ii. Director of Nursing and Director of Finance
NHS Funded Nursing Care (FNC) i. Authorisation of individual placements/packages following recommendation from a Nurse Assessor ii. Agreement of changes to annual standard rates	i. FNC Co-ordinator ii. Director of Nursing and Director of Finance and IT

4.1.7 Where a fund is managed by a PCC Manager (as set out in clause 1.3.4 of Section 1) the Standing Financial Instructions of Powys County Council will apply

4.1.8 Each agency will confirm its financial commitment to the Scheme for the financial year ahead on an annual basis including any plans to manage growth and efficiency savings.

4.2. Pooled Fund Sources of Funding

4.2.1 Section 33 of the National Health Service (Wales) Act 2006 enables Local Authorities and Local Health Boards to develop formal partnerships and to delegate functions from one body to the other, including arrangements for pooled funds. The Partnership Arrangements (Wales) Regulations 2015 set out the statutory requirements to establish and maintain pooled funds in relation to the exercise of their care home accommodation functions. The management of funds in 2018/19 is set out in clause 1.3.4 of Section 1. The sources of the funds are set out in the table below.

PCC Residential Care
PTHB Funded Nursing Care
PTHB Continuing Health Care (Adult residential)
Intermediate Care Fund

4.3 Non Pooled Lead Funds

4.3.1 Non Pooled Lead Funds are resources in place in each organisation on which the operation of the Scheme is dependent, but which are not pooled. Non pooled Lead funds will be managed in accordance with each organisation's structures and systems.

4.4. Budget Breakdown

4.4.1 The budget breakdown is as set out in clause 1.3.4

Funding Stream	Client Group	Fund Status	Value 18/19
Adults assessed as needing social care services.	Older People	Managed by PCC	£14m
	People with Learning Disabilities	Managed by PCC	£4.9m
	People with mental health needs	Managed by PCC	0.9m
	Physically disabled people	Managed by PCC	£0.7m

Adults assessed as needing social care and Full Nursing Care (FNC)	Adults aged from the 18 th birthday to end of life.	Pooled	PTHB Funded Nursing Care £2.2m
Adults assessed as needing residential continuing health care	Adults (18+) North Powys	Managed by PTHB	North £0.724m
	Adults (18+) Mid Powys	Managed by PTHB	Mid £0.396m
	Adults (18+) South Powys	Managed by PTHB	South £1.371m
	People with mental health and/or dementia (18+)	Managed by PTHB	£5.275m
	People with learning disabilities (18+)	Managed by PTHB	£0.288m
Operational Group Support Arrangements	Scheme Partnership Lead, Pooled Fund Manager and administrative support for the Operational Group	Pooled	Intermediate Care Fund

4.4.2 All stock/assets purchased by partners will be owned by the purchasing partner and recorded on that partner's Balance sheet. This includes stock and assets purchased with the other respective partner's contribution.

4.5. Management of Lead funds

4.5.1 Powys County Council will be the Host for the pooled budget for the financial year 2018/19 as set out in Clause 1.3.4 in Section 1.

4.5.2 The Joint Partnership Board will delegate decision making on the approved delegated budget to the Lead Fund Managers.

4.5.3 The Lead Fund Managers are set out in table 1.3.4

4.6. Hosting and Administration of the Pooled Fund

4.6.1 The Pooled Fund Manager shall ensure that the Pooled fund is maintained to national and professional standards and the payment of suppliers' invoices complies with the payment terms, ensuring that no late payment charges are incurred by the Partners.

4.6.2 The Pooled Fund Manager shall be responsible for ensuring that appropriate financial systems are operational and in place for the Pooled Fund in order to provide the necessary control and production of financial information.

4.6.3 The Pooled Fund Manager shall ensure that all financial and other information required by the Partners in relation to compiling performance statistics, statutory and other returns is made available by any agreed deadlines.

4.6.4 The Pooled Fund Manager shall ensure that all financial and other information required to measure performance against the service, as set out is made available by agreed deadlines.

4.6.5 The costs of supporting the Operational Group will be borne by the pool.

4.7. Invoicing Arrangements

4.7.1 The arrangements for invoicing in relation to “Funded Nursing Care” are set out in Annex 3

4.7.2 In this structure the VAT regime of the host partner will determine the VAT recovery for the funds which are pooled. As the Council is the lead partner, VAT incurred in the purchase of goods and services required to deliver the programme can be recovered under Section 33 of the Value Added Tax Act 1994, where the supply has incurred tax and relates to its non business activities for VAT purposes.

