



NHS Devon Integrated Care Board

CONSTITUTION

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1. Introduction

1.1 Background/ Foreword

- 1.1.1 NHS England has set out the following as the four core purposes of Integrated Care Systems (ICSs):
- a) improve outcomes in population health and healthcare
 - b) tackle inequalities in outcomes, experience and access
 - c) enhance productivity and value for money
 - d) help the NHS support broader social and economic development.
- 1.1.2 The Integrated Care Board (ICB) will use its resources and powers to achieve demonstrable progress on these aims, collaborating to tackle complex challenges, including:
- improving the health of children and young people
 - supporting people to stay well and independent
 - acting sooner to help those with preventable conditions
 - supporting those with long-term conditions or mental health issues
 - caring for those with multiple needs as populations age
 - getting the best from collective resources so people get care as quickly as possible.

1.2 Name

- 1.2.1 The name of this Integrated Care Board is NHS Devon Integrated Care Board ("the ICB").

1.3 Area Covered by the Integrated Care Board

- 1.3.1 The area covered by the ICB is co-terminus with the administrative boundaries of the following local authorities:

- a) Devon County Council
- b) Torbay Council
- c) Plymouth City Council

- 1.3.1.3.2 The area covered by the ICB is coterminous with the areas of the District of East Devon, City of Exeter, District of Mid Devon, District of North Devon, City of Plymouth, District of South Hams, District of Teignbridge, Borough of Torbay, District of Torridge and the Borough of West Devon.

- ~~1.4.0 Devon Integrated Care Board (ICB) serves a population of around 1.2 million people across three upper tier local authorities (one county and two unitary)~~

- ~~1.15.1~~ 1.4.1 The ICB is established by order made by NHS England under powers in the 2006 Act.

~~1.15.21.4.2~~ The ICB is a statutory body with the general function of arranging for the provision of services for the purposes of the health service in England and is an NHS body for the purposes of the 2006 Act.

~~1.15.31.4.3~~ The main powers and duties of the ICB to commission certain health services are set out in sections 3 and 3A of the 2006 Act. These provisions are supplemented by other statutory powers and duties that apply to ICBs, as well as by regulations and directions (including, but not limited to, those made under the 2006 Act).

~~1.15.41.4.4~~ In accordance with section 14Z25(5) of, and paragraph 1 of Schedule 1B to, the 2006 Act the ICB must have a Constitution, which must comply with the requirements set out in that Schedule. The ICB is required to publish its Constitution (section 14Z29). This Constitution is published here [\[click here\]](#)

Commented [PH2]: To be added

~~1.15.51.4.5~~ The ICB must act in a way that is consistent with its statutory functions, both powers and duties. Many of these statutory functions are set out in the 2006 Act but there are also other specific pieces of legislation that apply to ICBs. Examples include, but are not limited to, the Equality Act 2010 and the Children Acts. Some of the statutory functions that apply to ICBs take the form of general statutory duties, which the ICB must comply with when exercising its functions. These duties include but are not limited to:

- a) having regard to and acting in a way that promotes the NHS Constitution (section 2 of the Health Act 2009 and section 14Z32 of the 2006 Act);
- b) exercising its functions effectively, efficiently and economically (section 14Z33 of the 2006 Act);
- c) duties in relation children including safeguarding, promoting welfare etc (including the Children Acts 1989 and 2004, and the Children and Families Act 2014)
- d) adult safeguarding and carers (the Care Act 2014)
- e) equality, including the public-sector equality duty (under the Equality Act 2010) and the duty as to health inequalities (section 14Z35)
- f) information law, (for instance, data protection laws, such as the UK General Data Protection Regulation 2016/679 and Data Protection Act 2018, and the Freedom of Information Act 2000); ~~and~~
- g) provisions of the Civil Contingencies Act 2004.

~~1.15.61.4.6~~ The ICB is subject to an annual assessment of its performance by NHS England which is also required to publish a report containing a summary of the results of its assessment.

~~1.15.71.4.7~~ The performance assessment will assess how well the ICB has discharged its functions during that year and will, in particular, include an assessment of how well it has discharged its duties under—

- a) section 14Z34 (improvement in quality of services);
- b) section 14Z35 (reducing inequalities);

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- c) section 14Z38 (obtaining appropriate advice);
- d) section 14Z40 (duty in respect of research)
- e) section 14Z43 (duty to have regard to effect of decisions)
- f) section 14Z45 (public involvement and consultation);
- g) sections 223GB to 223N (financial duties); ~~and~~
- h) section 116B(1) of the Local Government and Public Involvement in Health Act 2007 (duty to have regard to assessments and strategies);

~~1.15.8~~1.4.8 NHS England has powers to obtain information from the ICB (section 14Z60 of the 2006 Act) and to intervene where it is satisfied that the ICB is failing, or has failed, to discharge any of its functions or that there is a significant risk that it will fail to do so (section 14Z61).

~~1.16~~1.5 Status of this Constitution

~~1.16.1~~1.5.1 The ICB was established on 01 July 2022 ~~by~~under The Integrated Care Boards (Establishment) Order 2022, which made provision for its Constitution by reference to this document.

~~1.16.2~~1.5.2 Changes to this Constitution will not be implemented until, and are only effective from, the date of approval by NHS England.

~~1.17~~1.6 Variation of this Constitution

~~1.17.1~~1.6.1 In accordance with paragraph 15 of Schedule 1B to the 2006 Act this Constitution may be varied in accordance with the procedure set out in this paragraph.

The Constitution can only be varied in two circumstances:

- a) where the ICB applies to NHS England in accordance with NHS England's published procedure and that application is approved; ~~and/or~~
- b) where NHS England varies the Constitution of its own initiative, (other than on application by the ICB).

~~1.17.2~~1.6.2 The procedure for proposal and agreement of variations to the Constitution is as follows:

- a) The ICB's Audit and Risk Committee will lead an annual review of this Constitution. Any proposed amendments shall be considered and approved by the Board of the ICB, for application to NHS England for variation.
- b) In addition to the annual review by the Audit and Risk Committee, the Chief Executive Officer or Chair may also propose amendments to this Constitution, which shall be considered and approved by the Board of the ICB, for application to NHS England for variation.
- ~~a) In considering and approving any proposed changes to this Constitution, and where proportionate to the proposed variation, the Board of the ICB will wish to engage with relevant stakeholders (in line with any applicable guidance issued by NHS England) ahead of any final application to NHS~~

~~England Chief Executive Officer (CEO) may periodically propose amendments to the Constitution and propose changes at the request of any ICB Board Member which is brought to their attention. These requests shall be considered for approval by the ICB Board.~~

b) Proposed amendments to this Constitution will not be implemented until an application to NHS England for variation has been approved.

1.1 1.7 Related Documents

1.7.1 This Constitution is also supported by a number of documents which provide further details on how governance arrangements in the ICB will operate.

1.7.2 The following are appended to the Constitution and form part of it for the purpose of clause 1.6 and the ICB's legal duty to have a Constitution:

a) **Standing orders**– which set out the arrangements and procedures to be used for meetings and the processes to appoint the ICB committees.

1.7.3 The following do not form part of the Constitution but are required to be published.

a) **The Scheme of Reservation and Delegation (SoRD)**– sets out those decisions that are reserved to the board of the ICB and those decisions that have been delegated in accordance with the powers of the ICB and which must be agreed in accordance with and be consistent with the Constitution. The SoRD identifies where, or to whom, functions and decisions have been delegated to.

b) **Functions and Decision map**– a high level structural chart that sets out which key decisions are delegated and taken by which part or parts of the system. The Functions and Decision map also includes decision making responsibilities that are delegated to the ICB (for example, from NHS England).

c) **Standing Financial Instructions** – which set out the arrangements for managing the ICB's financial affairs.

d) **The ICB Governance Handbook**– this brings together all the ICB's governance documents, so it is easy for interested people to navigate. It includes:

- The above documents a) – c)
- Terms of reference for all committees and sub-committees of the board that exercise ICB functions
- Delegation arrangements for all instances where ICB functions are delegated, in accordance with section 65Z5 of the 2006 Act, to another ICB, NHS England, an NHS trust, NHS foundation trust, local authority, combined authority or any other prescribed

body; or to a joint committee of the ICB and one of those organisations in accordance with section 65Z6 of the 2006 Act.

- Terms of reference of any joint committee of the ICB and another ICB, NHS England, an NHS trust, NHS foundation trust, local authority, combined authority or any other prescribed body; or to a joint committee of the ICB and one of those organisations in accordance with section 65Z6 of the 2006 Act.
- The up-to-date list of eligible providers of primary medical services under clause 3.67.2

e) **Key policy documents** - these shall be included in the Governance Handbook, or linked to it. They include the following, as amended, supplemented or updated from time to time by the ~~board~~Board of the ICB:

- ~~standards~~Standards of Business Conduct Policy
- ~~conflicts~~Conflicts of ~~interest~~Interest ~~procedures~~Policy
- ~~P~~Policy for ~~public~~Public ~~involvement~~Involvement and ~~engagement~~Engagement
- Policy for the Development of Procedural Documents

2 Composition of the Board of the ICB

2.1 Background

2.1.1 This part of the Constitution describes the membership of the ~~Integrated Care Board~~. Further information about the criteria for the roles and how they are appointed is in section 3 of this Constitution.

2.1.2 Further information about the individuals who fulfil these roles can be found on our website [\[click here\]](#)

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2.1.3 In accordance with paragraph 3 of Schedule 1B to the 2006 Act, the membership of the ICB (referred to in this Constitution as “the Board” and members of the ICB are referred to as “Board Members”) consists of:

- a Chair
- a Chief Executive (known as the Chief Executive Officer)
- at least three Ordinary Members.

2.1.4 The membership of the ICB (the Board) shall meet as a unitary board and shall be collectively accountable for the performance of the ICB’s functions.

2.1.5 NHS England Policy, requires the ICB to appoint the following additional Ordinary Members:

- three Executive Members, namely:
 - Director of Finance (known as Chief Finance Officer)
 - Medical Director (known as Chief Medical Officer)
 - Director of Nursing (known as Chief Nursing Officer)

- b) at least two ~~independent~~ Non-Executive Members

2.1.6 The Ordinary Members include at least three members who will bring knowledge and a perspective from their sectors. These members (known as Partner Members) are nominated by the following, and appointed in accordance with the procedures set out in section 3 below:

- NHS trusts and foundation trusts who provide services within the ICB's area and are of a prescribed description
- the primary medical services (general practice) providers within the area of the ICB and are of a prescribed description
- ~~the~~ local authorities which are responsible for providing Social Care and whose area coincides with or includes the whole or any part of the ICB's area.

~~2.1.7~~ While the Partner Members will bring knowledge and experience from their sector and will contribute the perspective of their sector to the decisions of the Board, they are not to act as delegates of those sectors.

2.2 Board Membership

2.2.1 The ICB has 4 Partner Members

- a) 1 Partner Member NHS ~~Trusts~~ and Foundation Trusts
- b) 1 Partner Member ~~- Primary Medical Services~~
- c) 2 Partner Members ~~- Local Authorities~~

2.2.2 The ICB has also appointed the following further Ordinary Members to the Board:

- a) ~~At least 2 and up to 3 additional independent~~ Non-Executive Members
- b) ~~1 member who brings the perspective of Mental Health member services (known as the Mental Health member)~~
- ~~b)c)~~ 1 member who brings the perspective of the voluntary, community and social enterprise sector (known as the VCSE Member)

2.2.3 The ~~B~~board is therefore composed of the following members:

- a) Chair
- b) Chief Executive ~~Officer~~
- c) 1 Partner Member ~~- NHS Trusts~~ and Foundation Trusts
- d) 1 Partner Member ~~- Primary Medical Services~~
- e) 2 Partner ~~Members~~ ~~- Local Authorities~~
- f) ~~1~~ Mental Health Member
- ~~f)g)~~ VCSE Member
- ~~g)h)~~ At least 5 and up to 6 independent Non-Executive Members (one of which, but not the Audit and Risk Committee Chair, will be appointed Deputy Chair, and one of which, who may be the Deputy Chair or the Audit and Risk Committee Chair, will be appointed the Senior Non-Executive Member)

- ~~h)~~ Director of Finance (known as Chief Finance Officer)
- ~~h)~~ Medical Director (known as Chief Medical Officer)
- ~~j)~~ Director of Nursing (known as Chief Nursing Officer)

- 2.2.4 The Chair will exercise their function to approve the appointment of the ordinary members with a view to ensuring that at least one of the Ordinary Members will have knowledge and experience in connection with services relating to the prevention, diagnosis and treatment of mental illness.
- 2.2.5 The Board will keep under review the skills, knowledge, and experience that it considers necessary for members of the Board to possess (when taken together) in order for the Board effectively to carry out its functions and will take such steps as it considers necessary to address or mitigate any shortcoming.

2.3 Regular Participants and Observers at Board Meetings

- 2.3.1 The Board may invite ~~up to two Associate Non-Executive Members and other~~ specified individuals to be Participants or Observers at its meetings in order to inform its decision-making and the discharge of its functions as it sees fit.
- 2.3.2 Participants will receive advanced copies of the notice, agenda and papers for Board meetings. They may be invited to attend any or all of the Board meetings, or part(s) of a meeting by the Chair. Any such person may be invited, at the discretion of the Chair to ask questions and address the meeting but may not vote. ~~The following individuals will be invited to attend each board meeting:~~
- ~~2.3.3~~ Participants and / or observers may be asked to leave the meeting by the Chair in the event that the Board passes a resolution to exclude the public as per the Standing Orders.

3 Appointments Process for the Board

3.1 ~~Eligibility Criteria for Board Membership~~

- 3.1.1 Each member of the ICB must:
 - a) comply with the criteria of the "fit and proper person test"
 - b) be ~~willing to uphold~~~~committed to upholding~~ the Seven Principles of Public Life (known as the Nolan Principles), ~~the values of the NHS Long Term Plan and the NHS People plan~~
 - c) fulfil the requirements relating to relevant experience, knowledge, skills and attributes set out in a role specification.
- ~~meet the eligibility criteria set out in the Constitution of the ICB~~

3.2 Disqualification Criteria for Board Membership

- 3.2.1 Individuals of the following descriptions are automatically disqualified from membership of the Board

- a) A Member of Parliament.
- b) A person whose appointment as a Board member ("the candidate") is considered by the person making the appointment as one which could reasonably be regarded as undermining the independence of the health service because of the candidate's involvement with the private healthcare sector or otherwise.
- c) A person who, within the period of five years immediately preceding the date of the proposed appointment, has been convicted—
 - in the United Kingdom of any offence, or
 - outside the United Kingdom of an offence which, if committed in any part of the United Kingdom, would constitute a criminal offence in that part, and, in either case, the final outcome of the proceedings was a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.
- d) A person who is subject to a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986, Part 13 of the Bankruptcy (Scotland) Act 2016 or Schedule 2A to the Insolvency (Northern Ireland) Order 1989 (which relate to bankruptcy restrictions orders and undertakings).
- ~~e)~~
- f) A person whose term of appointment as the chair, a member, a director or a governor of a Health Service Body, has been terminated on the grounds:
 - that it was not in the interests of, or conducive to the good management of, the Health Service Body or of the health service that the person should continue to hold that office
 - that the person failed, without reasonable cause, to attend any meeting of that Health Service Body for three successive meetings,
 - that the person failed to declare a pecuniary interest or withdraw from consideration of any matter in respect of which that person had a pecuniary interest, or
 - of misbehaviour, misconduct or failure to carry out the person's duties;
- g) A Health Care Professional, meaning an individual who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002, or other professional person who has at any time been subject to an investigation or proceedings, by any body which regulates or licenses the profession concerned ("the regulatory body"), in connection with the

person's fitness to practise or any alleged fraud, the final outcome of which was:—

- the person's suspension from a register held by the regulatory body, where that suspension has not been terminated
- the person's erasure from such a register, where the person has not been restored to the register
- a decision by the regulatory body which had the effect of preventing the person from practising the profession in question, where that decision has not been superseded, or
- a decision by the regulatory body which had the effect of imposing conditions on the person's practice of the profession in question, where those conditions have not been lifted.

