

Dated 1st November 2017

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

and

NHS ROTHERHAM CLINICAL COMMISSIONING GROUP

**FRAMEWORK PARTNERSHIP AGREEMENT RELATING
TO THE COMMISSIONING OF CHILD AND
ADOLESCENT MENTAL HEALTH SERVICES IN
ROTHERHAM**

Contents

Item		Page
	PARTIES	4
	BACKGROUND	4
1	DEFINED TERMS AND INTERPRETATION	5
2	TERM	9
3	GENERAL PRINCIPLES	10
4	PARTNERSHIP FLEXIBILITIES	10
5	FUNCTIONS	10
6	COMMISSIONING ARRANGEMENTS	11
7	ESTABLISHMENT OF A POOLED FUND	12
8	POOLED FUND MANAGEMENT	13
9	NON POOLED FUNDS	13
10	FINANCIAL CONTRIBUTIONS	14
11	NON FINANCIAL CONTRIBUTIONS	14
12	RISK SHARE ARRANGEMENTS, OVERSPENDS AND UNDERSPENDS	14
13	CAPITAL EXPENDITURE	15
14	VAT	15
15	AUDIT AND RIGHT OF ACCESS	16
16	LIABILITIES AND INSURANCE AND INDEMNITY	16
17	STANDARDS OF CONDUCT AND SERVICE	16
18	CONFLICTS OF INTEREST	17
19	GOVERNANCE	17
20	REVIEW	18
21	COMPLAINTS	18
22	TERMINATION & DEFAULT	18
23	DISPUTE RESOLUTION	19
24	FORCE MAJEURE	19
25	CONFIDENTIALITY	20
26	FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION REGULATIONS	20
27	OMBUDSMEN	21
28	INFORMATION SHARING	21
29	NOTICES	21
30	VARIATION	22
31	CHANGE IN LAW	22
32	WAIVER	22
33	SEVERANCE	22
34	ASSIGNMENT AND SUB CONTRACTING	22
35	EXCLUSION OF PARTNERSHIP AND AGENCY	22
36	THIRD PARTY RIGHTS	22

37	ENTIRE AGREEMENT	23
38	COUNTERPARTS	23
39	GOVERNING LAW AND JURISDICTION	23
	SCHEDULE 1 OVERARCHING SCHEME SPECIFICATION	22
	Part 1 – Child and Adolescent Mental Health Services	22
	Part 2 – Finance	26
	SCHEDULE 2 – GOVERNANCE	44
	1 GOVERNANCE	
	2 MEETINGS	
	SCHEDULE 3 – JOINT WORKING OBLIGATIONS	44
	SCHEDULE 4 – PERFORMANCE METRICS	49
	SCHEDULE 5 – POLICIES FOR THE MANAGEMENT OF CONFLICTS OF INTEREST	50
	SCHEDULE 6 – INFORMATION SHARING PROTOCOL	51
	SCHEDULE 7 – SPECIFICATION FOR GOVERNANCE AND FINAL ACCOUNTS REQUIREMENT	52

THIS AGREEMENT is made on 1st day of November 2017.

PARTIES

- (1) **NHS ROTHERHAM CLINICAL COMMISSIONING GROUP** of Oak House, Moorhead Way, Bramley, Rotherham, S66 1YY (the "CCG")
- (2) **ROTHERHAM METROPOLITAN BOROUGH COUNCIL**, Riverside House, Main Street, Rotherham S60 1AE (the "Council")

BACKGROUND

- (A) The Council is a local authority established under the Local Government Act 1972 (as amended) and is responsible inter alia for the provision of social services and other services to children and young people.
- (B) NHS Rotherham Clinical Commissioning Group is established under Section 18 of the National Health Service Act 2006 ("the Act") and is responsible for commissioning health services pursuant to the Act in the borough of Rotherham.
- (C) The Council and the Clinical Commissioning Group have duties and powers to provide care to the Client Group and Section 82 of the Act requires both Local Authorities and NHS bodies, when exercising their respective functions, to cooperate to secure and advance health and welfare for the people of England and Wales. Furthermore, under relevant guidance, Local Authorities and NHS bodies are encouraged to consider partnership working, including through the use of certain Flexibilities under the Act. Section 75 of the Act and the Regulations introduced Powers for Local Authorities and NHS bodies to set up joint working arrangements.
- (D) The Partners wish to establish partnership arrangements pursuant to Section 75 of the National Health Service Act 2006 and pursuant to the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (Statutory Instrument 2000 No. 617) and any amendments thereto and subsequent re-enactments thereof.
- (E) The Partners are satisfied that the Partnership Arrangements shall lead to an improvement in the way in which their functions are exercised in relation to the commissioning of child, adolescent mental health services and the management of associated funds.
- (F) The Partners have consulted such persons and/or bodies as appear to them to be affected by the Partnership Arrangements in accordance with the relevant consultation regulations and guidance.
- (G) The Partnership Arrangements do not affect the liability of the Council or the Clinical Commissioning Group for the exercise of their respective functions, or any power or duty to recover charges for the provision of any services in the exercise of any Local Authority function.
- (H) The Council is responsible for the resident population of Rotherham and the Clinical Commissioning Group is responsible for the population who are registered with a general medical practitioner approved to operate within the boundaries of Rotherham.
- (I) The Service (the CAMHS Service commissioned by the Clinical Commissioning Group and the Looked After and Adopted Children's Therapeutic Team (LAACTT) – 'The Therapeutic Team') contained within Schedule 1 of this Agreement makes provision for how funding arrangements are to be dealt with in respect of that Service. Where these funding arrangements are to include Pooled Fund arrangements this will clearly be set out in Schedule 1 of this Agreement.
- (J) The Council and the Clinical Commissioning Group have approved the terms and conditions of this Agreement.

1 DEFINED TERMS AND INTERPRETATION

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

1998 Act means the Data Protection Act 1998.

2000 Act means the Freedom of Information Act 2000.

2004 Regulations means the Environmental Information Regulations 2004.

2006 Act means the National Health Service Act 2006.

Affected Partner means, in the context of Clause 24, the Partner whose obligations under the Agreement have been affected by the occurrence of a Force Majeure Event

Agreement means this Agreement including its Schedules and Appendices.

Aims and Objectives means the agreed aims and objectives for the Individual Services as specified in Schedule 1 of this Agreement.

Arrangements has the meaning given to it at Clause 4.1 of this Agreement.

Area means the Borough of Rotherham.

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

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

Bank Holiday means any day that is specified or proclaimed as a bank holiday in England and Wales pursuant to Section 1 of the Banks and Financial Dealings Act 1971;

Best Value Duty means the duty imposed on the Council by Section 3 of the Local Government Act 1999 in relation to, inter alia, any one (1) or more of the Services.

CCG means NHS Rotherham Clinical Commissioning Group (known as NHS Rotherham CCG) of Oak House, Moorhead Way, Bramley, Rotherham and any statutory successors to its functions in relation to the matters which are the subject of this Agreement.

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

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

Client Group means the collection of Service Users either receiving or eligible to receive the Services and living within the administrative area of Rotherham because of their enhanced core needs, or as otherwise agreed.

Commencement Date means 00:01 hrs on 1st November 2017.

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

- (a) which comprises Personal Data or Sensitive Personal Data or which relates to any Service User or his treatment or medical history;

- (b) the release of which is likely to prejudice the commercial interests of a Partner or the interests of a Service User respectively; or
- (c) which is a trade secret.

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

Council Functions means those functions of the Council's health related function, specified in Regulation 6(a) of the Regulations in relation to the commissioning of services.

Council means Rotherham Metropolitan Borough Council.

Council Staff means any employee or employees of persons engaged by the council carrying out the Functions.

Council's Authorised Officer means the individual representative of the Council who has the power to make decisions on behalf of the Council in respect of the Partnership Arrangements;

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

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

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

Force Majeure Event means one or more of the following:

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

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

Functions means the functions of Rotherham Clinical Commissioning Group and the Council in relation to the provision of, or making arrangements for the provision of, the Services to meet the needs of the Client Group, but excluding the Excluded Functions as set out in Appendix 4 (Excluded Functions) of the relevant Schedule for the Individual Services.

Host Partner means for each Pooled Fund the Partner that will host the Pooled Fund and for each Aligned Fund the Partner that will host the Aligned Fund.

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

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

Individual Scheme means one of the schemes which is agreed by the Partners to be included within this Agreement.

Integrated Commissioning means arrangements by which both Partners commission Services in relation to an individual Scheme.

Joint (Aligned) Commissioning means a mechanism by which the Partners jointly commission a Service. For the avoidance of doubt, a joint (aligned) commissioning arrangement does not involve the delegation of any functions pursuant to Section 75.

Law means:

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

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

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

Losses means all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services), proceedings, demands and charges whether arising under statute, contract or at common law but excluding Indirect Losses and "Loss" shall be interpreted accordingly.

Month means a calendar month.

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

NHS Functions means those of the NHS functions listed in Regulation 5 of the Regulations as are exercisable by the CCG as are relevant to the commissioning of the Services and which may be further described in each Service Schedule

Non Pooled Fund means the budget detailing the financial contributions of the Partners which are not included in a Pooled Fund in respect of a particular Service as set out in the relevant Scheme Specification.

Non-Recurrent Payments means funding provided by a Partner to a Pooled Fund in addition to the Financial Contributions pursuant to arrangements agreed in accordance with Clause 10.4.

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

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

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

Performance Payments means any sum over and above the relevant Contract Price which is payable to

the Provider in accordance with a Performance Payment Arrangement.

Permitted Budget means in relation to a Service where the Council is the Provider, the budget that the Partners have set in relation to the particular Service.

Permitted Expenditure has the meaning given in Clause 7.3.

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

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

Pooled Fund Manager means such officer of the Host Partner which includes a Section 113 Officer for the relevant Pooled Fund established under an Individual Scheme as is nominated by the Host Partner from time to time to manage the Pooled Fund in accordance with Clause 8.2.

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

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

Quarter means each of the following periods in a Financial Year:

1st April to 30th June

1st July to 30th September

1st October to 31st December

1st January to 31st March

and "Quarterly" shall be interpreted accordingly.

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

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

Section 75 Sub-group means an ad hoc group reporting to the Operational Executive (OE) of the CCG and the Directorate Leadership Team (DLT) of the Children and Young Peoples Service in the Local Authority responsible for monitoring and overseeing the implementation of the Partnership Arrangements relating to services covered within this Agreement.