4.8. Financial Risks

4.8.1 The Lead (Host) Partner (Powys County Council) Pooled Funds Manager will provide bimonthly reports to the Operational Group for submission to the Joint Partnership Board including monthly financial performance against agreed funding. (Please see Section 5.) The report will include a variance analysis for the period and expected forecast outturn and, where required, an explanatory note setting out actions being taken where there is a projected underspend or overspend against agreed budgets. Annual statements of spend and performance will also be provided in line with any statutory timescales required by either Powys County Council or Powys Teaching Health Board.

4.8.2 The Pooled Budget Manager shall use all reasonable endeavours to ensure that costs associated with this agreement can be met from the financial contributions made to the Pooled Budget. Any identified forecast overspend must be raised at the earliest opportunity for consultation and identification of mitigating actions. This will include flexing budgets where appropriate and in line with the practice pertaining to each organisation.

4.8.3 Where planned Financial Recovery Plans are applicable to the activity of a pooled fund, the fund will be monitored against the financial improvements to be achieved and exceptions will be reported to the Joint Partnership Board.

4.8.4 Where an overspend materialises at the financial year end, this will be attributed to the relevant organisation.

4.8.5 Cross subsidisation: Each partner organisation will continue to hold its own liabilities in relation to its share of the pooled budget and the people, goods and services purchased with it. It will not be the intention to pass cost from one organisation to the other, but to seek to utilise identified resources in the most efficient and effective way.

4.8.6 The Council must comply with reconciling Funded Nursing Care at year end within the agreed days and final accounting entries agreed annually by both organisations.

4.9. Commissioning and Procurement Arrangements

4.9.1 There will be the continued use of all Wales Commissioning Frameworks, and Regional Commissioning Framework agreements where applicable.

4.9.2 An approved Commissioning Assurance Framework will be developed and implemented in the first year.

4.9.3 Where there is private sector involvement there will be compliance with existing contractual arrangements, and Standing Financial Instructions. The financial procurement and contract procedures of PCC will apply to all procurement activity undertaken by the Council. The Standing Orders and Standing Financial Instructions of the Health Board will apply to all procurement activity undertaken by the Health Board.

4.10. Audit Requirements

4.10.1 The Partners will comply with any statutory inspection requirements in relation to Services and will liaise as required, with the Care Inspectorate Wales (CIW) and/or Healthcare Inspectorate Wales (HIW) and/or other regulatory bodies such as the Welsh Audit Office (WAO), and will also include the Council's and PTHB's Internal Audit Teams if and when required to do so.

4.10.2 The pooled budget arrangement will be audited by the Lead (Host) Partner's external auditor as part of auditing the financial statements of the Lead Partners organisation. This will require agreement of relevant outstanding debtor/creditor balances between both organisations and the Lead Partner's external auditors within the annual accounts timescales set out by Welsh Government.

4.10.3 It shall be the responsibility of the Lead (Host) Partner (if required) to include the Pooled Fund in its end year accounting processes, produce the required memorandum of account in respect of the Pooled Fund and arrange for its audit in time for its inclusion in all Partners' year end accounts. Should the annual audit letter contain any direct reference to the Pooled Fund, the Lead (Host) Partner will send copies of the excerpts of the letter to Powys Teaching Health Board.

4.10.4 The cost of any specific external audits that may be required shall be borne by the Pooled Fund.

4.10.5 The appointed Auditor's reports on the services commissioned and provided from the Pooled Fund shall be presented to the Joint Partnership Board and shall be made available to Powys County Council and Powys Teaching Health Board's internal auditors.

4.10.6 The Pooled Fund and the implications for the Services arranged from it will be incorporated into the risk assessed Internal Audit Programme of the Partners.

4.11. Accommodation Arrangements for Services

4.11.1 The employing organisation will provide accommodation for the staff managing funds as set out in Clause 1.3.4.

4.12 Capital

4.12.1 The Pooled Fund shall not normally be applied towards capital expenditure. If a need arises for the transfer of any agreed capital funds between the Partners any such transfer shall be undertaken in line with the respective partners financial regulations and Scheme of Delegation.