~~h)~~ A person who is subject to:—

- a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002, or
- an order made under section 429(2) of the Insolvency Act 1986 (disabilities on revocation of administration order against an individual).

~~h)~~ A person who has at any time been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners for England and Wales, the Charity Commission, the Charity Commission for Northern Ireland, the Scottish Charity Regulator or the High Court, on the grounds of misconduct or mismanagement in the administration of the charity for which the person was responsible, to which the person was privy, or which the person by their conduct contributed to or facilitated.

~~h)~~ A person who has at any time been removed, or is suspended, from the management or control of any body under:—

- section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(f) (powers of the Court of Session to deal with the management of charities), or
- section 34(5) or of the Charities and Trustee Investment (Scotland) Act 2005 (powers of the Court of Session to deal with the management of charities).

3.3 Chair

3.3.1 The ICB Chair is to be appointed by NHS England, with the approval of the Secretary of State for Health and Social Care.

3.3.2 In addition to criteria specified at 3.1, this member must ~~fulfil the following additional eligibility criteria~~ be independent.
~~The Chair will be independent.~~

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3.3.3 Individuals will not be eligible if:

- a) They hold an ongoing role in another health and care organisation within the same ICS footprint
- b) Any of the disqualification criteria set out in 3.2 apply

Subject to NHS England's national policy and requirements and as set out in the letter of appointment to the role, the term of office for this role will be a maximum 3 years in duration and the maximum number of terms which may be served is 3. The term of office for the Chair will be 3 years and the total number of terms a Chair may serve is 3 terms (up to a maximum of 9 years).

3.4 Deputy Chair and Senior Non-Executive Member

3.4.1 The Deputy Chair is to be appointed from amongst the Non-Executive Members by the Board subject to the approval of the Chair.

3.4.2 No individual shall hold the position of Chair of the Audit and Risk Committee and Deputy Chair at the same time.

3.4.3 The Senior Non-Executive Member is to be appointed from amongst the Non-Executive Members by the Board, subject to the approval of the Chair.

3.4.3.5 Chief Executive Officer

3.4.13.5.1 The Chief Executive Officer will be appointed by the Chair of the ICB in accordance with any guidance issued by NHS England.

3.4.23.5.2 The appointment will be subject to approval of NHS England in accordance with any procedure published by NHS England.

3.4.33.5.3 In addition to the eligibility criteria specified at Error! Reference source not found.3.1, the Chief Executive Officer must be an employee of the ICB or a person seconded to the ICB who is employed in the civil service of the State or by a body referred to in paragraph 19(4)(b) of Schedule 1B to the 2006 Act. The Chief Executive must fulfil the following additional eligibility criteria:
Be an employee of the ICB or a person seconded to the ICB who is employed in the civil service of the State or by a body referred to in paragraph 19(4)(b) of Schedule 1B to the 2006 Act

3.4.43.5.4 Individuals will not be eligible if

- a) Any of the disqualification criteria set out in 3.2 apply
- b) Subject to clause 3.54.3(a), they hold any other employment or executive role

3.53.6 Partner Member - NHS Trusts and Foundation Trusts

3.5.13.6.1 This Partner Member is jointly nominated by the NHS Trusts and/or Foundation Trusts that provide services for the purposes of the health service within the ICB's Area and meet the Forward Plan Condition or (if the

Forward Plan Condition is not met) the Level of Services Provided Condition:-

~~1.0.0 This Partner member will be jointly nominated by the following organisations:~~

~~e)b) Torbay and South Devon and Torbay NHS Foundation Trust~~

~~e)c) Devon Partnership NHS Trust~~

~~e)d) University Hospitals Plymouth NHS Trust~~

~~e)e) South Western Ambulance Service NHS Foundation Trust~~

~~3.5.23.6.2 These/This members must fulfil the eligibility criteria set out at 3.1 and also be and executive director of one of the NHS Trusts or Foundation Trusts within the ICB's Area the following additional eligibility criteria.~~

~~3.5.3 be an Executive Director of one of the NHS Trusts or foundation trusts within the ICBs~~

~~any of the disqualification criteria set out in 3.2 apply~~

~~3.6.4 This member will be appointed by the ICB Board Appointments Panel, subject to the approval of the Chair.~~

~~3.5.5 This member will be appointed by an appointment panel convened by the chief executive and be subject to the approval of the chair.~~

~~3.5.73.6.5 The appointment process will be as follows:~~

- ~~a) The ICB will create a role description for the role, which will set out the requirements associated with the role including the expected skills, knowledge, time commitment and term of office.~~
- ~~b) The ICB will issue the role description to the partners referred to at **Error! Reference source not found.3.6.1**, together with a timeline for the nomination and setting out any further information about the selection process.~~
- ~~c) The nomination process will be managed by the ICB's governance team.~~
- ~~d) The aim of the nominations process shall be for the partners, by consensus, to determine a jointly agreed list of individuals to be put forward for appointment.~~
- ~~e) Those participating in the nominations process shall have regard to any guidance published by NHS England in relation to the selection of candidates, and the applicable eligibility and disqualification criteria set out in this constitution.~~
- ~~f) The partners identified at **Error! Reference source not found.3.6.1** will submit their joint nomination(s) to the ICB Board Appointments Panel, which will undertake a selection process. Each partner may make one nomination.~~
- ~~g) Appointment will be made as a result of a formal assessment against the eligibility and disqualification criteria for Board membership as set out above, and to ensure the individual has the ability to contribute effectively to the overall functioning of the Board. The ICB Board Appointments Panel will make a recommendation to the Chair of the ICB, for approval.~~
- ~~h) The Chair of the ICB will determine whether to approve the appointment and report the appointment decision to the next meeting of the Board of the ICB.~~

- i) Should no individual be nominated or appointed, then the nominations process described above shall be repeated.
- j) Any re-appointment at the end of a term will follow the process as described in **Error! Reference source not found.**3.6.5a to i.
- k) An individual will only be eligible for further nomination and reappointment if they continue to meet the relevant eligibility and disqualification criteria outlined above.

~~3.5~~ — Joint Nomination:

~~3.6~~3.7 Partner Member - Providers of Primary Medical Services.

~~3.6.1~~ This Partner Member is jointly nominated by providers of primary medical services for the purposes of the health service within the ICB's integrated care board's Area, and that are primary medical services contract holders responsible for the provision of essential services, within core hours to a list of registered persons for whom the ICB has core responsibility.

~~3.6~~ —

~~3.6.5~~ This member must fulfil the eligibility criteria set out at 3.1 and also ~~the following additional eligibility criteria~~

~~3.6.6~~ Individuals will not be eligible if :-

~~3.6.8~~3.7.5 This member will be appointed by ~~a panel convened by the Chief executive~~the ICB Board Appointments panel, subject to the approval of the Chair.

~~3.6.9~~3.7.6 —The appointment process will be as follows:

~~Joint Nomination:~~

- a) The ICB will create a role description for the role, which will set out the requirements associated with the role including the expected skills, knowledge, time commitment and term of office.
- a) The ICB will issue the role description to the partners referred to at **Error! Reference source not found.**3.7.1, together with a timeline for the nomination and setting out any further information about the selection process.
- b) The nomination process will be managed by the ICB's governance team.
- c) The aim of the nominations process shall be for the partners to determine a jointly agreed list of individuals to be put forward for appointment.
- d) Those participating in the nominations process shall have regard to any guidance published by NHS England in relation to the selection of candidates, and the applicable eligibility and disqualification criteria set out in this constitution.
- e) The partners identified at **Error! Reference source not found.**3.7.1 will submit their joint nomination(s) to the ICB Board Appointments Panel, which will undertake a selection process. Each partner may make one nomination.

- f) Nomination(s) will be considered to have been agreed by the partners identified at 3.7.1 unless more than 25% of the providers of primary medical services eligible to nominate register a formal objection to the Nomination(s). If more than 25% of eligible providers register a formal objection, the nomination process will be re-run until a consensus is reached on the nomination(s) put forward.
- g) Appointment will be made as a result of a formal assessment against the eligibility and disqualification criteria for Board membership as set out above, and to ensure the individual has the ability to contribute effectively to the overall functioning of the Board. The ICB Board Appointments Panel will make a recommendation to the Chair of the ICB, for approval.
- h) The Chair of the ICB will determine whether to approve the appointment and report the appointment decision to the next meeting of the Board of the ICB.
- i) Should no individual be nominated or appointed, then the nominations process described above shall be repeated.
- j) Any re-appointment at the end of a term will follow the process as described in **Error! Reference source not found.**3.7.6a to i.
- k) An individual will only be eligible for further nomination and reappointment if they continue to meet the relevant eligibility and disqualification criteria outlined above.

~~Each eligible organisation described at 3.6.1 and listed in the Governance Handbook will be invited to make one nomination.~~

~~3.6.10~~3.7.7 The term of office for this Partner Member will be ~~2-3~~ years. After each term a full nomination and selection process will be carried out. ~~Members may be re-appointed for a second term and serve a maximum of 4 years in total.~~

3.7.3.8 Partner Members - Local Authorities

~~3.7.13~~3.8.1 These Partner Members are jointly nominated by the following local authorities whose areas coincide with, or include the whole or any part of, the ICB's Area:-

~~3.7.2 Those local authorities are:~~

- ~~e)b)~~ Torbay Council
- ~~d)c)~~ Plymouth City Council

~~3.7.3 These Partner Members will bring knowledge and a perspective from their sector, but not act as a delegate from that sector.~~

~~3.7.23~~3.8.2 These members will fulfil the eligibility criteria set out at 3.1, and also the ~~following~~ additional eligibility criteria:

- a) Be the Chief Executive Officer or hold a relevant executive level role ~~or hold an elected councillor position~~ within of one of the ~~bodies-local authorities~~ listed at ~~3.7.8.21~~.
- b) ~~One-Each~~ member will have skills and experience such that they can bring the perspective of ~~the~~ local government

- c) ~~At least one member. Another~~ will have skills and experience such that they can bring the perspective ~~of will bring~~ Population Health and Prevention.

~~3.7.3~~ Individuals will not be eligible if

~~3.7.5~~~~3.8.4~~ ~~3.7.6~~ ~~This member~~These members will be appointed by the ICB Board Appointments Panel, ~~a panel convened by the Chief executive~~ subject to the approval of the ICB Chair.

~~3.7.6~~~~3.8.5~~ The appointment process will be as follows:

~~Joint Nomination:~~

- a) ~~The ICB will create role descriptions for the roles, which will set out the requirements associated with the roles including the expected skills, knowledge, time commitment and term of office.~~
- a) ~~The ICB will issue the role descriptions to the partners referred to at~~ **Error! Reference source not found.3.8.1**, ~~together with a timeline for the nomination and setting out any further information about the selection process.~~
- b) ~~The nomination process will be managed by the ICB's governance team.~~
- c) ~~The aim of the nominations process shall be for the partners, by consensus, to determine a jointly agreed list of individuals to be put forward for appointment.~~
- d) ~~Those participating in the nominations process shall have regard to any guidance published by NHS England in relation to the selection of candidates, and the applicable eligibility and disqualification criteria set out in this constitution.~~
- e) ~~The partners identified at~~ **Error! Reference source not found.3.8.1** ~~will submit their joint nomination(s) to the ICB Board Appointments Panel, which will undertake a selection process. Each partner may make one nomination.~~
- f) ~~Appointment will be made as a result of a formal assessment against the eligibility and disqualification criteria for Board membership as set out above, and to ensure the individual has the ability to contribute effectively to the overall functioning of the Board. The ICB Board Appointments Panel will make a recommendation to the Chair of the ICB, for approval.~~
- g) ~~The Chair of the ICB will determine whether to approve the appointment and report the appointment decision to the next meeting of the Board of the ICB.~~
- h) ~~Should no individual be nominated or appointed, then the nominations process described above shall be repeated.~~
- i) ~~Any re-appointment at the end of a term will follow the process as described in section~~ **Error! Reference source not found.3.8.5a** ~~to i.~~
- j) ~~An individual will only be eligible for further nomination and reappointment if they continue to meet the relevant eligibility and disqualification criteria outlined above.~~

~~When a vacancy arises, each eligible organisation listed at 3.7.2.a will be invited to make one nomination.~~

3.8.6 The term of office for this Partner Member will be 2-3 years. After each term a
~~Chair will be appointed by the ICB Board Appointments Panel, subject to the approval of the Chair.~~

3.9 Mental Health Member

3.9.1 This member must fulfil the eligibility criteria set out at **Error! Reference source not found.**3.1 and shall have knowledge and experience in connection with services relating to the prevention, diagnosis and treatment of mental illness.

3.9.2 Individuals will not be eligible for this role if any of the disqualification criteria set out in **Error! Reference source not found.**3.2 apply.

3.9.3 This member will be appointed by the ICB Board Appointments Panel, subject to the approval of the Chair.

3.9.4 The appointment process will be as follows:

- a) The ICB will create a role description for the role, which will set out the requirements associated with the role including the expected skills, knowledge, time commitment and term of office.
- b) Expressions of interest for the role will be sought from partners within the ICS as determined by the ICB Board Appointment Panel.
- c) Appointment will be made as a result of a formal assessment against the eligibility and disqualification criteria for Board membership as set out above, and to ensure the individual has the ability to contribute effectively to the overall functioning of the Board. The ICB Board Appointments Panel will make a recommendation to the Chair of the ICB, for approval.
- d) The Chair of the ICB will determine whether to approve the appointment and report the appointment decision to the next meeting of the Board of the ICB.
- e) Should no individual be appointed, then the process described above shall be repeated.
- f) Any re-appointment at the end of a term will follow the process as described in **Error! Reference source not found.**3.9.4a to d.
- g) An individual will only be eligible for reappointment if they continue to meet the relevant eligibility and disqualification criteria outlined above.

3.9.5 The term of office for this member will be 3 years.

3.10 VCSE Member

3.10.1 This member must fulfil the eligibility criteria set out at **Error! Reference source not found.**3.1 and shall have knowledge and experience in connection with the voluntary, social and community enterprise sector.

3.10.2 Individuals will not be eligible for this role if any of the disqualification criteria set out in **Error! Reference source not found.**3.2 apply.