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

Services means such health and social care services as agreed from time to time by the Partners as commissioned under the arrangements set out in this Agreement and more specifically defined in each Scheme Specification, and as set out in Schedule 4.

Services Contract means an agreement for the provision of Services entered into with a Provider by one or more of the Partners in accordance with the relevant Individual Scheme.

Service Users means those individual for whom the Partners have a responsibility to commission the Services.

SOSH means the Secretary of State for Health.

The Therapeutic Team means the team which was previously the Looked After and Adopted Children's Therapeutic Team.

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

Termination Date means 00:00 on 31st October 2018 (unless both parties agree to an extension of one or two years)

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

2 TERM

- 2.1 This Agreement shall come into force on the Commencement Date and shall continue until the Termination Date or until earlier termination in accordance with the provisions of Clause 12 (Termination).
- 2.2 Parties may extend the duration of the Agreement by written agreement.

3 GENERAL PRINCIPLES

3.1 Nothing in this Agreement shall affect:

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

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

3.2 The Partners agree to:

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

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

3.2.3 provide early information and notice about relevant problems.

3.3 For the avoidance of doubt, the aims and outcomes relating to an Individual Scheme may be set out in the relevant Scheme Specification.

4 PARTNERSHIP FLEXIBILITIES

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

4.1.1 Lead Commissioning Arrangements;

4.1.2 Integrated Commissioning;

4.1.3 Joint Commissioning

4.1.4 the establishment of one or more Pooled Funds

in relation to Individual Schemes (the "Flexibilities")

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

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

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

5 FUNCTIONS

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

5.2 This Agreement shall include such functions as shall be agreed from time to time by the Partners.

- 5.3 Where the Partners add a new Individual Scheme to this Agreement a Scheme Specification for each Individual Scheme shall be completed and agreed between the Partners. The Scheme Specifications are set out in Schedule 1 (Annex A and B).
- 5.4 The Partners shall not enter into a Scheme Specification in respect of an Individual Scheme unless they are satisfied that the Individual Scheme in question will improve health and well-being in accordance with this Agreement.
- 5.5 The introduction of any Individual Scheme will be subject to business case approval by the Section 75 Sub-group.

6 COMMISSIONING ARRANGEMENTS

Integrated Commissioning

- 6.1 Where there are Integrated Commissioning arrangements in respect of an Individual Scheme, both Partners shall work in co-operation and shall endeavour to ensure that the NHS Functions and Health Related Functions are commissioned with all due skill, care and attention.
- 6.2 Both Partners shall be responsible for compliance with and making payments of all sums due to a Provider pursuant to the terms of each Service Contract.
- 6.3 Both Partners shall work in cooperation and endeavour to ensure that the relevant Services as set out in each Scheme Specification are commissioned within each Partners Financial Contribution in respect of that particular Service in each Financial Year.
- 6.4 The Partners shall comply with the arrangements in respect of the Joint (Aligned) Commissioning as set out in the relevant Scheme Specification and as detailed in Schedule 3.
- 6.5 Each Partner shall keep the other Partner and the Section 75 Sub-group regularly informed of the effectiveness of the arrangements including any Overspend or Underspend in a Pooled Fund or Non Pooled Fund.
- 6.6 The Section 75 Sub-group will report to the CCG SCE and the Council's Children and Young Peoples DLT as required by its Terms of Reference.
- 6.7 Staff in the integrated commissioning team may be made available under S113 of the Local Government Act 1972 to the Partner who is not their employer for the purposes of this Agreement, save that it is not intended that decision making power should be exercised by such employees on behalf of the other Partner.

Appointment of a Lead Commissioner

- 6.8 Where there are Lead Commissioning Arrangements in respect of an Individual Scheme the Lead Commissioner shall:
- 6.8.1 exercise the NHS Functions in conjunction with the Health Related Functions as identified in the relevant Scheme Specification;
- 6.8.2 endeavour to ensure that the NHS Functions and the Health Related Functions are funded within the parameters of the Financial Contributions of each Partner in relation to each particular Service in each Financial Year;
- 6.8.3 commission Services for individuals who meet the eligibility criteria set out in the relevant Scheme Specification;
- 6.8.4 contract with Provider(s) for the provision of the Services on terms agreed with the other Partners;

- 6.8.5 comply with all relevant legal duties and guidance of both Partners in relation to the Services being commissioned;
- 6.8.6 where Services are commissioned using the NHS Standard Form Contract, perform the obligations of the "Commissioner" and "Co-ordinating Commissioner" with all due skill, care and attention and where Services are commissioned using any other form of contract to perform its obligations with all due skill and attention;
- 6.8.7 undertake performance management and contract monitoring of all Service Contracts together with contract management and enforcement of contract conditions as necessary;
- 6.8.8 make payment of all sums due to a Provider pursuant to the terms of any Services Contract.
- 6.8.9 keep the other Partner and the Section 75 Sub-group regularly informed of the effectiveness of the arrangements including Overspend or Underspend in a Pooled Fund or Non Pooled Fund.

7 ESTABLISHMENT OF A POOLED FUND

- 7.1 In exercise of their respective powers under Section 75 of the 2006 Act, the Partners have agreed to establish and maintain such pooled funds for revenue expenditure as set out in the Scheme Specifications.
- 7.2 Each Pooled Fund shall be managed and maintained in accordance with the terms of this Agreement.
- 7.3 It is agreed that the monies held in a Pooled Fund may only be expended on the following:
 - 7.3.1 the Contract Price;
 - 7.3.2 where the Council is to be the Provider, the Permitted Budget;
 - 7.3.3 performance Payments;
 - 7.3.4 the purchase of goods and services expressly contemplated in any Scheme;
 - 7.3.5 approved Expenditure as agreed by the Partners;
 - 7.3.6 capital expenditure as set out in any individual scheme.

("Permitted Expenditure")
- 7.4 The Partners may only depart from the definition of Permitted Expenditure to include or exclude other revenue expenditure with the express written agreement of the Section 75 Sub-group
- 7.5 For the avoidance of doubt, monies held in the Pooled Fund may not be expended on Default Liabilities unless this is agreed by all Partners.
- 7.6 Pursuant to this Agreement, the Partners agree to appoint a Host Partner for each of the Pooled Funds set out in the Scheme Specifications. The Host Partner shall be the Partner responsible for:
 - 7.6.1 holding all monies contributed to the Pooled Fund on behalf of itself and the other Partners;
 - 7.6.2 providing the financial administrative systems for the Pooled Fund; and
 - 7.6.3 appointing the Pooled Fund Manager;

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

8 POOLED FUND MANAGEMENT

8.1 When introducing a Pooled Fund in respect of an Individual Scheme, the Partners shall agree:

8.1.1 which of the Partners shall act as Host Partner for the purposes of Regulations 7(4) and 7(5) and shall provide the financial administrative systems for the Pooled Fund;

8.1.2 which officer of the Host Partner shall act as the Pooled Fund Manager for the purposes of Regulation 7(4) of the Regulations.

8.2 The Pooled Fund Manager in respect of each Individual Service where there is a Pooled Fund shall have the following duties and responsibilities:

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

8.2.2 ensuring that all expenditure from the Pooled Fund is in accordance with the provisions of this Agreement and the relevant Scheme Specification;

8.2.3 maintaining an overview of all joint financial issues affecting the Partners in relation to the Services and the Pooled Fund;

8.2.4 ensuring that full and proper records for accounting purposes are kept in respect of the Pooled Fund;

8.2.5 reporting to the Section 75 Sub-group and Section 75 Sub-group as required by the group and the relevant Scheme Specification;

8.2.6 ensuring action is taken to manage any projected under or overspends relating to the Pooled Fund in accordance with this Agreement;

8.2.7 preparing and submitting to the Section 75 Sub-group and Section 75 Sub-group quarterly reports (or more frequent reports if required by either Group) and an annual return about the income and expenditure from the Pooled Fund together with an annual report and other requirements as set out in Schedule 5, and such other information as may be required by the Partners and the Section 75 Sub-group to monitor the effectiveness of the Pooled Fund and to enable the Partners to complete their own financial accounts and returns. The Partners agree to provide all necessary information to the Pooled Fund Manager(s) in time for the reporting requirements to be met as set out in schedule 7;

8.2.8 preparing and submitting reports to the Rotherham Place Plan Board as required by it including supplying the quarterly reports referred to in paragraph 8.2.7 above.

8.3 In carrying out their responsibilities as provided under Clause 8.2 the Pooled Fund Manager shall have regard to the Section 75 Sub-group and shall be accountable to the Partners.

8.4 The Section 75 Sub-group may agree to the transfer of funds between Pooled Funds.

9 NON POOLED FUNDS

9.1 Any Financial Contributions agreed to be held within a Non Pooled Fund will be notionally held in a fund established for the purpose of commissioning that Service as set out in the relevant Scheme Specification. For the avoidance of doubt, a Non Pooled Fund does not constitute a pooled fund for the purposes of Regulation 7 of the Partnership Regulations.

- 9.2 When introducing a Non Pooled Fund in respect of an Individual Scheme, the Partners shall agree:
- 9.2.1 which Partner if any shall host the Non-Pooled Fund;
 - 9.2.2 how and when Financial Contributions shall be made to the Non-Pooled Fund.
- 9.3 The Host Partner will be responsible for establishing the financial and administrative support necessary to enable the effective and efficient management of the Non-Pooled Fund, meeting all required accounting and auditing obligations.
- 9.4 Both Partners shall ensure that Services commissioned using a Non Pooled Fund are commissioned solely in accordance with the relevant Scheme Specification.
- 9.5 Where there are Joint (Aligned) Commissioning arrangements, both Partners shall work in cooperation and shall endeavour to ensure that:
- 9.5.1 the NHS Functions funded from a Non-Pooled Fund are carried out within the CCG Financial Contribution to the Non- Pooled Fund for the relevant Service in each Financial Year; and
 - 9.5.2 the Health Related Functions funded from a Non-Pooled Fund are carried out within the Council's Financial Contribution to the Non-Pooled Fund for the relevant Service in each Financial Year.