4.13 Liabilities, insurance and indemnities

4.13.1 Partners shall ensure that they maintain policies of insurance (or in the case of the Health Board, equivalent arrangements through the schemes operated by the Welsh Risk Pool) to cover:

- Any damage to property real or personal, including any infringement of third party patents, copyright and registered designs,
- Any personal injury including injury resulting in death,
- Any fraudulent or dishonest act of any of its officers, employees or contractors,
- Any service user or carer complaint or investigation by the Public Service Ombudsman for Wales, or
- Any breach of statutory or common law duty.

4.13.2 Indemnity shall include each partner indemnifying the other partner, their officers, employees and agents against any damage, cost, liability, loss, claim or proceedings.

4.14 Disputes Resolution

In the event of a dispute between the Partners of this Agreement, the subject of the dispute will be referred to the statutory Director of Social Services and the identified lead Executive Director for the Social Services and Wellbeing

Act 2014 within PTHB's Scheme of Delegation. If the aforementioned chief officers are unable to resolve the dispute within 30 working days then the issue shall be referred to Chief Executive Officers. If Chief Executive Officers are not able to resolve the matter within a further 30 days the provisions of Section 21 of the overarching Section 33 Agreement will take effect.

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SECTION 5: OPERATIONAL GROUP AND LEAD FUND ARRANGEMENTS

5.1. Operational Group Arrangements

- 5.1.1 The Operational Group will report to the Joint Partnership Board. The Joint Partnership Board is responsible for partnership arrangements established under this Agreement, tracking delivery of the Scheme Aims and Objectives within defined resources and agrees any changes to scope. These responsibilities are to be carried out in conjunction with the relevant PCC portfolio member.
- 5.1.2 The Joint Partnership Board is authorised within the limits of delegated authority for its members (which is received through their respective organisation's scheme of delegation).
- 5.1.3 The Joint Partnership Board is authorised to confirm and agree the allocation of the budget approved by partners including any additional non-recurring contributions, and to agree the Revised Annual Finance Agreement.
- 5.1.4 The Joint Partnership Board is authorised to receive reports under this Agreement and to agree actions or refer proposals for action back to the Partners for approval.
- 5.1.5 The Joint Partnership Board is authorised to review annually the operation of this Agreement.
- 5.1.6 The Joint Partnership Board is authorised to review and agree annually a risk assessment and risks sharing protocol and to agree actions arising from the review.
- 5.1.7 The Joint Partnership Board is authorised to review at least annually any secondment arrangements.
- 5.1.8 The Joint Partnership Board is authorised to agree the appointment of the Partnership Lead and Pooled Fund Manager.
- 5.1.9 The Joint Partnership Board is authorised to agree an annual plan for the Scheme and Revised Annual Finance Agreement.
- 5.1.10 The Operational Group will be chaired by the Scheme Partnership Lead.
- 5.1.11 The Operational Group will meet on a monthly basis for the first 6 months and at least bimonthly thereafter.
- 5.1.12 The Operational Group will assist the JPB in its activities through oversight of day to day management of the Scheme.
- 5.1.13 The Membership of the Operational Group will include:

The Scheme Partnership Lead (who will chair the Operational Group)

Powys Teaching Health Board:

- Assistant Director for Mental Health Services
- Head of Learning Disability Services
- Locality General Manager North or South
- Assistant Director of Commissioning Development
- Professional Lead Continuing Health Care

Powys County Council:

- Head of Operations for Adult Services
- Head of Transformation for Adult Services
- Senior Manager, Older People
- Senior Manager Adult and Disability Services
- Health and Care Change Manager (Age Well)

5.1.14 Other participants may be co-opted to the Operational Group as required by group members, for example a representative of the PCC Housing Department.