3.10.3 This member will be appointed by the ICB Board Appointments Panel, subject to the approval of the Chair.

3.10.4 The appointment process will be as follows:

- a) The ICB will create a role description for the role, which will set out the requirements associated with the role including the expected skills, knowledge, time commitment and term of office.
- b) Expressions of interest for the role will be sought from partners within the ICS as determined by the ICB Board Appointments Panel.
- c) Appointment will be made as a result of a formal assessment against the eligibility and disqualification criteria for Board membership as set out above, and to ensure the individual has the ability to contribute effectively to the overall functioning of the Board. The ICB Board Appointments Panel will make a recommendation to the Chair of the ICB, for approval.
- d) The Chair of the ICB will determine whether to approve the appointment and report the appointment decision to the next meeting of the Board of the ICB.
- e) Should no individual be appointed, then the process described above shall be repeated.
- f) Any re-appointment at the end of a term will follow the process as described in **Error! Reference source not found.**3.10.4a to d.
- g) An individual will only be eligible for reappointment if they continue to meet the relevant eligibility and disqualification criteria outlined above.

3.10.5 The term of office for this member will be 3 years.

3.8.3.11 ~~Medical Director~~Chief Medical Officer

~~3.8.13.11.1~~ This member will fulfil the eligibility criteria set out at 3.1 and also the following additional eligibility criteria ~~and is known as the Chief Medical Officer of the Devon ICB.~~

- a) Be an employee of the ICB or a person seconded to the ICB who is employed in the civil service of the State or by a body referred to in paragraph 19(4)(b) of Schedule 1B to the 2006 Act
- b) Be a registered Medical Practitioner

~~3.8.2~~ Individuals will not be eligible if ~~a:~~

3.8.3 This member will be appointed by the ~~Chief Executive Officer, with support of the appointment panel and~~ subject to the approval of the Chair.

3.9.3.12 ~~Director of Nursing~~Chief Nursing Officer

~~3.9.13.12.1~~ This member will fulfil the eligibility criteria set out at 3.1 and also the following additional eligibility criteria ~~and is known as the Chief Nursing Officer of the Devon ICB.~~

- a) Be an employee of the ICB or a person seconded to the ICB who is employed in the civil service of the State or by a body referred to in paragraph 19(4)(b) of Schedule 1B to the 2006 Act
- b) Be a registered Nurse

~~3.9.2~~ Individuals will not be eligible if a:

~~3.12.3~~ This member will be appointed by the ~~Chief Executive Officer~~ with support of the appointment panel and subject to the approval of the Chair.

~~3.10.3.13~~ Director of Finance ~~Chief Finance Officer~~

~~3.10.13.13.1~~ This member will fulfil the eligibility criteria set out at 3.1 and also the following additional eligibility criteria ~~and is known as the Chief Finance Officer of the Devon ICB~~:

- a) Be an employee of the ICB or a person seconded to the ICB who is employed in the civil service of the State or by a body referred to in paragraph 19(4)(b) of Schedule 1B to the 2006 Act
- b) Be a qualified accountant with full membership of a relevant professional body

~~3.10.2~~ Individuals will not be eligible if a:

~~3.13.3~~ This member will be appointed by the ~~Chief Executive Officer~~ with support of the appointment panel and subject to the approval of the Chair.

~~3.11.3.14~~ Non-Executive Members

~~3.11.13.14.1~~ The ICB will appoint at least five and up to six Non-Executive Members with a diverse range of skills, experiences and backgrounds who can understand the needs of patients and reflect the communities it serves one of whom will be nominated as Vice Chair by the Chair.

~~3.11.23.14.2~~ These members will be appointed by the ICB Board Appointments Panel, a panel convened by the chief executive subject to the approval of the Chair.

~~3.11.33.14.3~~ These members will fulfil the eligibility criteria set out at 3.1 and also the following additional eligibility criteria:

- ~~a) Have strong connections with the area served by the ICS~~
- ~~e)b)~~ Not hold an ~~ongoing~~ role in another health and care organisation within the same ICS or an organisation with which the ICB has a material financial or contractual relationship
- ~~d)c)~~ One shall have specific knowledge, skills and experience that makes them suitable for appointment to the Chair of the Audit and Risk Committee

e)d) Another should have specific knowledge, skills and experience that makes them suitable for appointment to the Chair of the Remuneration and Internal ICB Workforce Committee

~~3.11.4~~3.14.4 Individuals will not be eligible if

- a) Any of the disqualification criteria set out in 3.2 apply
- b) They hold an ~~ongoing~~ role in another health and care organisation within the same ICS ~~footprint~~

~~3.11.5~~3.14.5 The term of office for a Non-Executive Member is a maximum of 4 years. ~~Independent~~ Non-Executive Members may serve a further second term (~~both terms must not exceed 8 years in total~~maximum 8 years) after which they will no longer be eligible for re-appointment.

~~3.11.6~~3.14.6 Initial appointments may be for a shorter period in order to avoid all non-executive members retiring at once. Thereafter, new appointees will ordinarily retire on the date that the individual they replaced was due to retire in order to provide continuity

~~3.14.7 Subject to a satisfactory attendance record and annual appraisal, conducted in accordance with the relevant ICB policy, the Chair may approve the re-appointment of a Non-Executive Member up to the maximum number of years permitted for their role~~Subject to satisfactory appraisal the Chair may approve the re-appointment of an non-executive member up to the maximum number of terms permitted for their role.

~~3.12~~ **Other Board Members**

~~3.12.3~~3.15 **Board Members: Removal from Office.**

~~3.12.4~~3.15.1 Arrangements for the removal from office of Board Members is subject to the term of appointment, and application of the relevant ICB policies and procedures.

~~3.12.2~~3.15.2 With the exception of the Chair, Board Members shall be removed from office if any of the following occur:

- a) If they no longer fulfil the requirements of their role or become ineligible for their role as set out in this Constitution, regulations or guidance
- b) If they fail to attend a minimum of ~~75~~60% of the meetings to which they are invited unless agreed with the Chair in extenuating circumstances
- c) If they are deemed to not meet the expected standards of performance (e.g. at their annual appraisal)
- d) If they have behaved in a manner or exhibited conduct which has or is likely to be detrimental to the ~~honour-reputation~~ and/or interest of the ICB and is likely to bring the ICB into disrepute. This includes but is not limited to breach of the ICB's human resources policies; dishonesty; misrepresentation (either knowingly or fraudulently); defamation of any member of the ICB (being slander or libel); abuse of position; non-

~~declaration of a known conflict of interest; seeking to manipulate a decision of the ICB in a manner that would ultimately be in favour of that member whether financially or otherwise. This includes but it is not limited to dishonesty; misrepresentation (either knowingly or fraudulently); defamation of any member of the ICBS (being slander or libel); abuse of position; non-declaration of a known conflict of interest; seeking to manipulate a decision of the ICB in a manner that would ultimately be in favour of that member whether financially or otherwise~~

- e) ~~If they a~~Are deemed to have failed to uphold the Nolan Principles of Public Life
- f) ~~If they a~~Are subject to disciplinary proceedings by a regulator or professional body

~~3.12.3~~3.15.3 Members may be suspended pending the outcome of an investigation into whether any of the matters referenced in section 3.124.2 of this Constitution apply.

~~3.12.4~~3.15.4 Executive Directors (including the Chief Executive Officer) will cease to be Board Members if their employment in their specified role ceases, regardless of the reason for termination of the employment.

~~3.12.5~~3.15.5 The Chair of the ICB may be removed by NHS England, subject to the approval of the Secretary of State for Health and Social Care.

~~3.12.6~~3.15.6 If NHS England is satisfied that the ICB is failing or has failed to discharge any of its functions or that there is a significant risk that the ICB will fail to do so, it may:

- a) terminate the appointment of the ICB's Chief Executive Officer; and

~~3.13~~3.16 **Terms of Appointment of Board Members**

~~3.13.1~~3.16.1 With the exception of the Chair and ~~the~~ Non-Executive Members arrangements for remuneration and any allowances for Board Members of the ICB will be agreed by the Remuneration ~~and Internal ICB Workforce~~ Committee in line with the ICB Remuneration Policy and any other relevant policies published on our ICB website [[click here](#)] and any guidance issued by NHS England or other relevant body.

Commented [PH5]: To be added

~~3.13.2~~3.16.2 Terms of appointment and remuneration of the Chair will be determined by NHS England.

~~3.16.3 Other terms of appointment and remuneration will be determined by the Remuneration and Internal ICB Workforce Committee, as outlined in its terms of reference, which includes the remuneration process for non-executive members. Remuneration for Non-Executive Members will be determined by the Non-Executive Remuneration Panel.~~

~~1.0 — Specific arrangements for appointment of Ordinary Members made at establishment~~

4.1 Good Governance

4.1.1 The ICB will, at all times, observe generally accepted principles of good governance. This includes the ~~Seven Nolan~~ Principles of Public Life (~~the Nolan Principles~~) and any governance guidance issued by NHS England.

4.2 General

4.2.1 The ICB will:

- a) comply with all relevant laws including but not limited to the 2006 Act and the duties prescribed within it and any relevant regulations;
- b) comply with directions issued by the Secretary of State for Health and Social Care
- c) comply with directions issued by NHS England;
- d) have regard to statutory guidance including that issued by NHS England; ~~and~~
- e) take account, as appropriate, of other documents, advice and guidance issued by relevant authorities, including that issued by NHS England;
- f) respond to reports and recommendations made by local Healthwatch organisations within the ICB area

4.2.2 The ICB will develop and implement the necessary systems and processes to comply with (a)-(f) above, documenting them as necessary in this Constitution, its Governance Handbook and other relevant policies and procedures as appropriate.

4.3 Authority to Act

4.3.1 The ICB is accountable for exercising its statutory functions and may grant authority to act on its behalf to:

- a. any of its members or employees
- b. a committee or sub-committee of the ICB

4.3.2 Under section 65Z5 of the 2006 Act, the ICB may arrange with another ICB, an NHS trust, NHS foundation trust, NHS England, a local authority, combined authority or any other body prescribed in Regulations, for the ICB's functions to be exercised by or jointly with that other body or for the functions of that other body to be exercised by or jointly with the ICB. Where the ICB and other body enters such arrangements, they may also arrange for the functions in question to be exercised by a joint committee of theirs and/or for the establishment of a pooled fund to fund those functions (section 65Z6). In addition, under section 75 of the 2006 Act, the ICB may enter partnership arrangements with a local authority under which the local authority exercises specified ICB functions or the ICB exercises specified

local authority functions, or the ICB and local authority establish a pooled fund.

- 4.3.3 Where arrangements are made under section 65Z5 or section 75 of the 2006 Act the Board must authorise the arrangement, which must be described as appropriate in the SoRD.

4.4 Scheme of Reservation and Delegation (SoRD)

- 4.4.1 The ICB has agreed a ~~scheme~~ Scheme of ~~reservation~~ Reservation and ~~delegation~~ Delegation (SoRD) which is published in full in the ICB Governance Handbook and available on the ICB website here [\[click here\]](#)

Commented [PH6]: To be added

- 4.4.2 Only the Board may agree the SoRD and amendments to the SoRD may only be approved by the Board.

- 4.4.3 The SoRD sets out:

- a) those functions that are reserved to the Board;
- b) those functions that have been delegated to an individual or to committees and sub committees;
- c) those functions delegated to another body or to be exercised jointly with another body, under section 65Z5 and 65Z6 of the 2006 Act.

- 4.4.4 The ICB remains accountable for all of its functions, including those that it has delegated. All those with delegated authority are accountable to the board for the exercise of their delegated functions.

4.5 Functions and Decision Map

- 4.5.1 The ICB has prepared a Functions and Decision Map which sets out at a high level its key functions and how it exercises them in accordance with the SoRD.

- 4.5.2 The Functions and Decision Map is published [\[click here\]](#)

Commented [PH7]: To be added

- 4.5.3 The map includes:

- a) Key functions reserved to the Board of the ICB
- b) Commissioning functions delegated to committees and individuals;
- c) Commissioning functions delegated under section 65Z5 and 65Z6 of the 2006 Act to be exercised by, or with, another ICB, an NHS trust, NHS foundation trust, local authority, combined authority or any other prescribed body;
- d) functions delegated to the ICB (for example, from NHS England).

4.6 Committees and Sub-Committees

- 4.6.1 The ICB may appoint committees and arrange for its functions to be exercised by such committees. Each committee may appoint sub-

committees and arrange for the functions exercisable by the committee to be exercised by those sub-committees.

4.6.2 All committees and sub-committees are listed in the SoRD.

4.6.3 Each committee and sub-committee established by the ICB operates under terms of reference agreed by the Board. All terms of reference are published in the Governance Handbook.

4.6.4 The Board remains accountable for all functions, including those that it has delegated to committees and sub-committees and therefore, appropriate reporting and assurance arrangements are in place and documented in terms of reference. All committees and sub-committees that fulfil delegated functions of the ICB, will be required to operate within their terms of reference, and both committees and sub-committees must undertake regular performance evaluations and report to the Board on the fulfilment of their activities, drawing attention to any significant risks. The board remains accountable for all functions, including those that it has delegated to committees and sub-committees and therefore, appropriate reporting and assurance arrangements are in place and documented in terms of reference. All committees and sub-committees that fulfil delegated functions of the ICB, will be required to:

4.6.5 Any committee or sub-committee established in accordance with clause 4.6 may consist of, or include, persons who are not ICB Members or employees.

4.6.6 All members of committees and sub-committees that exercise the ICB commissioning functions will be approved by the Chair. The Chair will not approve an individual to such a committee or sub-committee if they consider that the appointment could reasonably be regarded as undermining the independence of the health service because of the candidate's involvement with the private healthcare sector or otherwise.

4.6.7 All members of committees and sub-committees are required to act in accordance with this Constitution, including the Standing Orders as well as the Standing Financial Instructions and any other relevant ICB policy.

4.6.8 The following committees will be maintained:

- a) **Audit and Risk Committee:** This committee is accountable to the Board and provides an independent and objective view of the ICB's compliance with its statutory responsibilities. The committee is responsible for arranging appropriate internal and external audit.

The Audit and Risk Committee will be chaired by a Non-Executive Member (other than the Chair and Deputy Chair of the ICB) who has the qualifications, expertise or experience to enable them to express credible opinions on finance and audit matters.

- b) ~~Remuneration and Internal ICB Workforce Committee~~: This committee is accountable to the Board for matters relating to remuneration, fees and other allowances (including pension schemes) for employees and other individuals who provide services to the ICB.

The Remuneration ~~and Internal ICB Workforce~~ Committee will be chaired by a Non-Executive Member (other than the Chair of the ICB or the Chair of Audit and Risk Committee).

Remuneration for Non-Executive Members will be determined by the Non-Executive Member Remuneration Panel.

4.6.9 The terms of reference for each of the above committees are published in the Governance Handbook.

4.6.10 The Board has also established a number of other committees to assist it with the discharge of its functions. These committees are set out in the SoRD and further information about these committees, including terms of reference, are published in the Governance Handbook.