10 FINANCIAL CONTRIBUTIONS

- 10.1 The Financial Contribution of the CCG and the Council to any Pooled Fund or Non-Pooled Fund for the first Financial Year of operation of each Individual Scheme shall be as set out in the relevant Scheme Specification.
- 10.2 The Partners may wish to vary this in the future pursuant to the aims of the Pooled Fund, but may only do so with the agreement of the Section 75 Sub-group.
- 10.3 Financial Contributions will be paid as set out in the each Scheme Specification.
- 10.4 No provision of this Agreement shall preclude the Partners from making additional contributions of Non-Recurrent Payments to the Pooled Fund from time to time by mutual agreement. Any such additional contributions of Non-Recurrent Payments shall be explicitly recorded in the Section 75 Sub-group minutes and recorded in the budget statement as a separate item.

11 NON FINANCIAL CONTRIBUTIONS

- 11.1 The Scheme Specification shall set out non-financial contributions of each Partner including staff (including the Pooled Fund Manager), premises, IT support and other non-financial resources necessary to perform its obligations pursuant to this Agreement (including, but not limited to, management of service contracts and the Pooled Fund). Save as otherwise stated in the Scheme Specification, no charges shall be made in relation to non-financial contributions

12 RISK SHARE ARRANGEMENTS, OVERSPENDS AND UNDERSPENDS

Risk share arrangements

- 12.1 The Partners have agreed risk share arrangements as set out in Schedule 1, Annex D, which provide for financial risks arising within the commissioning of Services from the Pooled Fund.

Overspends in Pooled Fund

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

- 12.3 The Host Partner shall not be in breach of its obligations under this Agreement if an overspend occurs PROVIDED THAT the only expenditure from a Pooled Fund has been in accordance with Permitted Expenditure and it has informed the Section 75 Sub-group in accordance with Clause 12.4.
- 12.4 In the event that the Pooled Fund Manager identifies an actual or projected overspend the Pooled Fund Manager must ensure that the Section 75 Sub-group is informed as soon as reasonably possible and the provisions of the relevant Scheme Specification and Schedules 2 and 3 shall apply.

Overspends in Non Pooled Funds

- 12.5 Where in Joint Commissioning Arrangements either Partner forecasts an overspend in relation to a Partners Financial Contribution to a Non-Pooled Fund that Partner shall as soon as reasonably practicable inform the other Partner and the Section 75 Sub-group.
- 12.6 Where there is a Lead Commissioning Arrangement the Lead Commissioner is responsible for the management of the Non-Pooled Fund. The Lead Commissioner shall as soon as reasonably practicable inform the other Partners and the Section 75 Sub-group.

Underspend

- 12.7 In the event that expenditure from any Pooled Fund or Non Pooled Fund in any Financial Year is less than the aggregate value of the Financial Contributions made for that Financial Year the Partners shall agree how the surplus monies shall be spent, carried forward and/or returned to the Partners. Such arrangements shall be subject to the Law and the Standing Orders and Standing Financial Instructions (or equivalent) of the Partners and the terms of any Performance Payment Arrangement.

13 CAPITAL EXPENDITURE

- 13.1 Where capital expenditure forms part of the Pooled Fund it shall be identified and accounted for separately from revenue expenditure and treated in accordance with any specified grant funding conditions. Capital funding cannot be used to finance revenue expenditure, however, revenue funding may be used to fund capital expenditure if in agreement with the Section 75 Sub-group and is in compliance with the Hosts Financial Regulations and Standing Orders and recommended accounting codes of practice.

14 VAT

The Partners shall agree the treatment of the Pooled Fund for VAT purposes in accordance with any relevant guidance from HM Customs and Excise. In principle where the pooled fund is hosted by the Council the Council regime shall apply, and where the pooled fund is hosted by the CCG, the NHS VAT regime shall apply.

15 AUDIT AND RIGHT OF ACCESS

- 15.1 All Partners shall promote a culture of probity and sound financial discipline and control. The Host Partner shall arrange for the audit of the accounts of the relevant Pooled Fund and shall require the appropriate person or body appointed to exercise the functions of the Audit Commission under section 28(1)(d) of the Audit Commission Act 1998, by virtue of an order made under section 49(5) of the Local Audit and Accountability Act 2014 to make arrangements to certify an annual return of those accounts under Section 28(1) of the Audit Commission Act 1998.
- 15.2 All internal and external auditors and all other persons authorised by the Partners will be given the right of access by them to any document, information or explanation they require from any employee, member of the Partner in order to carry out their duties in accordance with the specification of requirements set out at Schedule 7 This right is not limited to financial information or accounting records and applies equally to premises or equipment used in connection with this Agreement. Access may be at any time without notice, provided there is good cause for access without notice.

16 LIABILITIES AND INSURANCE AND INDEMNITY

- 16.1 Subject to Clause 16.2, and 16.3, if a Partner (“First Partner”) incurs a Loss arising out of or in connection with this Agreement or the Services Contract as a consequence of any act or omission of another Partner (“Other Partner”) which constitutes negligence, fraud or a breach of contract in relation to this Agreement or the Services Contract then the Other Partner shall be liable to the First Partner for that Loss and shall indemnify the First Partner accordingly.
- 16.2 Clause 16.1 shall only apply to the extent that the acts or omissions of the Other Partner contributed to the relevant Loss. Furthermore, it shall not apply if such act or omission occurred as a consequence of the Other Partner acting in accordance with the instructions or requests of the First Partner or the CAMHS Strategic Partnership Group.
- 16.3 If any third party makes a claim or intimates an intention to make a claim against either Partner, which may reasonably be considered as likely to give rise to liability under this Clause 16. the Partner that may claim against the other indemnifying Partner will:
- 16.3.1 as soon as reasonably practicable give written notice of that matter to the Other Partner specifying in reasonable detail the nature of the relevant claim;
 - 16.3.2 not make any admission of liability, agreement or compromise in relation to the relevant claim without the prior written consent of the Other Partner (such consent not to be unreasonably conditioned, withheld or delayed);
 - 16.3.3 give the Other Partner and its professional advisers reasonable access to its premises and personnel and to any relevant assets, accounts, documents and records within its power or control so as to enable the Indemnifying Partner and its professional advisers to examine such premises, assets, accounts, documents and records and to take copies at their own expense for the purpose of assessing the merits of, and if necessary defending, the relevant claim.
- 16.4 Each Partner shall ensure that they maintain policies of insurance (or equivalent arrangements through schemes operated by the National Health Service Litigation Authority) in respect of all potential liabilities arising from this Agreement.
- 16.5 Each Partner shall at all times take all reasonable steps to minimise and mitigate any loss for which one party is entitled to bring a claim against the other pursuant to this Agreement.

17 STANDARDS OF CONDUCT AND SERVICE

- 17.1 The Partners will at all times comply with Law and ensure good corporate governance in respect of each Partner (including the Partners respective Standing Orders and Standing Financial Instructions).

- 17.2 The Council is subject to the duty of Best Value under the Local Government Act 1999. This Agreement and the operation of the Pooled Fund is therefore subject to the Council's obligations for Best Value and the other Partners will co-operate with all reasonable requests from the Council which the Council considers necessary in order to fulfil its Best Value obligations.
- 17.3 The CCG is subject to the CCG Statutory Duties and these incorporate a duty of clinical governance, which is a framework through which they are accountable for continuously improving the quality of its services and safeguarding high standards of care by creating an environment in which excellence in clinical care will flourish. This Agreement and the operation of the Pooled Funds are therefore subject to ensuring compliance with the CCG Statutory Duties and clinical governance obligations.
- 17.4 The Partners are committed to an approach to equality and equal opportunities as represented in their respective policies. The Partners will maintain and develop these policies as applied to service provision, with the aim of developing a joint strategy for all elements of the service.

18 CONFLICTS OF INTEREST

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

19 GOVERNANCE

- 19.1 Overall strategic oversight of partnership working between the partners is vested in the Section 75 Sub-group, which for these purposes shall make recommendations to the Partners as to any action it considers necessary.
- 19.2 The Partners have established a Section 75 Sub-group to manage and give oversight to the delivery.
- 19.3 Its role is as follows:
- monitor delivery of CAMHS through quarterly meetings;
 - ensure performance targets are being met;
 - ensure schemes are being delivered and additional action put in place where the plan results in unintended consequences;
 - make decisions relating to service delivery;
 - report directly to OE at the CCG and DLT at the Council on a quarterly basis .
- 19.4 The Section 75 Sub-group is based on a joint working group structure. Each member shall be an officer of one of the Partners and will have individual delegated responsibility from the Partner employing them to make decisions which enable the Section 75 Sub-group to carry out its objectives, roles, duties and functions as set out in this Clause 19 and Schedule 2.
- 19.5 The terms of reference of the Section 75 Sub-group shall be as set out in Schedule 2.
- 19.6 Each Partner has secured internal reporting arrangements to ensure the standards of accountability and probity required by each Partner's own statutory duties and organisation are complied with.
- 19.7 The Section 75 Sub-group shall be responsible for the overall approval of the Individual Services.

19.8 The Section 75 Sub-group shall ensure that the service lead for each service reports on a monthly basis on the performance of the services working to the requirements of the CAMHS Strategic Partnership Group.

20 REVIEW

20.1 Save where the Section 75 Sub-group agrees alternative arrangements (including alternative frequencies) the Partners shall undertake an annual review (“**Annual Review**”) of the operation of this Agreement, any Pooled Fund, Non Pooled Fund and Aligned Fund and the provision of the Services within 3 Months of the end of each Financial Year.

20.2 Subject to any variations to this process required by the Section 75 Sub-group , Annual Reviews shall be conducted in good faith and, where applicable, in accordance with the governance arrangements set out in Schedule 2.

20.3 The Partners shall within 20 Working Days of the annual review prepare a joint annual report documenting the matters referred to in this Clause 20. A copy of this report shall be provided to the Section 75 Sub-group.

21 COMPLAINTS

The Partners’ own complaints procedures shall apply to this Agreement. The Partners agree to assist one another in the management of complaints arising from this Agreement or the provision of the Services.

22 TERMINATION & DEFAULT

22.1 This Agreement may be terminated by any Partner giving not less than 3 Months' notice in writing to terminate this Agreement.

22.2 Each Individual Scheme may be terminated in accordance with the terms set out in the relevant Scheme Specification.

22.3 If any Partner (“Relevant Partner”) fails to meet any of its obligations under this Agreement, the other Partners (acting jointly) may by notice require the Relevant Partner to take such reasonable action within a reasonable timescale as the other Partners may specify to rectify such failure. Should the Relevant Partner fail to rectify such failure within such reasonable timescale, the matter shall be referred for resolution in accordance with Clause 23.