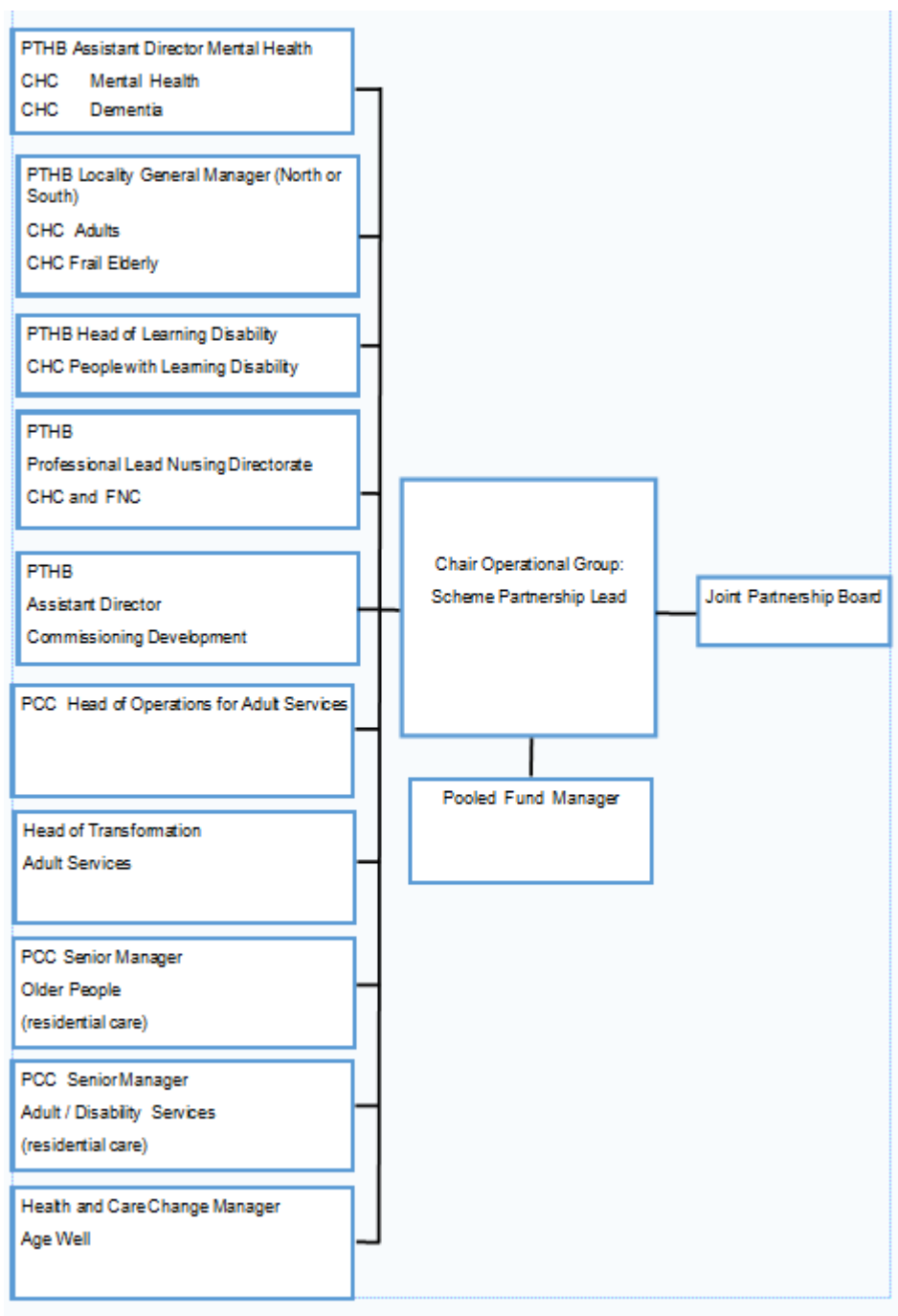
5.1.15 The quorum will be at least two representatives from each organisation at Assistant Director or Head of Service level.

5.1.16 The Operational Group will receive and review the information set out in this Scheme and will assist in the development and delivery of an annual plan and annual report and any other actions deemed necessary or helpful to ensure effective delivery.

5.2. Details of the Pool and Lead Funds Fund Manager

5.2.1 The arrangements for the management of the funds is set out in clause 1.3.4. The arrangements for the day to day management are set out in 4.1.6.

5.2.3 The Membership of the Operational Group, which will be chaired by the Scheme Partnership Lead is set out overleaf.



5.3. Planning and Reporting Requirements

- 5.3.1 There will be in place planning and reporting arrangements that meet partner, agency and national requirements.
- 5.3.2 The JPB will approve a plan for this Scheme. The plan will reflect agreed joint strategy and plans including the Area Plan and the Health and Care Strategy; and Agency plans including the PCC's Corporate Plan and PTHB Integrated Medium Term Plan.
- 5.3.3 There will be an Annual Report to the Joint Partnership Board. Powys County Council and Powys Teaching Health Board have delegated authority to the

JPB to exercise certain functions. These are set out in the Integration Plan and its supporting programmes of work, and the schedules to the overarching 'Section 33' agreement that exists between Powys County Council and Powys Teaching Health Board. The Regional Partnership Board will provide oversight and assurance in relation to the Annual Report.