4.7 Delegations made under section 65Z5 of the 2006 Act

4.7.1 As per 4.3.2 the ICB may arrange for any functions exercisable by it to be exercised by or jointly with any one or more other relevant bodies (another ICB, NHS England, an NHS trust, NHS foundation trust, local authority, combined authority or any other prescribed body).

4.7.2 All delegations made under these arrangements are set out in the ICB ~~Scheme of Reservation and Delegation~~ and included in the Functions and Decision Map.

4.7.3 Each delegation made under section 65Z5 of the Act will be set out in a delegation arrangement which sets out the terms of the delegation. This may, for joint arrangements, include establishing and maintaining a pooled fund. The power to approve delegation arrangements made under this provision will be reserved to the Board.

4.7.4 The Board remains accountable for all the ICB's functions, including those that it has delegated and therefore, appropriate reporting and assurance mechanisms are in place as part of agreeing terms of a delegation and these are detailed in the delegation arrangements, summaries of which will be published in the Governance Handbook

4.7.5 In addition to any formal joint working mechanisms, the ICB may enter into strategic or other transformation discussions with its partner organisations on an informal basis.

5.1 Standing Orders

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5.1.1 The ICB has agreed a set of standing orders which describe the processes that are employed to undertake its business. They include procedures for:

- conducting the business of the ICB
- the procedures to be followed during meetings; ~~and~~
- the process to delegate functions.

5.1.2 The Standing Orders apply to all committees and sub-committees of the ICB unless specified otherwise in terms of reference which have been agreed by the Board.

5.1.3 A full copy of the Standing Orders is included in Appendix 2 and form part of this Constitution.

5.2 Standing Financial Instructions (SFIs)

5.2.1 The ICB has agreed a set of Standing Financial Instructions (SFIs) which include the delegated limits of financial authority set out in the SoRD.

5.2.2 A copy of the SFIs is published in the Governance Handbook

6 Arrangements for conflict of interest management and standards of business conduct

6.1 Principles

6.1.1 In discharging its functions the ICB will abide by the following principles:

- a) The Nolan Principles
- b) Ensuring clear policy guidance is provided to all those performing a role on behalf of the ICB
- c) Monitoring compliance in accordance with published guidance
- d) Ensuring interests are proactively declared at the point individuals become involved in decision making
- e) Adopting a proportionate, common sense approach to the management of conflicts of interest
- f) Keeping an audit trail of actions taken.

6.2 Conflicts of Interest

6.2.1 As required by section 14Z30 of the 2006 Act, the ICB has made arrangements to manage any actual and potential conflicts of interest to ensure that decisions made by the ICB will be taken and seen to be taken without being unduly influenced by external or private interest and do not,

(and do not risk appearing to) affect the integrity of the ICB's decision-making processes.

6.2.2 The ICB has agreed policies and procedures for the identification and management of conflicts of interest which are published on the website [\[click here\]](#)

Commented [PH8]: To be added

6.2.3 All Board, committee and sub-committee members, and employees of the ICB, will comply with the ICB policy on conflicts of interest, ~~known as~~ the ICB Standards of Business Conduct Policy, in line with their terms of office and/ or employment. This will include but not be limited to declaring all interests on a register that will be maintained by the ICB.

6.2.4 All delegation arrangements made by the ICB under Section 65Z5 of the 2006 Act will include a requirement for transparent identification and management of interests and any potential conflicts in accordance with suitable policies and procedures comparable with those of the ICB.

6.2.5 Where an individual, including any individual directly involved with the business or decision-making of the ICB and not otherwise covered by one of the categories above, has an interest, or becomes aware of an interest which could lead to a conflict of interests in the event of the ICB considering an action or decision in relation to that interest, that must be considered as a potential conflict, and is subject to the provisions of this Constitution, [the Conflicts of Interest Policy](#) and the Standards of Business Conduct Policy.

6.2.6 The ICB has appointed the Audit ~~and Risk Committee~~ Chair to be the Conflicts of Interest Guardian. In collaboration with the ICB's ~~most senior officer in corporate affairs~~ [governance lead](#), their role is to:

- a) Act as a conduit for members of the public and members of the partnership who have any concerns with regards to conflicts of interest;
- b) Be a safe point of contact for employees or workers to raise any concerns in relation to conflicts of interest;
- c) Support the rigorous application of conflict of interest principles and policies;
- d) Provide independent advice and judgment to staff and members where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation;
- e) Provide advice on minimising the risks of conflicts of interest.

Principles

6.3 Declaring and Registering Interests

6.3.1 The ICB maintains registers of the interests of:

- a) Members of the ICB
- b) Members of the Board's committees and sub-committees
- c) Its employees

6.3.2 In accordance with section 14Z30(2) of the 2006 Act registers of interest are published on the ICB website and are available to view [\[click here\]](#).

Commented [PH9]: To be added

6.3.3 All relevant persons as per 6.1.3 and 6.1.5 must declare any conflict or potential conflict of interest relating to decisions to be made in the exercise of the ICB's commissioning functions.

6.3.4 Declarations should be made as soon as reasonably practicable after the person becomes aware of the conflict or potential conflict and in any event within 28 days. This could include interests an individual is pursuing. Interests will also be declared on appointment and during relevant discussion in meetings.

6.3.5 All declarations will be entered in the registers as per 6.3.1

6.3.6 The ICB will ensure that, as a matter of course, declarations of interest are made and confirmed, or updated at least annually.

6.4 Standards of Business Conduct

6.4.1 Board members, employees, committee and sub-committee members of the ICB will at all times comply with this Constitution and be aware of their responsibilities as outlined in it. They should:

- a) act in good faith and in the interests of the ICB;
- b) follow the Seven Principles of Public Life; set out by the Committee on Standards in Public Life (the Nolan Principles);
- c) comply with the ICB Standards of Business Conduct Policy, and any requirements set out in the policy for managing conflicts of interest.

6.4.2 Individuals contracted to work on behalf of the ICB or otherwise providing services or facilities to the ICB will be made aware of their obligation to declare conflicts or potential conflicts of interest. This requirement will be written into their contract for services and is also outlined in the ICB's Standards of Business Conduct Policy.

7 Arrangements for ensuring Accountability and Transparency

7.1.1 The ICB will demonstrate its accountability to local people, stakeholders and NHS England in a number of ways, including by upholding the requirement for transparency in accordance with paragraph 12 (2) of Schedule 1B to the 2006 Act.

7.2 Principles

7.21. In order to achieve maximum accountability and transparency, the ICB will implement the following principles when establishing its accountability frameworks:

- a) Comprehensive and joined up
- b) Economical of time and money
- c) Clear and transparent
- d) Rigorous
- e) Stable and consistent.

7.2.1 In line with standards of good practice NHS Devon ICB will:

7.3.1 Board and committee meetings composed entirely of Board Members or which include all Board Members, will be held in public, ~~and, in line with the ICB corporate calendar,~~ except where a resolution is agreed to exclude the public on the grounds that it is believed to not be in the public interest.

7.3.2 Papers and minutes of all meetings held in public will be published.

7.3.3 Annual accounts will be externally audited and published.

7.3.4 A clear complaints process will be published.

7.3.5 The ICB will comply with the Freedom of Information Act 2000 and with the Information Commissioner's Office requirements regarding the publication of information relating to the ICB.

7.3.6 Information will be provided to NHS England as required.

7.3.7 The Constitution and Governance Handbook will be published as well as other key documents including but not limited to:

- Registers of interests
- Conflicts of Interest Policy and procedures
- Standards of Business Conduct Policy.

7.3.8 The ICB will publish, with ~~our~~ its partner NHS trusts and NHS foundation trusts, a plan at the start of each financial year that sets out how the ICB proposes to exercise its functions during the next ~~five~~ 5 years ~~(the "Joint Forward Plan")~~. The plan will ~~explain how the ICB proposes to discharge its duties under:~~

- a) describe the health services for which the ICB proposes to make arrangements in the exercise of its functions
- ~~explain how the ICB proposes to discharge its duties under~~ sections 14Z34 to 14Z45 (general duties of integrated care boards); and
- c) proposed steps to implement the joint local health and wellbeing strategy-strategies and integrated care strategy

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- d) set out any steps that the ICB proposes to take to address the particular needs of children and young persons under the age of 25
- e) set out any steps that the ICB proposes to take to address the particular needs of victims of abuse (including domestic abuse and sexual abuse, whether of children or adults).

7.4 Scrutiny and Decision Making

7.4.1 At least three Non-Executive Members will be appointed to the Board including the Chair; and all of the Board and committee members will comply with the Nolan Principles ~~of Public Life~~ and meet the criteria described in the Fit and Proper Person Test.

7.4.2 Healthcare services will be arranged in a transparent way, and decisions around who provides services will be made in the best interests of patients, taxpayers and the population, in line with the rules set out in the NHS Provider Selection Regime (PSR), including the PSR statutory guidance. In particular, this shall include the ICB:

- a) publishing online an annual summary of its contracting arrangements for the provision of relevant health care services
- b) publishing online an annual report of its monitoring of compliance with the regime
- c) taking appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement processes under the regime
- d) where it considers appropriate, seeking or otherwise receiving independent expert advice when making decisions in accordance with the regime

7.4.4 The ICB will comply with local authority health overview and scrutiny requirements.

7.5 Annual Report

7.5.1 The ICB will publish an annual report in accordance with any guidance published by NHS England and ~~which that~~ sets out how it has discharged its functions and fulfilled its duties in the previous financial year. An annual report must in particular:

- a) explain how the ICB has discharged its duties under section 14Z34 to 14Z45 and 14Z49 (general duties of integrated care boards)
- b) review the extent to which the ICB has exercised its functions in accordance with the plans published under section 14Z52 (forward plan) and section 14Z56 (capital resource use plan)
- c) review the extent to which the ICB has exercised its functions consistently with NHS England's views set out in the latest statement published under section 13SA(1) (views about how functions relating to inequalities information should be exercised);
~~and~~

- d) review any steps that the ICB has taken to implement any joint local health and wellbeing strategy to which it was required to have regard under section 116B(1) of the Local Government and Public Involvement in Health Act 2007.

8 Arrangements for Determining the Terms and Conditions of Employees

8.1.1 The ICB may appoint employees, pay them remuneration and allowances as it determines and appoint staff on such terms and conditions as it determines.

8.1.2 The Board has established a Remuneration ~~and Internal ICB Workforce~~ Committee which is chaired by a Non-Executive Member other than the Chair or Audit ~~and Risk Committee~~ Chair.

8.1.3 The membership of the Remuneration ~~and Internal ICB Workforce~~ Committee is determined by the Board. No employees may be a member of the Remuneration ~~and Internal ICB Workforce~~ Committee, but the Board ensures that the Remuneration ~~and Internal ICB Workforce~~ Committee has access to appropriate advice ~~from the most senior ICB Corporate Affairs Officer and most senior HR Advisor being in attendance by:-~~

- a) Ensuring that the Chief Executive Officer, ICB governance lead and senior human resources advisers are in attendance
- b) Authorising it to obtain legal/and or other independent professional advice, and to secure the attendance of anyone with relevant experience and expertise, if it considers this necessary.

~~8.1.4~~

~~8.1.5 The Chair or specific members of the committee must recuse themselves from committee meetings, if during the discussion on any agenda item that benefits them personally, to ensure that there is no real or perceived conflict of interest in the decisions being made.~~

8.1.6 The main purpose of the Remuneration ~~and Internal ICB Workforce~~ Committee is to exercise the functions of the ICB regarding remuneration included in paragraphs 18 to 20 of Schedule 1B to the 2006 Act. The terms of reference agreed by the board are published ~~on the ICB website in the Governance Handbook~~ [\[click here\]](#).

~~8.1.7 The duties of the Remuneration Committee are set out in its Terms of Reference and include:~~

- a) Setting the ICB pay policy (or equivalent) and standard terms and conditions

Commented [PH10]: To be added

~~b) Making arrangements to pay employees such remuneration and allowances as it may determine~~

~~c) Setting remuneration and allowances for members of the Board~~

~~d) Setting any allowances for members of committees or sub-committees of the ICB who are not members of the Board.~~

~~8.1.6 The duties of the Remuneration and Internal ICB Workforce Committee include exercising the functions of the ICB relating to paragraphs 17 to 19 of Schedule 1B to the NHS Act 2006. In summary:~~

~~8.1.8~~ The ICB may make arrangements for a person to be seconded to serve as a member of the ICB's staff.

9 Arrangements for Public Involvement

9.1.1 In line with section 14Z45(2) of the 2006 Act, the ICB has made arrangements to secure that individuals to whom services which are, or are to be, provided pursuant to arrangements made by the ICB in the exercise of its functions, and their carers and representatives, are involved (whether by being consulted or provided with information or in other ways) in:

- a) the planning of the commissioning arrangements by the ~~Integrated Care Board~~
- b) the development and consideration of proposals by the ICB for changes in the commissioning arrangements where the implementation of the proposals would have an impact on the manner in which the services are delivered to the individuals (at the point when the service is received by them), or the range of health services available to them, ~~and~~
- c) decisions of the ICB affecting the operation of the commissioning arrangements where the implementation of the decisions would (if made) have such an impact.

9.1.2 In line with section 14Z54 of the 2006 Act, ~~when preparing the Joint Forward Plan or revising the plan in a way they consider significant, the ICB together with its partner NHS trusts and NHS foundation trusts will take appropriate steps to ensure that they involve the Health and Wellbeing Boards and consult its population. the ICB has made the following arrangements to consult its population on its system plans:~~
~~The One Devon Partnership will:~~

9.1.3 The ICB has adopted the 10 principles set out by NHS England for working with people and communities: ~~;~~

- a) put the voices of people and communities at the centre of decision-making and governance, at every level of the ICS ~~;~~
- b) start engagement early when developing plans and feed back to people and communities how it has influenced activities and decisions ~~;~~
- c) understand your community's needs, experience and aspirations for health and care, using engagement to find out if change is having the desired effect

- d) build relationships with excluded groups – especially those affected by inequalities-
- e) work with Healthwatch and the voluntary, community and social enterprise sector as key partners-
- f) provide clear and accessible public information about vision, plans and progress to build understanding and trust-
- g) use community development approaches that empower people and communities, making connections to social action-
- h) use co-production, insight and engagement to achieve accountable health and care services-
- i) co-produce and redesign services and tackle system priorities in partnership with people and communities-
- j) learn from what works and build on the assets of all partners in the ICS – networks, relationships, activity in local places.

9.1.4 These principles will be used when developing and maintaining arrangements for engaging with people and communities.

~~9.1.5~~ The ~~arrangements, include:~~

- a) Use the 10 principles when working with people and communities across Devon
- b) Work with partners across the ICS to develop arrangements for ensuring that ~~the~~ Integrated Care Partnerships (ICPs) and place-based partnerships have appropriate representation from local people and communities in priority-setting and decision-making forums-
- c) Gather intelligence about the experience and aspirations of people who use care and support and have clear approaches to using these insights to inform decision-making and quality governance.