22.4 Termination of this Agreement (whether by effluxion of time or otherwise) shall be without prejudice to the Partners’ rights in respect of any antecedent breach and the provisions of Clauses 12, 15, 16, 21, 22 25, 26, 27, 28, 32, 33, 37 and 39.

22.5 In the event of termination of this Agreement, the Partners agree to cooperate to ensure an orderly wind down of their joint activities and to use their best endeavours to minimise disruption to the health and social care which is provided to the Service Users.

22.6 Upon termination of this Agreement for any reason whatsoever the following shall apply:

22.6.1 the Partners agree that they will work together and co-operate to ensure that the winding down and disaggregation of the integrated and joint activities to the separate responsibilities of the Partners is carried out smoothly and with as little disruption as possible to service users, employees, the Partners and third parties, so as to minimise costs and liabilities of each Partner in doing so;

22.6.2 where either Partner has entered into a Service Contract which continues after the termination of this Agreement, both Partners shall continue to contribute to the Contract Price in accordance with the agreed contribution for that Service prior to termination and will enter into all appropriate legal documentation required in respect of this;

22.6.3 the Lead Commissioner shall make reasonable endeavours to amend or terminate a Service Contract (which shall for the avoidance of doubt not include any act or omission that would place the Lead

Commissioner in breach of the Service Contract) where the other Partner requests the same in writing Provided that the Lead Commissioner shall not be required to make any payments to the Provider for such amendment or termination unless the Partners shall have agreed in advance who shall be responsible for any such payment.

- 22.6.4 where a Service Contract held by a Lead Commissioner relates all or partially to services which relate to the other Partner's Functions then provided that the Service Contract allows the other Partner may request that the Lead Commissioner assigns the Service Contract in whole or part upon the same terms mutatis mutandis as the original contract.
- 22.6.5 the Section 75 Sub-group shall continue to operate for the purposes of functions associated with this Agreement for the remainder of any contracts and commitments relating to this Agreement; and
- 22.6.6 Termination of this Agreement shall have no effect on the liability of any rights or remedies of either Partner already accrued, prior to the date upon which such termination takes effect.
- 22.7 In the event of termination in relation to an Individual Scheme the provisions of Clause 22.6 shall apply mutatis mutandis in relation to the Individual Scheme (as though references as to this Agreement were to that Individual Scheme).

23 DISPUTE RESOLUTION

- 23.1 In the event of a dispute between the Partners arising out of this Agreement, either Partner may serve written notice of the dispute on the other Partner, setting out full details of the dispute.
- 23.2 The Authorised Officers selected by the Section 75 Sub-group shall meet in good faith as soon as possible and in any event within seven (7) days of notice of the dispute being served pursuant to Clause 23.1, at a meeting convened for the purpose of resolving the dispute.
- 23.3 If the dispute remains after the meeting detailed in Clause 23.2 has taken place, the Council's Strategic Director of Children's Services or nominees and the CCG's Accountable officer or nominees shall meet in good faith as soon as possible after the relevant meeting and in any event with fourteen (14) days of the date of the meeting, for the purpose of resolving the dispute.
- 23.4 If the dispute remains after the meeting detailed in Clause 23.3 has taken place, then the Partners will attempt to settle such dispute by mediation in accordance with the CEDR Model Mediation Procedure or any other model mediation procedure as agreed by the Partners. To initiate mediation, either Partner may give notice in writing (a "**Mediation Notice**") to the other requesting mediation of the dispute and shall send a copy thereof to CEDR or an equivalent mediation organisation as agreed by the Partners asking them to nominate a mediator.
- 23.5 The mediation shall commence within twenty (20) Working Days of the Mediation Notice being served. Neither Partner will terminate such mediation until each of them has made its opening presentation and the mediator has met each of them separately for at least one (1) hour. Thereafter, paragraph 14 of the Model Mediation Procedure will apply (or the equivalent paragraph of any other model mediation procedure agreed by the Partners). The Partners will co-operate with any person appointed as mediator, providing him with such information and other assistance as he shall require and will pay his costs as he shall determine or in the absence of such determination such costs will be shared equally.
- 23.6 Nothing in the procedure set out in this Clause 23 shall in any way affect either Partner's right to terminate this Agreement in accordance with any of its terms or take immediate legal action.

24 FORCE MAJEURE

- 24.1 Neither Partner shall be entitled to bring a claim for a breach of obligations under this Agreement by the other Partner or incur any liability to the other Partner for any losses or damages incurred by that Partner to the extent that a Force Majeure Event occurs and it is prevented from carrying out its obligations by that Force Majeure Event.
- 24.2 On the occurrence of a Force Majeure Event, the Affected Partner shall notify the other Partner as soon

as practicable. Such notification shall include details of the Force Majeure Event, including evidence of its effect on the obligations of the Affected Partner and any action proposed to mitigate its effect.

- 24.3 As soon as practicable, following notification as detailed in Clause 24.2, the Partners shall consult with each other in good faith and use all best endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and, subject to Clause 24.4, facilitate the continued performance of the Agreement.
- 24.4 If the Force Majeure Event continues for a period of more than sixty (60) days, subject to Clause 22.1 either Partner shall have the right to terminate the Agreement by giving fourteen (14) days written notice of termination to the other Partner. For the avoidance of doubt, no compensation shall be payable by either Partner as a direct consequence of this Agreement being terminated in accordance with this Clause.

25 CONFIDENTIALITY

- 25.1 In respect of any Confidential Information a Partner receives from another Partner (the "**Discloser**") and subject always to the remainder of this Clause 25, each Partner (the "**Recipient**") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party, without the Discloser's prior written consent provided that:
- 25.1.1 the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the Commencement Date; and
- 25.1.2 the provisions of this Clause 25 shall not apply to any Confidential Information which:
- (a) is in or enters the public domain other than by breach of the Agreement or other act or omission of the Recipient; or
- (b) is obtained by a third party who is lawfully authorised to disclose such information.
- 25.2 Nothing in this Clause 25 shall prevent the Recipient from disclosing Confidential Information where it is required to do so in fulfilment of statutory obligations or by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable Law.
- 25.3 Each Partner:
- 25.3.1 may only disclose Confidential Information to its employees and professional advisors to the extent strictly necessary for such employees to carry out their duties under the Agreement; and
- 25.3.2 will ensure that, where Confidential Information is disclosed in accordance with Clause 25.3.1, the recipient(s) of that information is made subject to a duty of confidentiality equivalent to that contained in this Clause 25;
- 25.3.3 shall not use Confidential Information other than strictly for the performance of its obligations under this Agreement.

26 FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION REGULATIONS

- 26.1 The Partners agree that they will each cooperate with each other to enable any Partner receiving a request for information under the 2000 Act or the 2004 Regulations to respond to a request promptly and within the statutory timescales.
- 26.2 This cooperation shall include but not be limited to finding, retrieving and supplying information held, directing requests to other Partners as appropriate and responding to any requests by the Partner receiving a request for comments or other assistance.
- 26.3 Any and all agreements between the Partners as to confidentiality shall be subject to their duties under the 2000 Act and 2004 Regulations. No Partner shall be in breach of Clause 26 if it makes disclosures

of information in accordance with the 2000 Act and/or 2004 Regulations.

27 OMBUDSMEN

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

28 INFORMATION SHARING

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

29 NOTICES

29.1 Any notice to be given under this Agreement shall either be delivered personally or sent by facsimile or sent by first class post or electronic mail.

29.2 The address for service of each Partner shall be as set out in Clause 29.3 or such other address as each Partner may previously have notified to the other Partner in writing. A notice shall be deemed to have been served if:

29.2.1 personally delivered, at the time of delivery;

29.2.2 sent by facsimile, at the time of transmission;

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

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

29.3 In proving such service, it shall be sufficient to prove that personal delivery was made, or that the envelope containing such notice was properly addressed and delivered into the custody of the postal authority as prepaid first class or airmail letter (as appropriate), or that the facsimile was transmitted on a tested line or that the correct transmission report was received from the facsimile machine sending the notice, or that the electronic mail was properly addressed and no message was received informing the sender that it had not been received by the recipient (as the case may be).

29.4 The address for service of notices as referred to in Clause 29.1 shall be as follows unless otherwise notified to the other Partner in writing:

29.4.1 to the Council, addressed to

Mr Ian Thomas
Strategic Director
Rotherham Metropolitan Borough Council
Riverside House
Main Street
Rotherham
S60 1AE
Tel: 01709 823928
E-mail: ian.thomas@rotherham.gov.uk

29.4.2 to the CCG, addressed to

Mr Christopher Edwards,

Chief Officer
NHS Rotherham CCG
Oak House,
Moorhead Way,
Bramley,
Rotherham S66
1YY
Tel: 01709 302009
Email: chris.edwards@rotherhamccg.nhs.uk

30 VARIATION

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

31 CHANGE IN LAW

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

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

31.3 In the event of failure by the Partners to agree the relevant amendments to the Agreement (as appropriate), the Clause 23 (Dispute Resolution) shall apply.

32 WAIVER

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

33 SEVERANCE

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

34 ASSIGNMENT AND SUB CONTRACTING

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

35 EXCLUSION OF PARTNERSHIP AND AGENCY

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

35.2 Except as expressly provided otherwise in this Agreement or where the context or any statutory provision otherwise necessarily requires, neither Partner will have authority to, or hold itself out as having authority to:

35.2.1 act as an agent of the other;

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

35.2.3 bind the other in any way.

36 THIRD PARTY RIGHTS

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

37 ENTIRE AGREEMENT

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

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

38 COUNTERPARTS

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

39 GOVERNING LAW AND JURISDICTION

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

39.2 Subject to Clause 23 (Dispute Resolution), the Partners irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to hear and settle any action, suit, proceedings, dispute or claim, which may arise out of, or in connection with, this Agreement, its subject matter or formation (including non-contractual disputes or claims).