- 5.3.4 The Operational Group will have in place a business cycle.
- 5.3.5 There will be in place an agreed procedure for reporting any issues which present an immediate challenge to service continuity. The Operational Group will keep and up-date at each meeting a register of risks.
- 5.3.6 There will be in place a comprehensive integrated performance report which includes

Number of people using services
Age
Primary and Secondary descriptors of need
Location
Compliance with requirements for assessments, care planning and reviews
Delayed Transfer of Care (Trends, numbers, all Wales comparators)
Actual spend against plan
Forecast spend against plan
Progress against savings plans
Efficiency indicators
Length of stay
New admissions per month
Discharges per month
Deaths
Pressure ulcers
Key Infections (C Diff...)
Trends in incidents
Serious incidents
Concerns
User satisfaction
Patient stories
Referrals under protection procedures
Discussions under protection procedures
Meetings under protection procedures
Outcomes under protection procedures
Protected characteristics monitoring

5.3.7 The type of information which would be considered by the Operational Group for Commissioning Assurance reporting and escalation of exceptions is set out below.

Quality & Safety	Finance (Cost & Activity)	Access	Patient/Client Experience
<ul style="list-style-type: none"> ▪ Serious incidents ▪ Breakdown of serious incidents (themes) ▪ New serious incidents ▪ Never events ▪ Mortality ▪ Clinical Audit ▪ Internal / External Audit ▪ C.diff rates ▪ MRSA rates ▪ HCAI/ pressure damage rates ▪ Safety solutions compliance ▪ Safe staffing 	<ul style="list-style-type: none"> ▪ Cost against the Agreement ▪ Activity against Agreement ▪ Any other cost and activity information considered useful 	<ul style="list-style-type: none"> ▪ Waiting times for assessment, care planning and review ▪ Waiting times for admission or discharge from residential care ▪ Delayed transfers of care 	<ul style="list-style-type: none"> ▪ Public service ombudsman responses ▪ Coroner responses ▪ CHC ▪ CIW/CQC ▪ Concerns and compliments from any source

DRAFT FOR APPROVAL

ANNEX 1

Terms of Reference of the Joint Partnership Board

ANNEX 2

Terms of Reference of the Regional Partnership Board

ANNEX 3

INDIVIDUALS WHO REQUIRE NURSING (FUNDED NURSING CARE) AND SOCIAL CARE

1 The agreed aim and outcome

The section sets out the arrangements for pooled budgets for the provision of nursing ("Funded Nursing Care") and social care for individuals who require both types of care. Pooled budget arrangements will be in place for those cases where joint packages of care are required, and are stipulated in jointly agreed individual care plans, and it is organisationally helpful that one or the other Partner can undertake the lead commissioning of the care package.

The outcome will be a better co-ordinated, more coherent service for the patient/client.

2 Definitions

"Assessment" is a process whereby the health and community care needs of an individual are identified, and their impact on daily living and quality of life evaluated, so that appropriate action can be planned.

"Assessors" are employees of PTHB and PCC such as nurses and care managers employed to undertake assessments as one of their responsibilities.

"Care Plan" is a joint set of tasks agreed between an assessed patient/client and agencies to achieve the best possible lifestyle, setting out objectives, preferred outcomes, and services to be provided, a review date and other details.

3 Commencement date and duration of the partnership agreement

The arrangements previously in place between PCC and PTHB under the "*Partnership Agreement for Pooling Budgets for the Lead Commissioning of Individual Packages of Health and Social Care*" since 1st January 2005 are

superseded by the Scheme for Pooled Funds for Care Home Accommodation Functions.

4 The persons in respect of whom and kinds of services in respect of which the functions may be exercised

The persons in respect of whom these arrangements are made are individuals who have been jointly assessed by health and social care assessors as requiring social care and nursing care. The kinds of services which may be commissioned through these arrangements are any services which PTHB and PCC agree to commission to achieve the implementation of individual Care Plans.