Appendix 1: Definitions of Terms Used in this Constitution

2006 Act	National Health Service Act 2006, as amended by the Health and Social Care Act 2012 and the Health and Care Act 2022
Area	The geographical area that the ICB has responsibility for, as defined in part 2 <u>clause 1.3</u> of this Constitution
<u>Associate Non-Executive Member</u>	<u>An individual who is appointed by the ICB Board Appointments Panel (subject to the approval of the Chair) to bring a level of independence and oversight to the ICB's decision-making akin to a Non-Executive Member. An Associate Non-Executive Member may be a member of the ICB's Committees or Sub-Committees, but is not a member of the ICB's Board and as such may not vote at Board meetings.</u>
Audit and Risk Committee	The audit committee is mandated by NHSE. The committee is required to contribute to the overall delivery of the ICB objectives by providing oversight and assurance to the board on the adequacy of governance, risk management and internal control processes within the ICB.
Committee	A committee created and appointed by the ICB Board.
Director of Finance	Within the NHS Devon ICB this role is known as Chief of Finance
Director of Nursing	Within the NHS Devon ICB this role is known as Chief of Nursing
<u>Forward Plan Condition</u>	<u>The 'Forward Plan Condition' as described in the Integrated Care Boards (Nomination of Ordinary Members) Regulations 2022 and any associated statutory guidance.</u>
Health Care Professional	An individual who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002
Health Service Body	Health service body as defined by section 9(4) of the NHS Act 2006 or an (a) NHS foundation trusts.
ICB Board	Members of the ICB

<u>ICB Board Appointments Panel</u>	<u>A panel of senior ICB employees, convened by the Chief Executive Officer with the purpose of making recommendations on certain Board appointments.</u>
Integrated Care Partnership	The joint committee for the ICB's area established by the ICB and each responsible local authority whose area coincides with or falls wholly or partly within the ICB's Area.
<u>Level of Services Provided Condition</u>	<u>The 'Level of Services Provided Condition' as described in the Integrated Care Boards (Nomination of Ordinary Members) Regulations 2022 and any associated statutory guidance.</u>
Medical Director	Within the <u>NHS</u> Devon ICB this role is known as Chief Medical Officer
One Devon Partnership	A partnership of health and social care organisations working together with local communities across Devon
<u>Non-Executive Member Remuneration Panel</u>	<u>A panel convened when required for the special purpose of considering the remuneration of the Non-Executive Members of the ICB. This is because some of the non-executives are members of the ICB's Remuneration Committee and, consistently with the ICB's processes and national expectations for managing conflicts of interest, the Board is required to have a suitable mechanism for ensuring that no individual is involved in discussion or decision-making relating to their own pay.</u> <u>The panel will be convened by the Chair, and constituted of at least two of either the Partner Members or the Mental Health Member or VCSE Member.</u>
Ordinary Member	The Board of the ICB will have a Chair and a Chief Executive <u>Officer</u> plus other members. All other members of the Board are referred to as Ordinary Members.
Other Member	Those members identified with knowledge and experience who will represent their professional body on the ICB Board
Partner Members	Some of the Ordinary Members will also be Partner Members. Partner Members bring knowledge and a perspective from their sectors and are appointed in accordance with the procedures set out in Section 3 having been nominated by the following:

	• NHS trusts and foundation trusts who provide services within the ICB's area and are of a prescribed description • the primary medical services (general practice) providers within the area of the ICB and are of a prescribed description • the local authorities which are responsible for providing Social Care and whose area coincides with or includes the whole or any part of the ICB's area.
Place-Based Partnership	Place-based partnerships are collaborative arrangements responsible for arranging and delivering health and care services in a locality or community. They involve the Integrated Care Board ICB, local government and providers of health and care services, including the voluntary, community and social enterprise sector, people and communities, as well as primary care provider leadership, represented by Primary Care Network clinical directors or other relevant primary care leaders.
Remuneration and Internal ICB Workforce Committee	The Remuneration Committee is mandated by NHSE to exercise the functions of the ICB relating to paragraphs 17 to 19 of Schedule 1B of the NHS Act 2006. NHS Devon ICB have named this committee Remuneration and Internal ICB Workforce Committee to accommodate approving elements of the nomination process for board members and, confirming the ICB Pay Policy including adoption of any pay frameworks for all employees including senior managers/directors (including board members) and non-executive directors.
Sub-committee	A group created and appointed by and reporting to a committee of the ICB.

Appendix 2: Standing Orders

1. Introduction

1.1. These Standing Orders have been drawn up to regulate the proceedings of NHS Devon Integrated Care Board (ICB) so that the ICB can fulfil its obligations as set out largely in the 2006 Act (as amended). They form part of the ICB's Constitution.

2. Amendment and review

- 2.1. The Standing Orders are effective from 01 July 2022.
- 2.2. Standing Orders will be reviewed on an annual basis or sooner if required.
- 2.3. Amendments to these Standing Orders will be made as per clause 1.6 of this Constitution.
- 2.4. All changes to these Standing Orders will require an application to NHS England for variation to the ICB Constitution and will not be implemented until the Constitution has been approved.

3. Interpretation, application and compliance

- 3.1. Except as otherwise provided, words and expressions used in these Standing Orders shall have the same meaning as those in the main body of the ICB Constitution and as per the definitions in Appendix 1.
- 3.2. These Standing Orders apply to all meetings of the Board, including its committees and sub-committees unless otherwise stated. All references to board are inclusive of committees and sub-committees unless otherwise stated.
- 3.3. All members of the Board, members of committees and sub-committees and all employees, should be aware of the Standing Orders and comply with them. Failure to comply may be regarded as a disciplinary matter.
- 3.4. In the case of conflicting interpretation of the Standing Orders, the Chair, supported with advice from the ~~most senior officer in corporate affairs~~governance lead, will provide a settled view which shall be final.
- 3.5. All members of the Board, its committees and sub-committees and all employees have a duty to disclose any non-compliance with these Standing Orders to the Chief Executive Officer as soon as possible.
- 3.6. If, for any reason, these Standing Orders are not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance, shall be reported to the next

formal meeting of the Board for action or ratification and the Audit and Risk Committee for review.

4. Meetings of the Integrated Care Board

3.6-4.1. Calling Board Meetings

- 4.1.1 Meetings of the Board of the ICB shall be held at regular intervals at such times and places as the ICB may determine.
- 4.1.2 In normal circumstances, each member of the Board will be given not less than one month's notice in writing of any meeting to be held. However:
 - a) The Chair may call a meeting at any time by giving not less than 14 calendar days' notice in writing.
 - b) One third of the members of the Board may request the Chair to convene a meeting by notice in writing, specifying the matters which they wish to be considered at the meeting. If the Chair refuses, or fails, to call a meeting within seven calendar days of such a request being presented, the Board members signing the requisition may call a meeting by giving not less than 14 calendar days' notice in writing to all members of the board specifying the matters to be considered at the meeting.
 - c) In emergency situations the Chair may call a meeting with one working day notice by setting out the reason for the urgency and the decision to be taken.
- 4.1.3 A public notice of the time and place of the meetings to be held in public and how to access the meeting shall be given by posting it at the offices of the ICB body and electronically at least three clear days before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened.
- 4.1.4 The agenda and papers for meetings to be held in public will be published electronically in advance of the meeting excluding, if thought fit, any item likely to be addressed in part of a meeting is not likely to be open to the public.

4.2 Chair of a meeting

- 4.2.1 The Chair of the ICB shall preside over meetings of the Board.
- 4.2.2 If the Chair is absent or is disqualified from participating by a conflict of interest, the ~~vice-Deputy~~ Chair will preside over the meeting.
- 4.2.3 If both the Chair and Deputy Chair are absent or disqualified from participating by a conflict of interest, the assembled members shall appoint a temporary deputy for the purpose of chairing the meeting.

4.2.4 The Board shall appoint a Chair to all committees and sub-committees that it has established. The appointed committee or sub-committee Chair will preside over the relevant meeting. Terms of reference for committees and sub-committees will specify arrangements for occasions when the appointed Chair is absent.

4.3 Agenda, supporting papers and business to be transacted

4.3.1 The agenda for each meeting will be drawn up and agreed by the Chair of the meeting.

4.3.2 Except where the emergency provisions apply, supporting papers for all items must be submitted to the corporate office for coordination at least ten working days before the meeting takes place. The agenda and supporting papers will be circulated to all members of the board at least five calendar days before the meeting.

4.3.3 Agendas and papers for meetings open to the public, including details about meeting dates, times and venues, will be published on the ICB's website at [\[click here\]](#).

Commented [PH12]: To be added

4.4 Petitions

4.4.1 Where a valid petition has been received by the ICB it shall be included as an item for the agenda of the next meeting of the Board in accordance with the ICB policy as published in the Governance Handbook.

4.5 Nominated Deputies

4.5.1 With the permission of the person presiding over the meeting, the Executive Directors and the Partner Members of the Board may nominate a deputy to attend a meeting of the Board that they are unable to attend. The deputy may speak ~~and vote on their behalf~~ but will not have a vote if one is called in the meeting.

4.5.2 The decision of person presiding over the meeting regarding authorisation of nominated deputies is final.

4.6 Virtual attendance at meetings

4.6.1 The Board of the ICB and its committees and sub-committees may meet virtually using telephone, video and other electronic means ~~when necessary~~, unless the terms of reference prohibit this.

4.7 Quorum

4.7.1 The quorum for meetings of the Board will be members, including:

- a) Chair or ~~Vice-Deputy~~ Chair
- b) At least two Executive Directors
- c) At least two ~~additional independent Non-Executive~~ Members
- d) At least ~~one two of either the~~ Partner Members, the Mental Health Member or the VCSE Member
~~At least one of the members must be a registered clinician.~~

4.7.2 For the sake of clarity:

- a) No person can act in more than one capacity when determining the quorum.
- ~~b)~~ An individual who has been disqualified from participating in a discussion on any matter and/or from voting on any motion by reason of a declaration of a conflict of interest, shall no longer count towards the quorum.
- ~~b)c)~~ A nominated deputy appointed in accordance with Standing Order 4.5 will count towards quorum for meetings of the Board, but will not be entitled to vote at the meeting

4.7.3 For all committees and sub-committees, the details of the quorum for these meetings and status of deputies are set out in the appropriate terms of reference.

4.8 Vacancies and defects in appointments

4.8.1 The validity of any act of the ICB is not affected by any vacancy among members or by any defect in the appointment of any member.

4.8.2 In the event of vacancy or defect in appointment the following temporary arrangement for quorum will apply:

- 4.8.3 ~~Where quoracy cannot be achieved due to the defect or vacancy, t~~The meeting will be considered quorate when at least 5 members are present including:
- Either the Chief Executive Officer or the Chief Finance Officer
 - At least one Non-Executive Member
 - At least one Partner Member

4.9 Decision making

4.9.1 The ICB has agreed to use a collective model of decision-making that seeks to find consensus between system partners and make decisions based on unanimity as the norm, including working through difficult issues where appropriate.

4.9.2 Generally, it is expected that decisions of the ICB will be reached by consensus. Should this not be possible then a vote will be required. The process for voting, which should be considered a last resort, is set out below:

- a) All members of the Board who are present at the meeting will be eligible to cast one vote each.
- b) In no circumstances may an absent member vote by proxy. Absence is defined as being absent at the time of the vote but this does not preclude anyone attending by teleconference or other virtual mechanism from participating in the meeting, including exercising their right to vote if eligible to do so.
- c) For the sake of clarity, any additional Participants and Observers (as detailed within paragraph [5-6-2.3](#) of the Constitution) will not have voting rights.
- d) A resolution will be passed if more votes are cast for the resolution than against it.
- e) If an equal number of votes are cast for and against a resolution, then the Chair (or in their absence, the person presiding over the meeting) will have a second and casting vote.
- f) Should a vote be taken, the outcome of the vote, and any dissenting views, must be recorded in the minutes of the meeting.

Disputes

- 4.9.3 Where helpful, the Board may draw on third party support to assist them in resolving any disputes, such as peer review or support from NHS England.

Urgent decisions

- 4.9.4 In the case urgent decisions and extraordinary circumstances, every attempt will be made for the Board to meet virtually. Where this is not possible the following will apply:-
- a) The powers which are reserved or delegated to the Board, may for an urgent decision be exercised by the Chair and Chief Executive [Officer](#) (or relevant lead director in the case of committees)¹⁰⁸ subject to every effort having made to consult with a minimum of two Non-Executive Members in the given circumstances.
 - [b\)](#) The exercise of such powers shall be reported to the next formal meeting of the Board for formal ratification and the Audit [and Risk](#) Committee for oversight

4.10 Minutes

- 4.10.1 The names and roles of all members present shall be recorded in the minutes of the meetings.
- 4.10.2 The minutes of a meeting shall be drawn up and submitted for agreement at the next meeting where they shall be signed by the person presiding at it.

- 4.10.3 No discussion shall take place upon the minutes except upon their accuracy or where the person presiding over the meeting considers discussion appropriate.
- 4.10.4 Where providing a record of a meeting held in public, the minutes shall be made available to the public.

4.11 Admission of public and the press

- 4.11.1 In accordance with Public Bodies (Admission to Meetings) Act 1960 all meetings of the Board and all meetings of committees which are comprised of entirely Board Members or include all Board Members at which public functions are exercised, will be open to the public.
- 4.11.2 The Board may resolve to exclude the public from a meeting or part of a meeting where it would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings or for any other reason permitted by the Public Bodies (Admission to Meetings) Act 1960 as amended or succeeded from time to time.
- 4.11.3 The person presiding over the meeting shall give such directions as ~~he/she/they~~ thinks fit with regard to the arrangements for meetings and accommodation of the public and representatives of the press such as to ensure that the Board's business shall be conducted without interruption and disruption.
- 4.11.4 As permitted by Section 1(8) Public Bodies (Admissions to Meetings) Act 1960 as amended from time to time) the public may be excluded from a meeting to suppress or prevent disorderly conduct or behaviour.
- 4.11.5 Matters to be dealt with by a meeting following the exclusion of representatives of the press, and other members of the public shall be confidential to the members of the Board.

5 Suspension of Standing Orders

- 5.1 In exceptional circumstances, except where it would contravene any statutory provision or any direction made by the Secretary of State for Health and Social Care or NHS England, any part of these Standing Orders may be suspended by the Chair in discussion with at least 2 other members,
- 5.2 A decision to suspend Standing Orders together with the reasons for doing so shall be recorded in the minutes of the meeting.
- 5.3 A separate record of matters discussed during the suspension shall be kept. These records shall be made available to the Audit and Risk

Committee for review of the reasonableness of the decision to suspend Standing Orders.

6 Use of seal and authorisation of documents.

- 6.1 The ICB will have a seal for executing documents where necessary. This will be used subject to the approval limits set out in the Use of the Seal Standard Operating Procedure and Scheme of Delegation and ~~financial limits~~Reservation, which is held in the ICB Governance Handbook and reviewed by the ~~Director of Finance~~Chief Finance Officer no less than once a year.
- 6.2 The Chief Executive Officer shall ensure that a register of the sealing of every document is maintained and presented to the Audit and Risk Committee no less than once a year.