Signed on behalf of ROTHERHAM METROPOLITAN BOROUGH COUNCIL



Ian Thomas – Strategic Director Children and Young People’s Service
Authorised signatory

Signed for on behalf of the NHS ROTHERHAM CLINICAL COMMISSIONING GROUP

Chris Edwards – Chief Officer
Authorised signatory

SCHEDULE 1 OVERARCHING SCHEME SPECIFICATION

Part 1 – Child and Adolescent Mental Health Services

1 Introduction

- 1.1 The NHS Operating Framework: 'High Quality Care for All' reminds the NHS that partnership working is key to the delivery of personalised healthcare and the delivery of personalised care and local objectives.
- 1.2 In May 2015 the Department of Health published the national 'Future in Mind' Report which is a key national driver in relation to mental health services at both a national and local level. There are five key themes:
- Promoting resilience
 - Prevention and early intervention
 - Improving access to effective support – a system without tiers
 - Care for the most vulnerable
 - Accountability and transparency
 - Developing the workforce
- 1.3 A requirement of the Report was for Clinical Commissioning Groups to develop a CAMHS Local Transformation Plan. This was completed in Rotherham in October 2015 and revised in October 2016 in line with the commitment to refresh the plan on an annual basis. The Plan outlines how both the Clinical Commissioning Group and other key stakeholders will deliver key recommendations from the 'Future in Mind' Report by 2020. The Local Transformation Plan was signed off by the Health and Wellbeing Board and approved by NHS England. The Local Transformation Plan takes into account the 'Emotional Wellbeing and Mental Health Strategy for Children and Young People in Rotherham, which was produced in 2014, and the Rotherham Youth Cabinet Mental Health Report 'Mind the Gap' (2015) and the 'Analysis of Need: Emotional Wellbeing and Mental Health for Children and Young People, 2014.
- 1.4 The Rotherham Joint Strategic Needs Assessment provides the foundation upon which continued partnership working is taking place to ensure that the services in borough address the needs and inequalities of local residents. It acts as a key driver of local health and social care strategies and informs commissioning decisions. The plans and services of all commissioners and health and social care providers in Rotherham are prioritised by needs identified in the Joint Strategic Needs Assessment and the six Rotherham Health and Wellbeing Strategic Outcomes:
- Prevention and Early Intervention
 - Expectations and aspiration
 - Dependence to independence
 - Healthy lifestyle
 - Managing long term conditions
 - Reducing poverty
- 1.5 The outcomes are underpinned by the determination of NHS Rotherham Clinical Commissioning Group to deliver across a range of key strategic aims which are outlined in the Clinical Commissioning Group's 5 Year Commissioning Plan, and include:
- Transforming community services to ensure all patients can access high quality, fit for purpose community services with increased capacity for community teams
 - Strengthened general practice services, aligned to patient needs and using new models of care so that GP expertise in risk management is used where it is most needed
 - Transform urgent care to offer high quality, sustainable clinical services seven days a week, 24 hours a day
 - Ensuring mental health services are fit for purpose and accessible to patients
 - Ensure all pathways are efficient, offer high quality services and patients have the best possible experience
 - Ensure all prescribing practices offer high quality and are efficient
- 1.6 The Rotherham Place Plan and the emerging Accountable Care System further build on the partnership approach in Rotherham which reflects the intention to enhance commissioning practice to ensure that

through joint strategic planning and delivery, a wider range of services are available to local people. The ambition is that by the engagement and involvement of children and young people, health and care services are provided which deliver excellent outcomes for children, young people and their families within a flexible, joint and creative commissioning framework.

- 1.7 The Clinical Commissioning Group and the Council both acknowledge that this shared agenda cannot be delivered without close partnership working at both an operational and strategic level. A Joint Commissioning infrastructure is already in place, with joint appointments between NHS Rotherham Clinical Commissioning Group and Rotherham Council and a Joint Commissioning Strategy.
- 1.8 Child and Adolescent Mental Health Services in Rotherham are reflective of ongoing national developments and represent a complex picture at local level in relation to the number of Service Providers and Commissioners across the whole Health and Care System. A large number of organisations provide CAMHS Services across a range of levels, from Universal (Tier1) to Targeted (Tier 2), Specialist (Tier 3) and Inpatient (Tier 4). In relation to this Agreement the Service Providers are Rotherham, Doncaster and South Humber NHS Foundation Trust (RDaSH) and the Rotherham Therapeutic Team. RDaSH are commissioned by the Clinical Commissioning Group to provide predominantly Tier 2 and Tier 3 Services.
- 1.9 In respect of the mental health of looked after and adopted children in Rotherham, the RDaSH CAMHS Service is enhanced and complimented by the Looked After and Adopted Childrens Therapeutic Team (LAACTT) which is delivered by the Council. The Therapeutic Team provides a therapeutic service to looked after and adopted children in accordance with the Adoption Support Services (Local Authorities) Regulations 2005 and the adoption national minimum standards 2011. The work of the Service is underpinned and guided by legislation and by Rotherham Borough Council's policies and procedures.

2 **AIMS AND OUTCOMES**

- 2.1 The aim of this partnership agreement is to further improve and strengthen the commissioning of the CAMHS Services by:
- The strengthening of the joint analysis of local need, gaps in current service provision and any capacity and demand issues, to ensure investment is targeted, cost effective and delivers the best outcomes for children and young people;
 - The joint commissioning approach with both parties working collaboratively to commission integrated services in a range of settings that are locally accessible and offer seamless care pathways which will subsequently improve the Service User experience within the available resources;
 - The alignment of strategic commissioning plans, performance reporting, market management approach and reporting procedures between the Partners;
 - The pooling of funds to improve the efficiency and cost-effectiveness of the commissioned CAMHS Service in Rotherham;
 - To deliver a cultural change which ensures that the benefits of integrated working are realised and excelled;
 - The establishment of an outcome-based Commissioning Framework which will that maximise the opportunity for improved quality and efficiency of health and social care support services through joint commissioning;
 - The improvement in the whole team approach by the inclusion of the Therapeutic Team within the pooled fund arrangement which will strengthen the service offer, reduce ineffective signposting and enable a more flexible model of delivery in relation to the step up and step down process.
 - An increase and strengthening of the joint commissioning accountability based on the establishment of the Section 75 Sub-group for CAMHS in Rotherham.
- 2.2 The Partners' shared aims, the agreed Aims and Objectives of the commissioning arrangements, are to

ensure that:

- the commissioning of services is based on an agreed model of need based on the Rotherham context rather than historical service configurations;
- the commissioned CAMHS Services present good value for money and best value and seek to operate within annually identified resources available for each Partner and for each service area;
- to promote emotional and physical good health and work to overcome social exclusion, with the prioritisation of our Looked After Children;
- the CAMHS Services are culturally competent in meeting the needs of people from black and minority ethnic communities;
- an holistic whole systems approach is taken to the commissioning and provision of the CAMHS Services by preventing duplication and to make more effective use of the current resources e.g. integrated care pathways;
- the way commissioned CAMHS Services are shaped and delivered have been influenced and informed by Service Users of Rotherham based on their experience;
- there is a robust framework for commissioning which secures ongoing financial stability for partner organisations;
- safeguarding is always given the fullest consideration during the commissioning process;
- robust arrangements to collect performance management information are established and maintained and that the information is used to evaluate performance against targets, monitoring both the effectiveness of the commissioning process and the commissioned CAMHS Services;
- there is clear identification of the healthcare and the social care components of the CAMHS Services being commissioned or provided at an individual Service User level and service level, with clear thresholds, where this is possible, and both organisations shall agree the exceptions and that these be noted within this Agreement or any Schedule thereto.

2.3 The Clinical Commissioning Group as Lead Commissioner will commission the CAMHS Services, in line with the following overarching aims and objectives:

- Ensuring that they contribute both directly and indirectly towards successfully delivering a wide range of indicator targets that help improve the emotional health and wellbeing of children and young people in Rotherham.
- Ensuring children and young people with mental health problems are helped at the earliest opportunity before these problems escalate so that outcomes are improved.
- Ensuring the skills, knowledge and understanding of professionals working with children and young people are improved to enable them to promote good mental health in children, young people and their families.
- Ensuring the skills, knowledge and understanding of professionals working with children and young people are improved to enable them to recognise mental health concerns accurately and how to access appropriate services.
- Ensuring direct clinical intervention and support is provided to assist the recovery of children and young people with mental health problems.
- Ensuring that any Service Provider can demonstrate that children and young people are satisfied with the care and support they receive from CAMHS.
- Ensuring that any Service Provider can demonstrate Best Value service delivery.
- Ensuring the smooth transition to Adult Mental Health Services for eligible CAMHS service users and in particular care leavers.

2.4 The CAMHS Services commissioned will include the following aims:

- Targeted CAMHS support to universal services and local integrated teams through the designated RDaSH Locality Workers.
- To improve outcomes for service users.
- To provide timely assessment of mental health needs and direct short term interventions at the earliest opportunity to children and young people that require more targeted support in order to reduce the need for more intensive support.
- To improve the skills, knowledge and understanding of Universal Service professionals (Tier 1) and Local Integrated Teams around mental health concerns via training, advice and consultation so that they are better able to respond directly to the needs of children, young people and their families in Rotherham.
- To provide timely referral to specialist CAMHS where a child or young person's mental health concern requires.
- Children, young people and their families will receive a positive experience of the CAMHS services.
- Health inequalities of at risk groups are reduced.
- Children, young people and their families receive safe, evidence based, innovative care that meets their needs.
- To work with all relevant agencies to ensure that services for children and young people with mental health problems are coordinated and address their individual needs, providing a holistic approach.
- To support placement stability of Looked After Children.
- To support care leavers successful transition to adulthood by developing their mental health and wellbeing.
- That the RDaSH CAMHS service works closely with the Rotherham Therapeutic Team to provide seamless support for Looked After Children regardless of their level of need.
- To provide an efficient and cost effective service that provides value for money to the Children and Young People of Rotherham.

3 PERSONS ELIGIBLE TO BENEFIT

- 3.1 Services commissioned by the CCG shall be commissioned for the benefit of individuals for whom in relation to that service the CCG is the responsible commissioner; for services commissioned by the Council, the services shall be commissioned for the benefit of individuals who are ordinarily resident in the Borough of Rotherham.
- 3.2 The CCG and the Council shall each liaise with any relevant neighbouring authority or CCG in respect of individuals who are the responsibility of either the CCG or the Council but not both.
- 3.3 The CCG and the Council shall apply such relevant eligibility criteria for access to services as are appropriate for the service in the light of their statutory duties.