5 The pooled budgets

Pooled budgets will be established on a case by case basis wherever required and the terms of this Agreement are met. The sums committed will be those required of PCC and PTHB for their respective duties to enable them to meet the assessed social and health care needs of the individual. Terms will be set out in individual Patient/Client Pooled Budget Agreements (See 18 below).

6 The budget holders

The budget holders will vary from case to case, but on behalf of PCC Team Managers will be authorised to manage a pooled budget for an individual requiring both social care and Funded Nursing Care. For PTHB officers will be authorised in line with the PTHB Scheme of Reservation and Delegation.

7 Eligibility for pooled budget funding

The criteria which must be met to determine if a pooled budget may be used are:

- The patient/client is in receipt of social and health care services.
- Local managers of care for PCC and PTHB are in agreement that a pooled budget will enable the commissioning and provision of a service in a more effective, coherent way than may otherwise be achievable.
- Agreement by both parties to a Patient/Client Pooled Budget Agreement.

8 Operational arrangements

The budget holder may make use of the joint budget only in accordance with a jointly agreed Care Plan informed by assessments both by PTHB nurses and by PCC care managers. The Care Plan must specify the respective responsibilities which each party has accepted. The budget holder must ensure that services which are commissioned are safe and fully fit for purpose, ensuring that staff who are providing services are:

- appropriately qualified, if applicable
- adequately trained
- appropriately supervised

9 Social care services fairer charging policy

The PCC Fairer Charging policy will apply to those elements of the care package which are commissioned by PCC and will not apply to any PTHB funded services. The rates for Funded Nursing Care are approved at health board level within a national context for NHS Wales. PCC will undertake financial assessments to determine any charges irrespective of which party is the lead commissioner. PCC will be liable for the full cost of the PCC contribution to a joint budget, irrespective of whether or not a service user pays the charges which they are assessed for and agree to pay.

10 Duration of each pooled budget arrangement

The duration of each pooled budget arrangement will be subject to:

- the continuation in operation of a jointly agreed Care Plan confirming the requirement for jointly commissioned services. The Care Plan must be reviewed within 6 weeks and then again after 6 months and thereafter no less than annually reviewed or in line with statutory requirements if applicable.
- the continuing agreement of both parties.

11 Variance and flexibility in the pooled budget

The Care Plan will specify the level of service to be provided. This will enable the parties to the pooled budget arrangement to calculate and agree their specific contributions. Inevitably there are short-term fluctuations in the support needs of patients/clients. The fluctuations will require variations in the support provided and therefore the cost. The maximum level and duration of the variation for each patient/client must be stipulated and agreed by both parties in the Patient/Client Pooled Budget Agreement, beyond which written approval for any additional costs to be met must be sought and provided.

12 Administration and payment

The pooled budget holder will maintain a record of the funding committed on behalf of the partner organisation and submit an invoice for payment on a monthly basis. Current timescales/ standards for payment of invoices by PTHB and PCC will apply.

13 Monitoring and audit

Accounting for the two elements of each pooled budget will be transparent so that PTHB and PCC can separately demonstrate how the funding has been used appropriately.

Current arrangements for PCC and PTHB auditing will apply.

14 Confidentiality

All documents and information received by the Partners and/or service providers during or in connection with the performance of this contract shall be treated as confidential. Such documents and information shall not be used by the receiving Partner except for the purposes for which they were made available and such documents and information shall not be disclosed by the receiving Partner to any other person without the prior consent of the issuing Partner.

15 Variations

The terms and conditions of this Agreement may only be varied by the express agreement of both Partners.

16 Complaints

The handling of complaints in relation to this section of the Scheme will be compliant with statutory requirements.

17 Disputes

The disputes process is set out in Section 4 of the Scheme.

18 Patient/client pooled budget agreement (Funded Nursing Care)

The model Patient/Client Agreement in relation to Funded Nursing Care is set out below.

SECTION 1 Name of Patient/Client:

.....

Address:.....

.....

.....

DOB:/...../..... SCS Number

NHSNumber:
.....

SECTION 2 Date of Care Plan/...../.....

Agreed cost of Social Care Services to be provided

£

Agreed cost of Funded Nursing Care to be provided

£

Agreed cost may be exceeded by% for up toweeks

SECTION 3 Lead Commissioner: Powys County Council
Powys Teaching Health Board

SECTION 4 Date from which Partnership Agreement will be operational

...../...../.....