END



Governance Handbook

Document	Governance Handbook
Version	1.1
Sponsor	Chief Communications and Corporate Affairs Officer
Lead	Director of Governance
Approved by:	
Date approved:	
To be reviewed by:	



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Section 1 – Introduction and Overview

1.1 Purpose of the Governance Handbook

1.2 NHS Core Values

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1.1 Purpose of the Governance Handbook

This [Governance Handbook](#) brings together a range of documents which supports the [NHS Devon Constitution](#) and promotes good corporate governance.

Corporate governance regulates the power and decision making of the people who have been given responsibility for the stewardship of public assets and healthcare services. In NHS Devon good corporate governance will protect both patients and public funds. It exists to ensure that decision-making is lawful, statutory duties and wider legal, regulatory duties are met, and that decision-making is enhanced from a quality and scrutiny perspective.

This Governance Handbook sets out in detail the corporate governance arrangements that supports the implementation of the NHS Devon Constitution. It contains practical procedural details for applying the Constitution, including:

- [Terms of Reference for NHS Devon Board Committees](#)
- [NHS Devon Scheme of Reservation and Delegation](#)
- [Functions and Decision Map](#)
- [Standing Financial Instructions](#) and
- Other key policy documents.

In short, it is a collection of key documents and underpinning policies, designed to promote good corporate governance.

If there is any ambiguity between the NHS Devon Constitution and this Handbook, the interpretation in the Constitution will apply.



1.2 NHS Core Values

The [NHS Core Values](#), are set out in the [NHS Constitution](#):

Working together for patients:

Patients come first in everything we do. We fully involve patients, staff, families, carers, communities and professionals inside and outside the NHS. We put the needs of patients and communities before organisational boundaries. We speak up when things go wrong.

Respect and dignity:

We value every person – whether patient, their families or carers, or staff – as an individual, respect their aspirations and commitments in life, and seek to understand their priorities, needs, abilities and limits. We take what others have to say seriously. We are honest and open about our point of view and what we can and cannot do.

Commitment to quality of care:

We earn the trust placed in us by insisting on quality and striving to get the basics of quality of care – safety, effectiveness and patient experience – right every time. We encourage and welcome feedback from patients, families, carers, staff and the public. We use this to improve the care we provide and build on our successes.

Compassion:

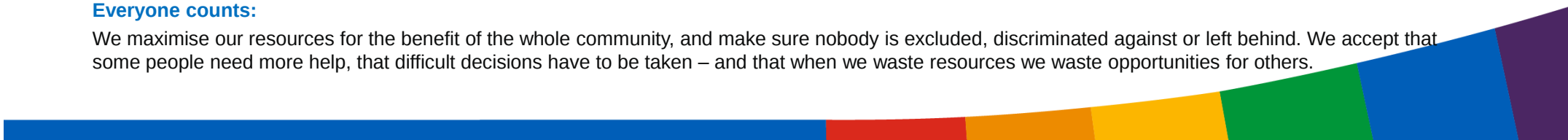
We ensure that compassion is central to the care we provide and respond with humanity and kindness to each person's pain, distress, anxiety or need. We search for the things we can do, however small, to give comfort and relieve suffering. We find time for patients, their families and carers, as well as those we work alongside. We do not wait to be asked, because we care.

Improving lives:

We strive to improve health and wellbeing and people's experiences of the NHS. We cherish excellence and professionalism wherever we find it – in the everyday things that make people's lives better as much as in clinical practice, service improvements and innovation. We recognise that all have a part to play in making ourselves, patients and our communities healthier.

Everyone counts:

We maximise our resources for the benefit of the whole community, and make sure nobody is excluded, discriminated against or left behind. We accept that some people need more help, that difficult decisions have to be taken – and that when we waste resources we waste opportunities for others.



1.3 The Nolan Principles

The [Committee on Standards in Public Life](#) (Nolan Committee) set out in 1995 seven principles of public life which should apply to all in public service ([The First Report of the Committee on Standards in Public Life, 1995](#)). These principles have been adopted as the basis for working practices within NHS Devon. It is expected that all our staff and all members of the NHS Devon Board, recognise and uphold them at all times.

Selflessness:

Holders of public office should act solely in terms of the public interest.

Integrity:

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity:

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability:

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness:

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty:

Holders of public office should be truthful.

Leadership:

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

1.4 Management and Leadership Code of Practice

Like the other Boards of NHS partners within the One Devon Integrated Care System, the NHS Devon Board has agreed to adopt NHS England’s Management and Leadership Code of Practice. This code of practice outlines the core values, guiding principles, and characteristic behaviours expected of every leader and manager working within health and social care. It aims to support the professionalisation of management and leadership within these sectors. The core values set out in this framework are:

Accountability Owning your actions and decisions, learning from your mistakes and holding yourself and your colleagues to account, in order to achieve the best possible outcomes and experiences for service users of the health and care sectors.	Integrity Being a role model through your actions and behaviours, even in complex and challenging situations, while demonstrating honesty, transparency, and the highest ethical standards to remain true to yourself, your colleagues, your organisation, and the people you serve.	Compassion Embracing a people-centred approach in your actions, balancing empathy, kindness, and thoughtfulness toward others with professional boundaries, and ensuring safety, dignity and respect for individual autonomy and rights.
Collaboration Encouraging strong teamwork and transdisciplinary cooperation to maximise expertise and resources across professional, team, organisational, and system boundaries, integrating diverse skills and experiences to achieve shared goals.	Inclusion Exemplifying and promoting equity, diversity, belonging, and ethical practice for all by fostering a safe organisational culture that actively challenges situations that are not inclusive, such as bullying, harassment, disrespectful behaviour or discrimination.	Curiosity Empowering individuals to embrace a spirit of inquiry that welcomes innovation and challenges ways of working, in order to keep practices and processes current, and drive incremental and transformational change and development.



Section 2 – ICS Governance Framework

2.1 Statutory Framework for Integrated Care Systems

2.2 The purpose of Integrated Care Systems

2.3 One Devon

2.4 Functions and Decisions Map



2.1 Statutory Framework for Integrated Care Systems

Integrated Care Systems (ICSs) are partnerships of organisations that come together to plan and deliver joined up health and care services, and to improve the lives of people who live and work in their area. Following the Health and Care Act (2022), 42 ICSs were established across England on a statutory basis on 1 July 2022.

Each ICS includes:

- an **Integrated Care Partnership (ICP)** – a statutory committee jointly formed between the NHS Integrated Care Board and all upper-tier local authorities that fall within the ICS area. The ICP brings together a broad alliance of partners concerned with improving the care, health and wellbeing of the population, with membership determined locally. The ICP is responsible for producing an integrated care strategy on how to meet the health and wellbeing needs of the population in the ICS area.
- an **Integrated Care Board (ICB)** – a statutory NHS organisation responsible for developing a plan for meeting the health needs of the population, managing the NHS budget and arranging for the provision of health services in the ICS area.
- **local authorities** in the ICS area, which are responsible for social care and public health functions as well as other vital services for local people and businesses
- **place-based partnerships** which lead the detailed design and delivery of integrated services across their localities and neighbourhoods. The partnerships involve the NHS, local councils, community and voluntary organisations, local residents, people who use services, their carers and representatives and other community partners with a role in supporting the health and wellbeing of the population.
- **provider collaboratives** which bring providers together to achieve the benefits of working at scale across multiple places and one or more ICSs, to improve quality, efficiency and outcomes and address unwarranted variation and inequalities in access and experience across different providers

2.2 The purpose of Integrated Care Systems

The **purpose** of Integrated Care Systems (ICSs) is to bring partner organisations together to:

- **improve outcomes** in population health and healthcare
- **tackle inequalities** in outcomes, experience and access
- enhance **productivity and value for money**
- help the NHS support broader **social and economic development**.

Collaborating as an ICS will help health and care organisations tackle complex challenges, including:

- improving the health of children and young people
- supporting people to stay well and independent
- acting sooner to help those with preventable conditions
- supporting those with long-term conditions or mental health issues
- caring for those with multiple needs as populations age
- getting the best from collective resources so people get care as quickly as possible.



2.3 One Devon (1 of 2)

The Devon ICS, or One Devon covers the geographical footprint of the three local authorities in Devon, Plymouth and Torbay, with a population of 1.6 million people.

The four **Statutory Partners** in the One Devon Integrated Care System:

- [NHS Devon Integrated Care Board](#)
- [Devon County Council](#)
- [Plymouth City Council](#)
- [Torbay Council](#)

The six **NHS Provider Partners** in the One Devon Integrated Care System are:

- [Devon Partnership NHS Trust](#)
- [Royal Devon University Healthcare NHS Foundation Trust](#)
- [Torbay and South Devon NHS Foundation Trust](#)
- [University Hospitals Plymouth NHS Trust](#)
- [South Western Ambulance Service NHS Foundation Trust](#)
- [Livewell Southwest](#)



2.3 One Devon (2 of 2)

The **Primary Care Partners** in the One Devon Integrated Care System are:

- 117 GP Practices in 31 Primary Care Networks and 190 Pharmacies in Devon
- 22 GP Practices in 6 Primary Care Networks and 57 Pharmacies in Plymouth
- 10 GP Practices in 3 Primary Care Networks and 24 Pharmacies in Torbay

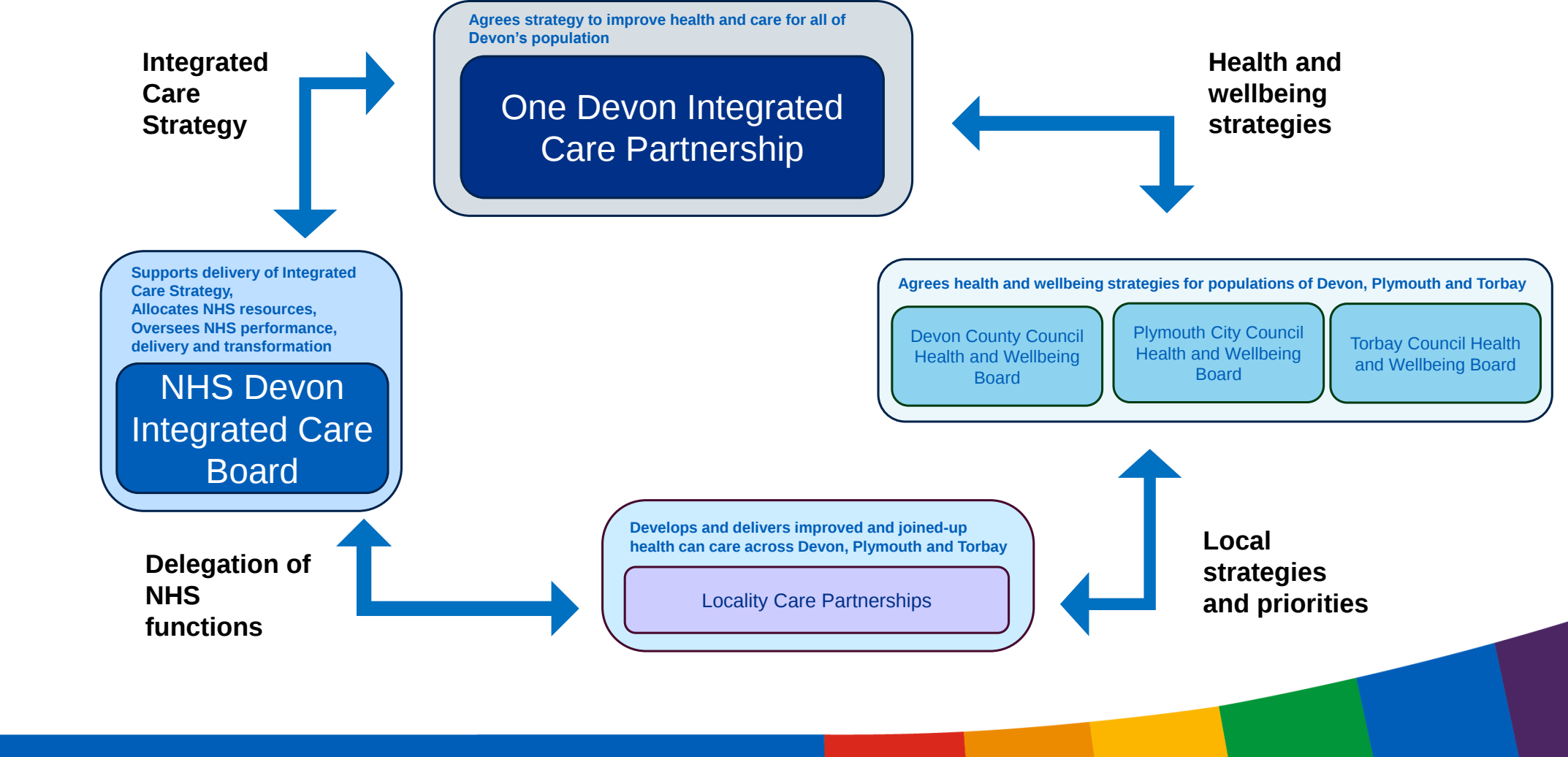
A wide range of other **Voluntary, Community and Social Enterprise Partners** are also involved in providing health and care services in Devon.

In Devon a conscious decision has been taken to replace the three letter acronyms in the Health & Care Act with names that are more descriptive of the purpose of each component part of the governance arrangements in Devon:

- The ICS is known as **One Devon, the One Devon Integrated Care System** or 'the system'
- The ICP is known as the **One Devon Integrated Care Partnership**
- The ICB is known as **NHS Devon**



2.4 Functions and Decisions Map



Section 3 – The One Devon Integrated Care Partnership

3.1 One Devon Integrated Care Partnership – core purpose

3.2 One Devon Integrated Care Partnership – membership

3.3 One Devon Integrated Care Strategy



3.1 One Devon Integrated Care Partnership – core purpose

The One Devon Integrated Care Partnership has been jointly established by NHS Devon, Devon County Council, Plymouth City Council and Torbay Council as a Joint Committee in accordance with the Constitutions of each statutory organisation.

The core purpose of the One Devon Integrated Care Partnership is to generate an integrated care strategy to reduce health and care inequalities, improve wellbeing, health and care access outcomes and service experiences for people across Devon.

All of the One Devon partners are jointly accountable for achieving progress and delivering this strategy.

The One Devon Integrated Care Partnership will meet in public at least four times per year and is Chaired by a member of the Partnership who has been approved by all members.

The conclusions from each meeting of the One Devon Integrated Care Partnership are reported to NHS Devon.

[Terms of reference for the One Devon Integrated Care Partnership](#)



3.2 One Devon Integrated Care Partnership - membership

Sector	Role
NHS Devon (ICB)	• Chair, NHS Devon • Chief Executive Officer, NHS Devon • Non-Executive Member
Health and Wellbeing Boards	• Chair, Devon Health and Wellbeing Board • Chair, Plymouth Health and Wellbeing Board • Chair, Torbay Health and Wellbeing Board
Provider Collaboratives	• Director, NHS Acute Provider Collaborative • Director, Mental Health Learning Difficulties Neurodiversity Collaborative
Integrated Care System	• Chair, Clinical and Professional Cabinet and Clinical Senate
Local Care Partnerships	• Representative, Local Care Partnership North • Representative, Local Care Partnership East • Representative, Local Care Partnership West • Representative, Local Care Partnership South • Representative, Local Care Partnership Plymouth
Local Authorities	• Director of Adult Services • Director of Children's Services • District Council Representative
Voluntary Sector	• 3 x Representative, Voluntary, Community and Social Enterprise
Healthwatch	• Representative, Healthwatch Devon, Plymouth and Torbay
Health Inequalities	• System Senior Responsible Officer, Health Inequalities
Primary Care	• Representative, Primary Care

3.3 One Devon Integrated Care Strategy

Section 116ZB of the Health & Care Act confers a responsibility upon the One Devon Integrated Care Partnership to develop an integrated care strategy for the Devon population using best available evidence and data, covering health and social care (both children's and adult's social care), and addressing the wider determinants of health and wellbeing.