Part 2 - FINANCE

Financial Principles

- 1 Pooled Fund Structure
 - 1.1 The Council and the CCG will make defined contributions to the costs incurred by the Pooled Fund as set out in this section. Financial resources in subsequent years will be reviewed and determined in accordance with the Agreement.
 - 1.2 In meeting its duties and responsibilities to develop a pooled arrangement to support the delivery of the CAMHS Local Transformation Plan, the Partners and the CAMHS Strategic Group have agreed to establish a pooled fund.
 - 1.3 The pool will deliver Tier 2 and Tier 3 services up to a value of £4.216m. This Pool will be hosted by the CCG and the CCG will act as Lead Commissioner.
 - 1.4 The pool will be split into two aligned budgets. Aligned budget 1 will deliver Tier 2 and Tier 3 services up to a value of £3.313m. Aligned Budget 2 will deliver Tier 2 services up to a value of £0.903m.

Table 1: Overview of the Services Included in the Pooled Fund

Pooled Fund			Contribution to the Pooled Fund	
Aligned Budget	Area of Funding	2017-18 £000	CCG £000	Council £000
Aligned Budget 1	RDaSH *	2,942	2,803	139
	RMBC (ASD post diagnostic Support) *	54	54	
	Rotherham Parents Forum (Family Support) *	85	85	
	Healthwatch *	20	20	
	Other	73	73	
	RDaSH - Eating Disorders	139	139	
	Sub Total	3,313	3,174	139
Aligned Budget 2	Therapeutic Team **	903		903
	Sub Total	903	0	903
	Grand Total	4,216	3,174	1,042

* The above figures include LTP funding of: 652,000

** The above figures include Adoption Support funding of: 271,000

The Host for the Pool is NHS Rotherham CCG, and the pooled fund manager is Wendy Allott, Chief Finance Officer

Financial Contributions

- 2 The CCGs base contribution for 2017/18 will be £3.174m and the Council's base contribution (net budget) will be £0.632m.
- 3 In the event that the partners agree to extend this agreement, there will be no automatic annual uplift to the amounts stated in this agreement for any subsequent year. Any uplift to these figures will be determined by both partners as part of the annual budget setting process
- 4 It is expected that the Pool Manager will manage the Agreement within the approved budget for each financial year. Any proposed expenditure over and above the approved budget must be agreed in writing by the Chief Finance Officer of the CCG and the Strategic Director of Finance and Customer Services of

the Council prior to any expenditure being incurred. Any overspend in the pooled funds shall be subject to the Risk Share Agreement (Annex D to this Schedule) in the first instance. If all appropriate options in this agreement are exhausted without resolution the default position would be that overspends be borne by the partner responsible for the aligned budget.

- 5 Any underspending in one year will be refunded to each partner based on the percentage contribution to the aligned budget, subject always to the powers of the parties to make grants to each other outside the terms of this agreement. Underspends should be brought to the Section 75 Sub-group to consider how they might be protected for CAMHS / Therapeutic services and reinvested back into the service to meet evolving priorities.

Payment Terms

- 6 The timing of payment shall be agreed annually in writing between the Chief Finance Officer of the Rotherham Clinical Commissioning Group and the Strategic Director of Finance and Customer Services of the Council.
- 7 In the absence of any Agreement:
 - 7.1 Each party shall provide such accounting information as may be required for the preparation of accounts and audit as may be required both during and at the end of each financial year recognising the need to ensure that both the Council and the CCG meet their specific financial reporting deadlines.
 - 7.2 The Council and the CCG will pay invoices within 30 days of receipt.

Non-Financial Principles

- 8 Non-financial contributions to the Schemes are confined to current support for joint and integrated commissioning arrangements. These will continue with no charges being made to the pooled fund.

Lead Officers

- 9 The table below provides lead officers contact details;

Partner	Name of Lead Officer	Address	Telephone Number	Email Address
Council	Mr Ian Thomas Strategic Director Children and Young People Services	Rotherham Metropolitan Borough Council, Riverside House, Main Street Rotherham S601AE	01709 823928	ian.thomas@rotherham.gov.uk
CCG	Mr Christopher Edwards Chief Officer	NHS Rotherham CCG, Oak House, Moorhead Way, Bramley Rotherham S66 1YY	01709 302009	Chris.edwards@rotherhamccg.nhs.uk

ANNEX A – Therapeutic Team Service Specification

The Service is accountable for delivering the following key outcomes:

- To provide training, information and consultation to Key professionals and carers to promote an understanding of therapeutic and mental health skills and competencies to guide, support and address the emotional and mental health needs of children and young people who are looked after, and adopted.
- Carers/Adoptive Parents will have access to consultation, advice and training regarding a number of social and psychological frameworks that will provide them with a wide range of constructive ways to understand and guide the care of children and young people who are recovering from abuse and neglect or affected by emotional, behavioural and relationship difficulties.
- Where required, children and young people will receive a therapeutic and emotional wellbeing assessment, including monitoring of wellbeing using the SDQ, and where recommended a range of therapeutic and psychological techniques that are informed by attachment theory.
- Where required a Therapeutic intervention will be provided based on a trauma and attachment model – this may include therapy, Dyadic developmental psychotherapy, systemic therapy, creative therapy, trauma based advanced lifestory work, emotions based interventions and trauma based interventions.
- A number of children and young people will receive an Intensive Intervention – based on a systemic whole team approach, working intensively to support the carers and including direct therapeutic interventions.
- Professionals access support, information, advice, supervision, consultancy and training from the Therapeutic Team and other sources to incorporate an understanding of the mental health and emotional needs of children and young people into their assessments, interventions, everyday work and decision making processes.

Operational Information

- This service shall be available across Rotherham and with consideration to young people placed elsewhere in the country.
- This service shall be available to Looked After Children aged under 18 years and Care Leavers aged up to 25 years
- This service shall be available to other professionals working with the client group, including the Adoption & Fostering Teams.
- This service shall be provided by a dedicated Looked After and Adopted Children's Team based within the Service Providers premises (2 wte clinical psychology posts (band 8c and 8a), 7 wte therapeutic intervention workers, & 2 WTE Business support Administrative Assistants).

Training for Other Professionals and Carers

- Training to named staff and carers to enable them to deliver interventions that promote emotional health and wellbeing and provide early intervention support. Specific therapeutic training will be available – dependant on need – including attachment based interventions, living and working with children who have been sexually abused, and Therapeutic Parenting group training.
- Up to 16 days training per year to the Purchaser's Social Workers, Foster Carers, Residential Care Home staff, Leaving Care Workers and Adoptive Parents (pre and post-adoption) on understanding trauma and attachment issues, promoting emotional wellbeing and mental health, using appropriate therapeutic skills and understanding access to services. Training will be delivered in locations suited to participants and in groups wherever possible to make the best use of time. The therapeutic Team will actively monitor the appropriateness of referrals to the service and target training when improvements are needed.

Support to Professionals (social care, early help, schools, GPs, Health staff, Children's Services staff)

- Information, advice and guidance via telephone contact or in person when appropriate alongside other relevant partners which:
 - Promotes emotional health and wellbeing with LAAC
 - Enhances the skills and competencies of staff within universal settings regarding mental health

issues and working with Looked After Children, children in SGO families, care leavers or adopted children (LAAC).

Direct Case Work

The Service Provider shall:

- The therapeutic Team shall provide consultation and will assess the emotional, therapeutic and mental health needs of children and young people. This will include providing consultation to named professionals working with Looked After Children and care leavers on individual cases of concern, relating to emotional wellbeing, understanding complex behaviours and mental health issues.
- The maximum wait from receipt of referral to first intervention with the carer, Social Worker or Leaving Care Worker as appropriate, shall be 6 weeks.
- Following a referral for a Looked After Child or care leaver (see section 3.4 below), and after discussion with an appropriate referring professional, assess the situation, presenting issues and the emotional wellbeing and mental health needs of the child.
- Following initial assessment, if appropriate, the Service Provider shall provide **indirect** consultation based short term interventions at Tier 2 including providing urgent advice, and attachment informed work with carers. Currently this service provides approximately three sessions to carers ('BIS – Brief Intervention Service').
- Waiting time from receipt of referral to the BIS – Brief intervention Service - should be no more than 6 weeks, subject to the agreement and availability of the Social Workers and/or Carer as appropriate. The Council shall waive this target if an intervention is arranged within this timescale but is cancelled by other parties. Waiting times from referral to first intervention shall be revalidated via contract management meetings based upon actual demand for the Service during the initial 6 months of the contract term.
- Following assessment, if appropriate, the Service Provider shall refer for direct therapeutic intervention from relevant services (including the Junction, RISE, Rainbows, GROW, Barnardos, or school and college counselling services).
- Following the BIS, if required refer for direct intervention within the Therapeutic Team. Waiting time from referral to intervention from the therapeutic team will be defined within RMBC and NHS Rotherham's contract with the Service Provider. Currently waiting times are up to 12 months for direct therapeutic interventions. This service includes therapies based on: clinical psychology, therapy, family therapy, Dyadic developmental psychotherapy Practices, play, art and creative therapies, emotions and trauma based work and advanced trauma informed Lifestory interventions. (NICE guidance and recommendations, emerging practice based evidence and evidenced based practices are considered in the context of the LAAC population and specific presentations).
- To a small number of young people and their carers offer the Intensive Intervention Programme (IIP) – which offers up to a day a week intervention with all professionals involved with the young person with an emphasis on direct family based therapeutic interventions.
- Following assessment, or following initial work, if appropriate, refer to Tier 3 CAMHS through close working with the CAMHS partners and careful case handover.
- For care leavers, referrals to Adult Mental Health or other appropriate Services may be necessary where age appropriate. When working with care leavers interventions at Tier 2 can be delivered to all care leavers appropriately referred regardless of their age (up to 25 years old).
- Assist in providing clear support and planning for transitions to Adult Mental Health Services where needed.
- Attend and input into Looked After Children reviews and pathway plan reviews for care leavers where appropriate.
- Attend strategic meetings related to Looked After Children as required
- Following assessment, if the referral is inappropriate, write to the referrer explaining why and signpost them to other more appropriate services.
- Inform appropriate parties of discharge and advise on other support available.
- Keep up to date records of all cases and input data into the appropriate monitoring systems.