Date of first review

...../...../.....

Signed on behalf of Social Care Services

Name:
.....

JobTitle:
.....

Date

...../...../.....

Signed on behalf of Powys Teaching Health Board

Name:
.....

JobTitle:
.....

Date

...../...../.....

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



Regional Implementation Leads
Social Services and Integration

1 November 2017

Dear Colleagues

As you are aware, the Minister for Social Services and Public Health, Rebecca Evans AM, made a statement to the National Assembly on 10 October regarding integration and partnership working between health and social services.

Whilst the Minister recognised that significant work has already been undertaken to deliver integrated and collaborative services, she made clear the importance of the requirement to establish pooled funds in relation to care home accommodation functions. Once again she set out her expectation that pooled funds be established jointly on the regional level between health boards and all local authorities within the health board partnership area.

I attach [here](#) a link to the Record of Proceedings as it may be useful for you to see the debate in its entirety - including the views expressed by members of other parties - if you haven't already had the chance to do so.

I hope you will see from the statement that the Minister does not underestimate the challenges facing partners in establishing pooled funds by April 2018. For this reason there is a clear commitment in the statement for the Welsh Government to support partnership boards in meeting this requirement, something which I feel reflects the discussions we had in City Hall on 4 October. You will also have noted the intentions of the Minister to consider more direct intervention at the start of the 2019-20 if by this time she does not feel this provision has been adequately implemented.

It is very important therefore that we effectively utilise the next 18 months to work together to ensure there are joint commissioning processes in place supported by pooled funds. I am keen that we work closely with you on this and bring in extra support and learning where appropriate. I want this to start by us co-designing the package of support and would like the first step to be for regional implementation leads to join with Welsh Government as a group to consider and agree the range of help that is necessary.

Given the likely broad nature of this conversation, I appreciate that you may wish to involve other colleagues from within your region. To ensure that any working group does not become too big however, I would ask that each region provide a maximum of two representatives. As discussions progress, we can consider how to involve any extra, expert support as needed.

I would like the first meeting to take place on **Friday 24 November 2017 between 1pm and 4pm in City Hall, Cardiff**. We are currently in the process of preparing an agenda for discussion based on the issues already raised in the letter each region sent to the letter and our previous discussion in City Hall. We can also use the first meeting to agree the frequency and location of future meetings.

Please send confirmation of attendance to my colleague Jan Firby (jan.firby@gov.wales) by 9 November 2017. I hope you will make every effort to ensure your region is represented.

I look forward to working with you all as we move forward on this agenda together.

Yours sincerely

Matthew Hall
Deputy Director, Partnership and Cooperation Division
Social Services & Integration

Adult Social Care Scrutiny Working Group with representatives of Audit Committee – 12 March 2018

Scrutiny Observations to Cabinet on: Section 33 Care Home Accommodation Functions (due to be considered by Cabinet 27 March 2018)

The Group made the following observations to Cabinet/Management Team in respect of the draft Cabinet Report Section 33 Care Home Accommodation Functions:

- The Group welcomes the move towards pooled budgets for residential care and acknowledge that this is a first step in a move towards integrated commissioning
- The Group supports that Powys County Council assumes the lead agency role and note that a Fund Manager will be appointed and eventually paid for, through efficiencies in the Pooled Fund
- It is essential that democratic accountability and the role of scrutiny be clarified - this will become even more relevant as the project moves towards joint commissioning.
- The Section 33 agreement must define the legal implications of governance - for example which body is financially and legally accountable and where, in this system, does the final accountability lie?
- The governance regarding requirements for additional funding mid-year also needs to be defined – it is recognised that this may not be a major issue in the first year but clarity is required as to how those funds could be challenged in-year if necessary. Again, this will become more relevant as the pooled budget develops into a fully integrated scheme
- Performance measures need to be identified to enable effective monitoring to take place
- Members remained concerned that whilst they were aware of the Regional Partnership Board and Joint Partnership Board, there was little detail available regarding what is considered by the two Boards or what impact either was having. The Boards are far removed from the general membership and consideration should be given as to how they communicate with the wider Membership to enable those Members to fulfil their democratic role.

County Councillors J Gibson- Watt, E Durrant, E Jones, G Morgan, G Williams and A Williams

Audit Committee Representatives:

County Councillors J Charlton and K Laurie-Parry