The strategy sets out how the assessed needs of our population are to be met by the exercise of functions of NHS Devon, NHS England, or the responsible local authorities whose areas coincide with or fall wholly or partly within its area.

The [One Devon Five-year Integrated Care Strategy](#) is focused on:

- Improving outcomes in population health and healthcare
- Tackling inequalities in outcomes, experience and access
- Enhancing productivity and value for money
- Helping the NHS support broader social and economic development



Section 4 – The Integrated Care Board: NHS Devon

4.1 NHS Devon – core purpose

4.2 NHS Devon – membership

4.3 NHS Devon – statutory duties

4.4 NHS Devon – statutory functions

4.5 NHS Devon – delegated direct commissioning functions

4.6 Supra ICS governance arrangements

4.7 NHS Devon Constitution, Scheme of Reservation & Delegation, Standing Financial Instructions, Standing Orders and key policy documents

- Constitution
- Scheme of Reservation & Delegation (SoRD)
- Standing Financial Instructions (SFIs)
- Standing Orders
- Key Policy Documents

4.8 NHS Devon – key roles and responsibilities

4.1 NHS Devon – core purpose (1 of 2)

NHS Devon took on the functions of NHS Devon Clinical Commissioning Group (CCG) on 1 July 2022, as well as a broader strategic responsibility for overseeing joined-up health and care delivery across Devon.

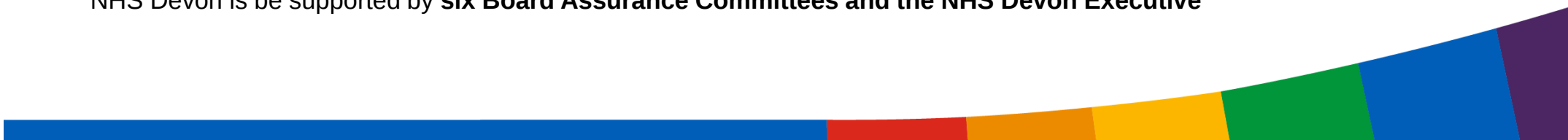
Core purpose: to agree the strategic priorities and resource allocation for all NHS organisations in Devon and then lead the improvement and integration of high-quality health and care services for all communities across Devon.

Key decisions made by NHS Deon include:

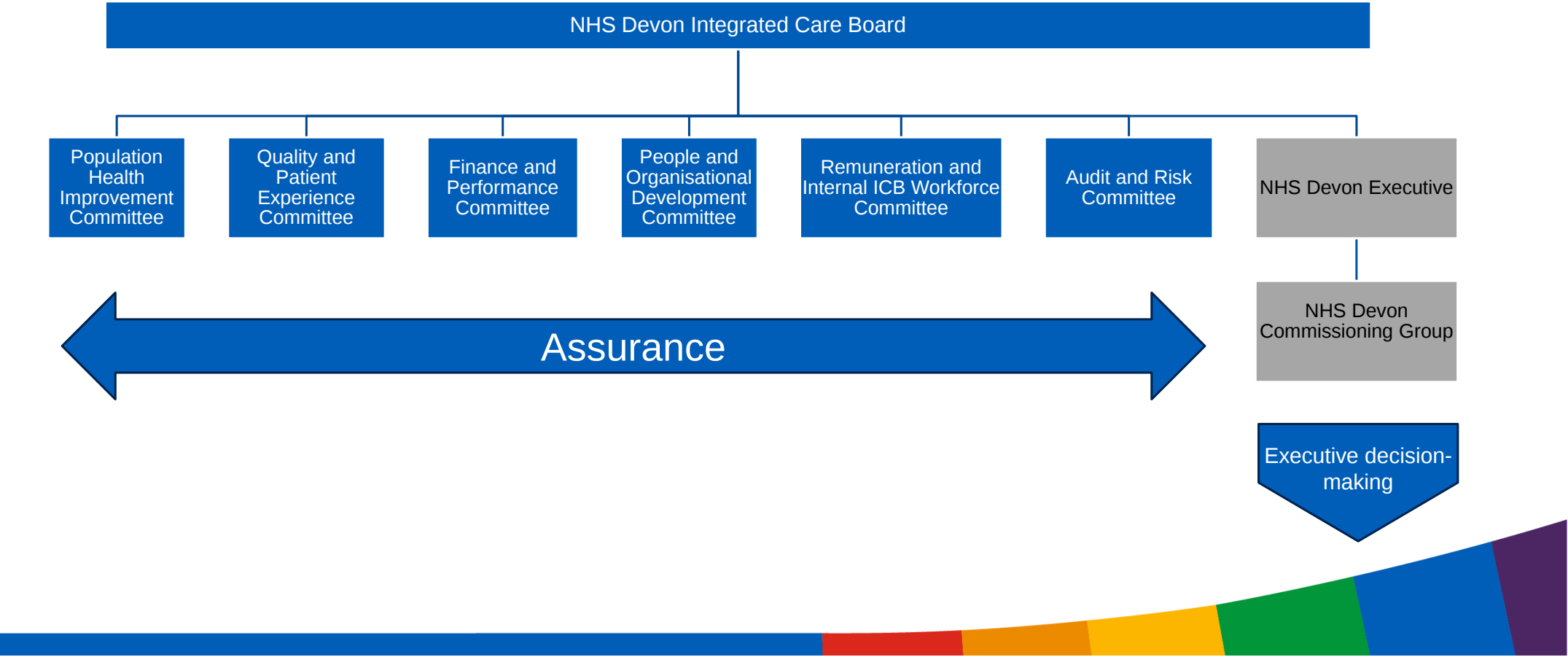
- approval of the NHS Devon five-year delivery plan (known as the Joint Forward Plan (JPF)) to address the prioritised health needs and integrated care strategy agreed by the One Devon Integrated Care Partnership
- approval of the strategic commissioning arrangements for acute, community health, mental health, primary care and urgent care services in Devon
- approval of the resource allocation for each NHS provider of acute, community health, mental health, primary care and urgent care services in Devon
- approval of major system-wide investment programmes to integrate and transform health and care services across Devon
- constructive support and challenge of the NHS Devon Chief Executive Officer and Executive on the actions being taken to deliver the strategic objectives and financial performance of NHS Devon

NHS Devon **meets in public at least six times per year** and is chaired by the Chair of NHS Devon.

NHS Devon is be supported by **six Board Assurance Committees and the NHS Devon Executive**



4.1 NHS Devon – core purpose (2 of 2)



4.2 NHS Devon - membership

Executive and Non-Executive Directors of the NHS Devon Board have been appointed through an open and competitive recruitment process in line with national guidelines.

The Partner Members were appointed by an Appointments Panel which set out a role specification, requested nominations from the membership of each professional group, considered the nominations received and made the appointment decision.

1 x Non-Executive Chair	Chair of Board	Kevin Orford
4 x Executive Directors	Chief Executive Officer	Steve Moore
	Chief Medical Officer	Dr Peter Collins
	Chief Nursing Officer	Penny Smith
	Chief Finance Officer	Kirsty Denwood (Interim)
6 x Non-Executive Directors	Chair of Audit & Risk Committee	Graham Clarke
	Chair of Quality and Patient Experience Committee	Thandiwe Hara
	Chair of Finance and Performance Committee	Kaye Bentley
	Chair of Population Health Improvement Committee	Lopa Patel
	Chair of People and Organisational Development Committee	Salma Ali
	Chair of Remuneration and Internal ICB Workforce Committee	Kaye Bentley
4 x Partner Members	NHS and Foundation Trusts	Sam Higginson
	Primary Medical Services	Dr Frank O'Kelly
	Local Authorities	Donna Manson
	Local Authorities (Population Health and Prevention)	Dr Lincoln Sargeant
1 x Ordinary Member	Mental Health	Phill Mantay

4.3 NHS Devon – statutory duties (1 of 2 - NHS Act 2006)

Duty to develop, publish and update annually a Joint Forward Plan (JFP) Sections 14Z52, 14Z53, 14Z54	Duties as to reducing inequalities in access and outcomes Section 14Z35
Duty to develop a joint capital resource use plan Section 14Z56	Duty as to patient choice Section 14Z37
Financial duty as to resource use limits Section 223M	Duty to obtain appropriate advice Section 14Z38
Duty of co-operation between NHS bodies and local authorities Section 82	Duty to promote innovation Section 14Z39
Public involvement duty Section 14Z45	Duty in respect of research Section 14Z40
Duty of ICBs to commission certain health services Section 3	Duty to promote education and training Section 14Z41
Duty to promote the NHS Constitution Section 14Z32	Duty as to promoting integration Section 14Z42
Duty as to effectiveness, efficiency and economy Section 14Z33	Duty to have regard to the wider effect of decisions (the Triple Aim) Section 14Z43
Duties as to improvement in quality services Section 14Z34	Duties as to climate change Section 14Z44

4.3 NHS Devon – statutory duties (2 of 2 – other key statutory duties)

Duty to establish an Integrated Care Partnership (ICP)	Sections 116ZA, 116ZB, 116B Local Government and Public Involvement in Health Act 2007
Public Sector Equality Duty ('PSED')	Section 149, Equality Act 2010
Duty to have regard to the NHS Constitution	Section 2, Health Act 2009
Duty to have regard to assessments and strategies	Section 116B, Local Government and Public Involvement in Health Act 2007



4.4 NHS Devon – statutory functions

- Developing a plan to meet the health and healthcare needs of the population, having regard to the One Devon ICP's integrated care strategy.
- Allocating NHS resources to deliver the plan across the system, determining what resources should be available to meet population need in each place and setting principles for how they should be allocated across services and providers (both revenue and capital).
- Establishing joint working arrangements with partners that embed collaboration as the basis for delivery within the plan.
- Establishing governance arrangements to support collective accountability between partner organisations for whole-system delivery and performance, underpinned by the statutory and contractual accountabilities of individual organisations.
- Arranging for the provision of health services in line with the allocated resources across the ICS.
- Leading system implementation of people priorities including delivery of the People Plan and People Promise.
- Leading system-wide action on data and digital working with partners across the NHS and with local authorities to put in place smart digital and data foundations to connect health and care services to put the citizen at the centre of their care.
- Using joined-up data and digital capabilities to understand local priorities, track delivery of plans, monitor and address unwarranted variation, health inequalities and drive continuous improvement in performance and outcomes.
- Ensuring that the NHS play a full part in achieving wider goals of social and economic development and environmental sustainability
- Driving joint work on estates, procurement, supply chain and commercial strategies to maximise value for money across the system and support wider goals of development and sustainability.
- Planning for, responding to and leading recovery from incidents (EPRR) to ensure NHS and partner organisations are joined up at times of greatest need, including taking on incident co-ordination responsibilities as delegated by NHS England.
- Exercising commissioning functions to be delegated by NHS England including commissioning of primary care and appropriate specialised services.

4.5 NHS Devon – delegated direct commissioning functions

In accordance with its statutory powers under section 65Z5 of the NHS Act, NHS England has delegated the exercise of certain delegated functions to NHS Devon to empower it to commission a range of services for the people of Devon.

These delegated functions are the functions are as follows:

- Specialised services
- Primary medical services
- Primary dental services and prescribed dental services
- Primary ophthalmic services
- Pharmaceutical services and local pharmaceutical services

Further information about these [delegated functions](#) can be found later in this document.



4.6 Supra ICS governance arrangements

To deliver some of its functions NHS Devon needs to work together with other ICBs; for example, commissioning more specialised services, emergency ambulance services and other services where relatively small numbers of providers serve large populations, and when working with providers that span multiple ICSs or operate through clinical networks.

The governance arrangements to support these joint working arrangements are known as “supra-ICS” and are co-designed between the parties that will be working together.

NHS Devon participates in the following supra-ICS governance arrangements:

Pharmacy, Optometry and Dentistry (POD) Committees in Common

The ICBs across the South West have determined they will work collaboratively to discharge their delegated commissioning responsibility for the delivery of POD services. The Committees in Common approach is being employed to allow organisations to take aligned decisions together on programmes that cross organisational/geographical boundaries.

Ambulance Partnership Board

The Ambulance Partnership Board brings together the ICBs across the South West and South Western Ambulance NHS Foundation Trust (SWASFT) to discuss the most pressing challenges, set the direction of strategic plans that take into account both provider and ICB strategy/plans, as well as demonstrating oversight and assurance of SWASFT as outlined in the NHS Oversight Framework.

South West Joint Specialised Services Committee

NHS England and the ICBs in the South West have formed a statutory Joint Committee to collaboratively make decisions on the planning and delivery of joint specialised services, to improve health and care outcomes and reduce health inequalities. The Joint Committee provides strategic decision-making, leadership and oversight for the commissioning of Specialised Services and any associated activities.

4.7 NHS Devon – Constitution, Scheme of Reservation and Delegation, Standing Financial Instructions, Standing Orders and key policy documents (1 of 6)

There are a number of key documents which form the core of the NHS Devon corporate governance framework. These are its:

- [Constitution](#)
- [Scheme of Reservation & Delegation \(SoRD\)](#)
- [Standing Financial Instructions](#)
- [Standing Orders](#)
- [Key Policy Documents](#)

The following pages provide a brief summary of the purpose of each document and links to that document.



4.7 NHS Devon – Constitution, Scheme of Reservation and Delegation, Standing Financial Instructions, Standing Orders and key policy documents (2 of 6)

Constitution

The NHS Devon Constitution articulates the fundamental principles underpinning the way in which it will operate. It sets out the authority with which NHS Devon can act and how it will organise itself to exercise its functions.

NHS Devon reviews its constitution each year to make sure that it remains appropriate (although amendments can also be made outside this annual review process). Any proposed amendments will be considered by the Board of NHS Devon before being submitted to NHS England for final approval. NHS Devon has committed to taking account of the views of its partners before asking NHS England to approve its constitution.

[Access the NHS Devon Constitution](#)



4.7 NHS Devon – Constitution, Scheme of Reservation and Delegation, Standing Financial Instructions, Standing Orders and key policy documents (3 of 6)

Scheme of Reservation & Delegation (SoRD)

To be clear about what has and hasn't been delegated, NHS Devon has agreed a Scheme of Reservation & Delegation (SoRD). The SoRD sets out:

- those functions that are reserved to the Board;
- those functions that have been delegated to an individual or to committees and sub-committees of the ICB;
- those functions delegated to another body or to be exercised jointly with another body, under section 65Z5 and 65Z6 of the 2006 Act.