ANNEX B – CAMHS Service Specification



IN USE RDaSH
CAMHS Specification

The service specification is being refreshed and the revised version will be included before commencement of the agreement.

ANNEX C – Financial Contributions

When agreeing the annual contributions, the Partners should comply with the following procedure:

1. Each Partner shall have complete discretion in determining whether or not to increase or decrease its annual contribution and as to the level of any increase or decrease. However, if either Partner decides to decrease its contribution by more than 2.5% then the matter shall be referred to the SECTION 75 SUB-GROUP to determine whether the CAMHS Service under the Pooled Fund remains viable. If the SECTION 75 SUB-GROUP determines that CAMHS Service shall not be viable after such decrease then either Partner shall be able to terminate this Agreement in accordance with Clause 22.
2. 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 and any underspends or overspends during that year shall be ignored unless otherwise agreed by the Partners. Where Pooled Funds are introduced during a Financial Year the Partners shall agree when introducing the Pooled Funds what figures shall be taken as the baseline contributions for that Financial Year for the purposes of this paragraph (as though the Pooled Funds were introduced at the commencement of that Financial Year).
3. In determining financial contributions for subsequent Financial Years, the Partners shall also consider whether it is appropriate to consider funding any growth proposals. Growth proposals of NHS Rotherham CCG shall be considered as part of NHS Rotherham CCG and the Council's strategic financial and business planning processes.
4. When calculating the Partners' respective financial contributions to the Partnership Arrangements for the Financial Year subsequent to the Financial Year commencing 1st April 2018 the Partners have agreed that the figures set out in Table 1 within Schedule 1 (Part 2) of this Agreement shall be regarded as the Council's and NHS Rotherham CCG respective baseline financial contributions.
5. Once the respective contributions have been agreed then the contribution is a fixed block amount unless agreed otherwise by exception.
6. The Host Partner has an obligation to commission services which minimise financial risk to either party to this Agreement. Both parties to this Agreement shall agree the financial and service framework for sub-contracting arrangements prior to the Host Partner finalising the sub-contracting arrangements.

Non-Financial Contributions

7. The scheme specification shall set out non-financial contributions of each Partners including staff (including the Pooled Fund Manager), premises, IT support and other non-financial resources necessary to perform its obligations pursuant to this Agreement. Save as otherwise stated in the Scheme Specification, no charges shall be made in relation to non-financial contributions.
8. The Partners agree that they will provide IT support to users of their IT systems.

ANNEX D – RISK SHARING

The following details proposals for the sharing of risks relating to the schemes included in Schedule 1.

1 Risk sharing proposal

General principles

It is proposed that the Section 75 Sub-Group is the forum where decisions on the application of risk pool funding for either pool is made.

Risk is attributable to the scheme commissioner pro rata to the proportion of that scheme commissioned. This is to reflect where the levers for change and control sit.

Similarly, where the scheme is joint and there is one lead commissioner, the risk should be shared pro-rata to the proportion of that scheme commissioned.

2 Overspend / Underspend treatment

If an overspend is identified the following approach will be taken:

- a. Seek to cover the overspend from areas of underspend identified within the aligned budget;
- b. Utilise the risk pool funding;
- c. Reduce uncommitted scheme allocations;
- d. Cover using resources from outside the pool pro-rata to the baseline contributions of each organisation. NB: the RMBC contribution to the RDaSH contract is fixed at £139k per annum.

If an underspend is identified the following approach will be taken:

- e. Underspends remain within the pooled arrangement to support overspends elsewhere in the pool;
- f. Further joint schemes within budget lines to be proposed in year which can utilise the resources in year.

In all of these scenarios the Section 75 Sub-Group is the forum where decisions would be made.

ANNEX E

VAT Regime

1. The Partners agree to adopt "Partnership Structure (a)" as described in the VAT Guidance through which the Partners agree that goods and services will be purchased in accordance with the Host Partner's VAT regime and reimbursed from the Partners' contributions.

ANNEX F

Premises

1. No real property of the Host Partner (“Premises”) shall form part of the pooling arrangements under this agreement but the Host Partner may, in its absolute discretion, use and allow the use of its Premises for the delivery of the Services under this Agreement
2. If the Host Partner uses or allows the use of its Premises in accordance with clause 1 above, it shall ensure that the Premises are:
 - 2.1.1 suitable for the delivery of the Services;
 - 2.1.2 sufficient to meet the reasonable needs of Service Users; and
 - 2.1.3 where required by law, shall meet any and all regulatory standards (as appropriate) including but not limited to the Disability Discrimination Act 1995, the Care Standards Act 2000 and the Private and Voluntary Healthcare (England) Regulations 2001, together with any applicable NHS standards in force from time to time.

ANNEX G

Equipment

1. Should any equipment be funded from the pooled fund, and used in the delivery of the CAMHS Service then the Host Partner shall ensure that such equipment is:
 - 1.1 suitable for the delivery of the Services;
 - 1.2 sufficient to meet the reasonable needs of Service Users; and
 - 1.3 where required by law, shall meet any and all regulatory standards (as appropriate) including but not limited to the Disability Discrimination Act 1995, the Care Standards Act 2000 and the Private and Voluntary Healthcare (England) Regulations 2001, together with any applicable NHS standards in force from time to time.

2. The Host Partner shall:
 - 2.1 maintain in good and serviceable repair all such equipment;
 - 2.2 ensure that such equipment integrates properly with hardware, software, products, or services which interface with or are used in conjunction with the Services; and
 - 2.3 not at any time introduce any computer virus or other contamination, whether knowingly or not onto any of the equipment.

ANNEX H

Staff

The Host Partner shall commission Services from a Service Provider, whose staff will remain employed by the Service Provider at all times. The Therapeutic Team will co-locate with the commissioned CAMHS service.

SCHEDULE 2 – GOVERNANCE

The actions outlined within the Rotherham Place Plan demonstrate the commitments of both the Council and CCG to transforming services and working in a more integrated way for the benefit of Rotherham people. This Partnership Framework Agreement further consolidates this commitment, and demonstrates our resolve to work in a transparent and integrated way.

Using the governance framework set out below the partners will monitor the effective delivery of each of the schemes outlined in Schedule 1.

1. GOVERNANCE ARRANGEMENTS

The particular responsibilities of the Section 75 Sub-Group are (without limitation) as follows:

- to receive feedback and reports from the Partners on the Services commissioned or provided in relation to quality and efficiency indicators, impact and outcomes;
- to monitor, advise and agree resource allocation and highlight cost pressures to the Partners through reporting lines to be agreed between the Partners;
- to approve changes to the commissioning or provision of the Services, within the terms of this Agreement;
- to ensure the Parties comply with this Agreement;
- to measure the performance and quality of the commissioning or provision of the Services against the standards of conduct outlined in Schedule 3 of this Agreement;
- to pursue the intended aims and objectives as specified in Part 1 (Aims and Objectives);
- to respond without prejudice to any complaints procedures under the Hospital Complaints Procedures Act 1985 or under section 7B of the Local Authorities Social Services Act 1970 or otherwise, to appoint a sub-committee or a member of the Section 75 Sub-Group to consider complaints about the Arrangements if the complaints are made by or on behalf of Service Users;
- to ensure that services commissioned and any service changes adhere to strategic plans for CAHMS Services; and
- to ensure that robust processes are in place to identify any emerging financial or service risks at an early stage and to take action to minimise or negate such risks

2 MEETINGS AND MEMBERSHIP (Term of Reference)

2.1 Membership of the Section 75 Sub-Group shall comprise the following individuals:

- Senior Manager – Contracts, NHS Rotherham CCG
- Joint Assistant Director, Commissioning, Performance and Quality (Chair)
- Head of Strategic Commissioning, Children’s Services of the Council;
- Strategic Commissioning Manager Children’s Services of the Council;
- Senior Finance Manager of the Council
- Senior Finance Manager of the CCG
- Performance Lead Officer
- Safeguarding Lead Officer

2.2 Other staff may be in attendance at meetings of the Section 75 Sub-Group as may be appropriate to the agenda.

- 2.3 The quorum for meetings shall be a minimum of four members (or their appointed deputies) and at least two from each organisation (any joint post holders will count as one member from each organisation) must be present when making decisions. All decisions must be unanimous. Where unanimous agreement is not reached the members will agree on the process to conclude a decision. If this is not possible then the matter will be escalated to a Director within each organisation in the first instance. Ultimately the disputes resolution process, at Clause 21 of Part 2 of this Agreement, will apply.
- 2.4 Meetings of the Section 75 Sub-Group will take place on a Quarterly basis and follow the CAMHS Strategy and Partnership meetings. Meeting dates will, wherever possible, be agreed 12 months in advance.
- 2.5 All Section 75 Sub-Group meetings will be closed to the press and public.
- 2.6 Meetings of the Section 75 Sub-Group will be chaired by the Joint Commissioning Assistant Director, Children and Young People's Services, the Clinical Commissioning Group, will provide the Secretariat function to the formal Section 75 Sub-Group meetings. The agenda and all reports will be published a minimum of five Working Days before the meeting. Minutes of meetings or a report of the decisions taken at meetings will be kept and circulated to officers within five Working Days of meetings.
- 2.7 Decisions may be taken without the members of the Section 75 Sub-Group being together at the same time or same place and any such decision shall be recorded in writing (which shall include email).
- 2.8 The Partners may agree in writing from time to time to modify, extend or restrict the remit of the Section 75 Sub-Group.
- 2.9 The Section 75 Sub-Group may decide to meet informally by mutual agreement.
- 2.10 Individual Service areas may also wish to report annually to the service specific Partnership Board on the delivery of the Aims and Objectives through the mechanism of this Agreement
- 2.11 Where any Service Provider is commissioned by the Host Partner, and the contract price payable to that Service Provider is to be reduced in real terms in any year, the Section 75 Sub-Group shall allow a representative of that Service Provider an opportunity to address the Section 75 Sub-Group to make such representations as it considers reasonable.
- 2.12 The Joint Assistant Director of Commissioning, Performance and Quality, Children's Services shall:
- resolve (jointly with the Deputy Chief Operating Officer of Rotherham CCG) any conflicts of interest relating to this Agreement;
 - address sub-standard performance;
 - agree strategies for media contact;
 - receive contract notices served on the Council or the Clinical Commissioning Group; and
 - act as referee in the first stage referral of disputes.
 - authorise a Lead Commissioner to enter into any contract for services necessary for the provision of Services under an Individual Scheme

SCHEDULE 3 - JOINT WORKING OBLIGATIONS

1. LEAD COMMISSIONER OBLIGATIONS

Terminology used in this Schedule shall have the meaning attributed to it in the NHS Standard Form Contract save where this Agreement or the context requires otherwise.

- a) The Lead Commissioner shall notify the other Partners if it receives or serves:
 - (ii) a Change in Control Notice;
 - (iii) a Notice of an Event of Force Majeure;
 - (iv) a Contract Query or Contract Default Notice;
 - (v) Exception Reports;
and provide copies of the same;
 - (vi) Serious Incident Reports
and provide copies of the same;
 - (vii) Adult Safeguarding Concerns.

- (b) The Lead Commissioner shall provide the other Partners with copies of any and all (if applicable):
 - (i) CQUIN Performance Reports;
 - (ii) Monthly Activity Reports;
 - (iii) Review Records;
 - (iv) Remedial Action Plans;
 - (v) JI Reports;
 - (vi) Service Quality Performance Report.

- (c) The Lead Commissioner shall consult with the other Partners before attending:
 - (i) an Activity Management Meeting;
 - (ii) Contract Management Meeting;
 - (iii) Review Meeting

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

- (d) The Lead Commissioner shall not:
 - (i) permanently or temporarily withhold or retain monies pursuant to the Withholding and Retaining of Payment Provisions;
 - (ii) vary any Provider Plans (excluding Remedial Action Plans); – RCCG; or Service Improvement Plans - RMBC);
 - (iii) agree (or vary) the terms of a Joint Investigation or a Joint Action Plan;

- (iv) give any approvals under the Service Contract;
 - (v) agree to or propose any variation to the Service Contract (including any Schedule or Appendices);
 - (vi) suspend all or part of the Services;
 - (vii) serve any notice to terminate the Service Contract (in whole or in part);
 - (viii) serve any notice;
 - (ix) agree (or vary) the terms of a Succession Plan;
 - (x) without the prior approval of the other Partners (acting through the CAMHS Strategic Partnership Group such approval not to be unreasonably withheld or delayed.
- (e) The Lead Commissioner shall advise the other Partners of any matter which has been referred for dispute and agree what (if any) matters will require the prior approval of one or more of the other Partners as part of that process.
 - (f) The Lead Commissioner shall notify the other Partners of the outcome of any Dispute that is agreed or determined by Dispute Resolution.
 - (g) The Lead Commissioner shall share copies of any reports submitted by the Service Provider to the Lead Commissioner pursuant to the Service Contract (including audit reports).

2. OBLIGATIONS OF THE OTHER PARTNER

Terminology used in this Schedule shall have the meaning attributed to it in the NHS Standard Form Contract save where this Agreement or the context requires otherwise.

- (a) Each Partner shall (at its own cost) provide such cooperation, assistance and support to the Lead Commissioner (including the provision of data and other information) as is reasonably necessary to enable the Lead Commissioner to:
 - (i) resolve disputes pursuant to a Service Contract;
 - (ii) comply with its obligations pursuant to a Service Contract and this Agreement;
 - (iii) ensure continuity and a smooth transfer of any Services that have been suspended, expired or terminated pursuant to the terms of the relevant Service Contract;
- (b) No Partner shall unreasonably withhold or delay consent requested by the Lead Commissioner.
- (c) Each Partner (other than the Lead Commissioner) shall:
 - (i) comply with the requirements imposed on the Lead Commissioner pursuant to the relevant Service Contract in relation to any information disclosed to the other Partners;
 - (ii) notify the Lead Commissioner of any matters that might prevent the Lead Commissioner from giving any of the warranties set out in a Services Contract or which might cause the Lead Commissioner to be in breach of warranty.

SCHEDULE 4 - PERFORMANCE METRICS



CAMHS - Rotherham
CCG Commissioning

SCHEDULE 5 – POLICIES FOR THE MANAGEMENT OF CONFLICTS OF INTEREST

Copies of policies for the management of conflicts of interest can be accessed by the following link:

ROTHERHAM MBC:

http://rmbcintranet/_layouts/15/osssearchresults.aspx?u=http%3A%2F%2Frmbcintranet&k=conflicts%20of%20interest

NHS ROTHERHAM CCG:

<http://www.rotherhamccg.nhs.uk/corporate-policies.htm>

SCHEDULE 6 – INFORMATION SHARING PROTOCOL

A copy of Rotherham's information sharing protocol can be accessed by the following link:

<http://www.rotherhamccg.nhs.uk/partnership-policies.htm>

RMBC Joint Agency Information Sharing Protocol



Joint Agency
Information Sharing I

SCHEDULE 7 – SPECIFICATION FOR GOVERNANCE AND FINAL ACCOUNTS REQUIREMENT

Specification for Governance and Final Accounts Requirement for LA and CCG

Introduction and key principles for the operation of the pooled arrangements

Section 75 allows partners to make contributions to a common fund to be spent on agreed functions. To enable the effective operation of the pooled arrangements:

- Partners must sign a joint funding agreement before starting to operate the pool.
- One agreement can cover multiple pools
- Pooled budgets must follow the appropriate accounting arrangements
- The host partner is responsible for producing the year end accounts
- The accountable body is the organisation from where the money originated
- Conditions attached to individual funding streams are required to be met
- The arrangements for operation of the pooled arrangements are required to ensure that the requirements of all partners to achieve economy, efficiency and effectiveness in their use of resources are met
- The arrangements for operation of the pooled arrangements are required to ensure that the regulatory requirements for each party are met, e.g. CCG has significant monthly reporting requirements to NHS England with nationally driven deadlines, as well as the requirement for the external auditors to express an explicit opinion on the regularity of their transactions.
- NHS Bodies are subject to a short timeframe for the preparation and audit of their accounts, Local Authorities currently have longer. By hosting, the parties must take ownership in ensuring that all accounts issues are progressed so as not to compromise the NHS timetable.

On-going arrangements

1. Each partner will reference the pool to the organisational scheme of delegation and how this will operate in practice.
2. The coding arrangements in place within the ledger of the host organisation will need to ensure that the accounting requirements of the other partner are met.
3. The host can ensure that accurate and timely reporting of financial and non-financial information meets its own requirements but will need to ensure that information is available to meet the requirements of the other party also.
4. Budget monitoring updates will be provided quarterly to the Section 75 Sub-Group and the CAMHS Strategic and Partnership Group. Quarterly reports to be submitted to the CCG governing body and the Local Authority CYPS Directorate Leadership outlining the following:

- The level of contribution to the pooled budget
 - Spend to date
 - Performance to date
 - How the pooled budget is performing overall
5. CCG will require monthly financial and non-financial reporting within the timescales of the CCG Reporting Timetable, in order to inform its internal management accounting, external reporting to NHS England and the identification of risk throughout the financial year. Reporting should also reflect CCG requirements and the reporting environment of the CCG.
 6. The CCG will need to be able to work within the reporting and management environment of the Local Authority for elements of the pool and therefore multiple processes may need to be implemented.
 7. The host partner will ensure that where elements of the pooled budget are ring-fenced for a particular purpose, the necessary supporting information is available to provide assurance that those elements have been used appropriately and to support the accounting arrangement applied.
 8. The host will need to ensure that the VAT arrangements are compliant with both NHS and LA VAT regimes. Currently Local Authorities can reclaim VAT on purchases so if the CCG hosted the pool, it would need to retain records and administer the share for which VAT is reclaimable.
 9. There must be a clear mechanism for alerting Governing Bodies as well as the Health and Wellbeing Board of concerns relating to delivery of projects, in line with the arrangements set out in Schedule 3.
 10. In order to avoid difficulties in the consolidation of accounts, all the accounts should be maintained on a gross basis. Should accounts information be required on a net basis this can then be calculated.
 11. The host organisation to provide access to relevant aspects of the ledger and accounts to enable internal audit monitoring as part of agreed Audit plans in-year.

Year End Closure of Accounts

12. The partners should consider the nature of each pooled budget in accounting terms and in particular whether the pool is a joint operation in accordance with IFRS11. If the arrangement is not a joint operation then its substance should determine the accounting. It may be a lead commissioning or aligned commissioning arrangement.
13. To meet requirements in relation to the preparation of annual accounts) the host must prepare and publish a full statement of spending signed by the accountable officer or section 151 officer, to provide assurance to all other parties to the pooled fund. This is required to meet the specified timescales for the publication of accounts and should include:
 - Contributions to the pooled fund, cash or kind
 - Expenditure from the pooled fund
 - The difference between expenditure and contributions
 - The treatment of the difference
 - Any other agreed information

14. All partners to discuss and agree with their external auditors the assurances required in order to sign off the year end accounts and particular requirements where the partner is not the pool host.
15. An annual return detailing a full statement of expenditure and linked to Annual Governance Statement Requirements must be received by the CCG in line with NHS Annual Accounts Reporting Timescales subject to confirmation by NHS England. This must be signed by the Section 151 officer.
16. A memorandum account would need to be produced for the Local Authority at closedown. CCG would be responsible for preparation of annual statements of account and Audit to the requirements of the Local Authority in relation to the pool it hosts.
17. The Annual Governance statement (CCG) will be required to report on internal control and risk management within the pool. This is part of the final accounts documentation which is subject to audit at the year end.
18. The CCG will have responsibility for ensuring that the Local Authority's statutory duties including financial reporting are met. This includes form of accounts, gross and net as well as ensuring that the required timescales are achieved.
19. Would require joint Agreement of Internal and External Audit of the pooled arrangement to inform Annual Governance Statement and to provide the required level of assurance to respective Audit Committees, Governing Bodies and the External Audit. This includes reviewing whether information received is accurate and correct.
20. The LA capital accounting regime for Disabilities Facilities Grant and other capital will need to be followed and accounts closure timescales adopted.
21. As the CCG will be required to report on its share of assets, liabilities, income and expenditure in accordance with IFRS 11, all reporting must be done in line with this accounting standard and enable the CCG to account for the pooled budget as outlined in the DH Manual for Accounts.
22. For its own assurance and to satisfy the requirement for delivery of value for money, each partner should set out clear requirements for evidence of how the resources provided to the pool have been utilised and how value for money has been achieved.
23. Information may be required to support Agreement of Balances exercises although further guidance for NHS England is awaited.