[Access the NHS Devon Scheme of Reservation and Delegation \(SoRD\)](#)



4.7 NHS Devon – Constitution, Scheme of Reservation and Delegation, Standing Financial Instructions, Standing Orders and key policy documents (4 of 6)

Standing Financial Instructions

The Board has agreed a set of Standing Financial Instructions (SFIs) which include the delegated limits of financial authority set out in the SoRD. SFIs are designed to ensure regularity and propriety of financial transactions. SFIs define the purpose, responsibilities, legal framework and operating environment of NHS Devon.

[Access the NHS Devon Standing Financial Instructions](#)



4.7 NHS Devon – Constitution, Scheme of Reservation and Delegation, Standing Financial Instructions, Standing Orders and key policy documents (5 of 6)

Standing Orders

To make sure that the right processes are followed in carrying out its functions, the Board has agreed a set of Standing Orders (which are appended to its [Constitution](#)).

The Standing Orders set out clear procedures for conducting the business of Board and other key meetings. They cover how meetings should be convened and chaired; how the agendas and supporting papers should be drawn up and circulated; how decisions should be taken; and how they should be recorded.



4.7 NHS Devon – Constitution, Scheme of Reservation and Delegation, Standing Financial Instructions, Standing Orders and key policy documents (6 of 6)

Key Policy Documents

NHS Devon has also agreed a number of key policies which determine how the Board and staff members should go about their business:

Standards of Business Conduct Policy	Conflicts of Interest Policy	Policy for Public Involvement and Engagement	Policy for the Development of Procedural Documents
This policy, which should be read in conjunction with the Conflicts of Interest Policy, sets out the arrangements that will be made to ensure the highest standards of corporate behaviour and responsibility from NHS Devon Board members, staff and decision-making groups. It indicates NHS Devon's expectations in relation to declarable interests, charitable collections, political activities and personal conduct (including corporate responsibilities, use of social media, confidentiality, gambling, lending and borrowing, trading on official NHS premises, insolvency and arrest or conviction). It sets out how to raise concerns about breaches of the policy and the implications of failure to comply with the policy.	This policy provides definitions of the different types of conflicts of interest which exist (financial, non-financial professional, non-financial personal, and indirect interests). It also highlights the roles and responsibilities of key individuals within NHS Devon with regard to the management of conflicts of interest. It dictates the actions to be taken in identifying, declaring and reviewing interests. It also sets out how information about interests will be published or withheld. It sets out how interests should be managed within meetings. It also explains the type of interests that should be declared (loyalty, gifts, hospitality, meals and refreshments, travel and accommodation, outside employment, shareholdings, patents, donations, clinical private practice). Arrangements to be made in relation to sponsorship and joint working are also included in the policy, as well as procurement and contract monitoring. It sets out how to raise concerns about breaches of the policy and the implications of failure to comply with the policy. It also sets out training requirements associated with the policy.	This policy (known as the people and communities framework) sets out how NHS Devon and the rest of the One Devon Integrated Care System will work together to understand the needs of Devon's changing population. It sets out the role of the Devon Engagement Partnership, which will be the vehicle that will support the governance and assurance that the ICS is effectively and meaningfully listening to and working with people and communities across Devon	This policy provides a definition of the different procedural documents within NHS Devon and it sets out the template to be adopted for NHS Devon policies. It sets out how new procedural documents should be developed and the approach to be taken to amending/ reviewing them. It highlights requirements in relation to impact assessments and the development of implementation plans to support strategies and policies. It also sets out consultation requirements to be fulfilled in advance of seeking approval for strategies and policies. The policy sets out the approval routes for NHS Devon procedural documents

4.8 NHS Devon – Key roles and responsibilities

There are some key roles which NHS Devon is required to appoint, either to comply with legislation or relevant guidance from NHS England or other bodies. Information about these roles can be found below:

Non-Executive Member Board champion roles	Executive nominated roles
➤ Deputy Chair – TBC ➤ Senior Independent Director – Graham Clarke ➤ Conflict of Interest Guardian – Graham Clarke ➤ Champion for Equality, Diversity and Inclusion – Lopa Patel ➤ Champion for Freedom to Speak Up – Salma Ali ➤ Champion for Emergency Planning, Preparedness and Resilience – Graham Clarke ➤ Champion for Environmental Sustainability – Kaye Bentley ➤ Champion for children and young people with special educational needs and disabilities (SEND) – Thandiwe Hara ➤ Champion for Safeguarding – Thandiwe Hara ➤ One Devon Integrated Care Partnership Member – Lopa Patel	➤ Senior Information Risk Owner (SIRO) – Philippa Harding ➤ Caldicot Guardian – Peter Collins ➤ Executive lead for Equality, Diversity and Inclusion – Philippa Harding ➤ Executive lead for Freedom to Speak Up – Penny Smith ➤ Executive lead for children and young people (aged 0 to 25) - Peter Collins ➤ Executive lead for children and young people with special educational needs and disabilities (SEND) - Peter Collins ➤ Executive lead for Safeguarding (all-age), including looked after children – Penny Smith ➤ Executive lead for Learning disability and autism (all-age) - Peter Collins and Penny Smith ➤ Executive lead for Down syndrome (all-age) - Peter Collins ➤ Board Executive lead for Right Care Right Place – TBC ➤ Accountable Emergency Officer – Steve Moore ➤ Health and Safety Lead – Piers Tetley ➤ Infection Prevention and Control (IPC) Lead – Penny Smith ➤ Counter Fraud Lead/Champion – Kirsty Denwood ➤ Executive lead for social and economic development – Peter Collins

Section 5 – NHS Devon Board Assurance Committees

5.1 The role of Board Assurance Committees

5.2 Population Health Improvement Committee

5.3 Quality and Patient Experience Committee

5.4 Finance and Performance Committee

5.5 People and Organisational Development Committee

5.6 Remuneration and Internal ICB Workforce Committee

5.7 Audit and Risk Committee



5.1 The role of Board Assurance Committees

NHS Devon has established a number of Board Assurance Committees to support the Board and the Executive in fulfilling their responsibilities by reviewing the comprehensiveness, reliability and integrity of assurances. These Committees are:

- [Population Health Improvement Committee](#)
- [Quality and Patient Experience Committee](#)
- [Finance and Performance Committee](#)
- [People and Organisational Development Committee](#)
- [Remuneration and Internal ICB Workforce Committee](#)
- [Audit and Risk Committee](#)

The Remuneration and Internal ICB Workforce Committee and the Audit and Risk Committee are statutory Committees which NHS Devon is required to establish – these are referred to in our Constitution. NHS Devon has also chosen to establish other Committees which are not referred to in the Constitution but are listed here for completeness.

Each Board Assurance Committee will scrutinise in-year system performance, contribute to the development of new strategies and seek assurance on the delivery of NHS Devon strategic priorities within their remit.

5.2 Population Health Improvement Committee

Membership
3 x NHS Devon Non-Executive Members, one of whom will be the Chair
NHS Devon Chief Medical Officer
NHS Devon Chief Operating Officer
Partner Member – Providers of Primary Medical Services
Partner Member – Director of Public Health

- **Purpose:** To provide oversight and seek assurance that NHS Devon and partner NHS organisations in the One Devon ICS are delivering on strategic commitments to deliver better health outcomes, including by preventing ill health; reduce inequality and inequity in health outcomes and access in line with the Core20plus5 framework; and positively impact on social and economic growth. The Committee will also make recommendations on those services or places where there is the biggest opportunity for improvements in outcomes for our population.
- **Key responsibilities:**
 - Provide assurance to the NHS Devon Board around the arrangements for discharging, and implications of, the NHS Devon responsibilities in respect of the theme of preventing ill health and reducing inequalities.
 - Provide oversight and assure the NHS Devon Board of the delivery of the population health outcomes elements of the One Devon Integrated Care Strategy and Joint Five-Year Plan, including using benchmarking against other systems.
 - Provide assurance to the NHS Devon Board that its equality objectives with regard to health outcomes are being effectively met, with a particular focus on NHS Devon’s impact on health inequalities.
 - Ensure that NHS Devon is working with partner NHS organisations in the One Devon ICS to address the wider determinants of health including employment, housing, and poverty.
 - Ensuring that the plans of NHS Devon and partner NHS organisations in the One Devon ICS identify and engage the most marginalised communities in setting, delivery, and monitoring health inequality priorities.
 - Be assured that people drawing on services are systematically and effectively involved as equal partners in developing strategy and services, seeking assurance in this alongside the Quality and Patient Experience Committee.
 - Consider strategies and plans to improve and report on social and economic growth particularly where this clearly leads to mental and physical health improvement, including in employment, housing, and education and skills.
 - Seek assurance that, as a group of the largest employers in Devon, NHS Devon and partner NHS organisations in the One Devon ICS partners promote and increase social and economic growth, including as leaders of ‘anchor institutions’, and in activities as regards procurement and environmental footprint.

5.3 Quality and Patient Experience Committee

Membership	Purpose: To provide assurance that NHS Devon is delivering its functions in a way that secures continuous improvement in the quality of services, against each of the dimensions of quality set out in the Shared Commitment to Quality and enshrined in the Health and Care Act 2022.
3 x NHS Devon Non-Executive Members, one of whom will be the Chair	Key responsibilities: ➤ Provide assurance around the arrangements for discharging, and implications of, the NHS Devon responsibilities in respect quality of care, access and outcomes under the NHS Oversight Framework. ➤ Provide assurance to the NHS Devon Board around the arrangements for discharging, and implications of, the NHS Devon responsibilities in respect of the following themes under NHS England's Quality Functions: Responsibilities of providers, Integrated Care Boards and NHS England: Strategic management of quality, Operational management of quality, Patient safety, Experience, Effectiveness, Safeguarding, Mental health, learning disabilities and autism.
NHS Devon Chief Nursing Officer	➤ Provide assurance that there are mechanisms in place that enable inclusive patient feedback to influence NHS Devon planning and commissioning arrangements and subsequent provider arrangements and the arrangements for discharging NHS Devon responsibilities in relation to securing continuous improvement in the quality of services. ➤ Scrutinise structures in place to support quality planning, control and improvement, to be assured that the structures operate effectively and timely action is taken to address areas of concern.
NHS Devon Chief Medical Officer	➤ Oversee and scrutinise the NHS Devon response to all relevant directives, regulations, national standard, policies, reports, reviews and best practice as issued by regulatory bodies / external agencies to gain assurance that they are appropriately reviewed, embedded and sustained ➤ Oversee and seek assurance on the delivery of the NHS Devon's key statutory requirements together with the effective and sustained delivery of the NHS Devon Quality Improvement Programmes and ensure that mechanisms are in place to review and monitor the effectiveness of the quality of care delivered by providers and place.
Partner Member – Providers of Primary Medical Services	➤ Scrutinise the robustness of the arrangements for and assure compliance with NHS Devon's statutory responsibilities for safeguarding adults and children; medicines optimisation and safety; and infection prevention and control. ➤ Review and identify themes / issues resulting from all forms of patient feedback and associated action plans. ➤ Receive assurance that that lessons are learned from Never Events, Serious Case Reviews, Safeguarding Reviews, domestic homicides and inquests. ➤ Receive assurance that people drawing on services are effectively involved as equal partners in quality activities and seek assurance as to compliance with NHS Devon's statutory responsibilities for equality and diversity for those people. ➤ Review and monitor those risks on the Board Assurance Framework which relate to quality, maintain an overview of changes in the methodology employed by regulators and changes in legislation / regulation.

5.4 Finance and Performance Committee

Membership	Purpose: To provide oversight and seek assurance that NHS Devon is maximising value for money from the use of its public funding and delivering its performance targets set out in the NHS Devon Operational Plan for the year. The Committee identifies performance risks and concerns to ensure that mitigating actions are being taken in a timely manner to deliver NHS Devon’s financial and operational commitments across the One Devon ICS. Key responsibilities: ➤ Provide assurance around the arrangements for discharging, and implications of, NHS Devon’s responsibilities in respect of finance and use of resources under the NHS Oversight Framework. ➤ Ensure financial management achieves value for money, efficiency and effectiveness in the sustainable use of resources with a continuing focus on cost reduction, cost avoidance and achievement of efficiency targets (both financial and non-financial). ➤ Recommend for approval the strategic financial framework of NHS Devon and the One Devon ICS together with the System Collaboration and Finance Management Agreement. ➤ Ensure that health and social inequalities are taken into account in financial decision-making. ➤ Take an overview of performance and transformation at whole system, place and organisation levels in relation to One Devon Integrated Care System objectives and priorities. ➤ Consider proposals regarding the prioritisation of operational capital requirements and make recommendations the NHS Devon Board. ➤ Gain assurance that the capital programme is aligned to the One Devon ICS financial plan.
3 x NHS Devon Non-Executive Members, one of whom will be the Chair	
NHS Devon Chief Finance Officer	
NHS Devon Chief Nursing Officer	
NHS Devon Chief Operating Officer	



5.5 People and Organisational Development Committee

Membership

- 3 x NHS Devon Non-Executive Members, one of whom will be the Chair
- NHS Devon Chief People Officer
- NHS Devon Chief Finance Officer
- Partner Member NHS Trusts and Foundation Trusts
- Partner Member - Providers of Primary Medical Services, NHS Devon
- A Chief People Officer from one of the NHS Trusts / Foundation Trusts within the One Devon Integrated Care System.

Purpose: To provide oversight and seek assurance on the recruitment, development, retention and wellbeing of the people employed by NHS Devon and across the One Devon Integrated Care System.

Key responsibilities:

- Provide assurance around the arrangements for discharging, and implications of, the NHS Devon responsibilities in respect of the following themes under the NHS Oversight Framework: People and Leadership and improvement capability.
- Provide assurance on the workforce recruitment, development and retention and wellbeing plans across the One Devon Integrated Care System, including the delivery of the One Devon Workforce Strategy and associated 5 year workforce plan to develop and recruit the future workforce needed to positively impact population health and improve outcomes.
- Identify and quantify the risks in the implementation of the Workforce Strategy and determine the approach to providing effective oversight of the mitigation of those risks.
- Provide assurance on delivery within the One Devon Integrated Care System of the NHS People Promise and Long Term Plan for workforce, including assurance that the 10 regulatory requirements of an ICS People function are delivered. Consider future national developments which could impact on NHS Devon strategic workforce objectives.



5.6 Remuneration and Internal ICB Workforce Committee

Membership	➤ Purpose: Responsible for approving the remuneration and pay frameworks for all NHS Devon employees and Board members (excl the NHS Devon Chair whose remuneration is determined by NHS England) and for exercising the functions of NHS Devon relating to paragraphs 17 to 19 of Schedule 1B to the NHS Act 2006, by confirming NHS Devon Pay Policy, including adoption of any pay frameworks for all employees including senior managers/directors, as well as any arrangement relation to the termination of their employment (including redundancy and non-disclosure agreements).
4 x NHS Devon Non-Executive Members, one of whom will be the Chair	
NHS Devon Chair	➤ Key responsibilities: ➤ Approving a framework and policy for the appropriate remuneration of Executive and Independent Non-Executive members of the NHS Devon Board and other NHS Devon VSMs, as well as individuals' remuneration packages. ➤ Approving business cases relating to the fees to be applied to other individuals who provide specific services to NHS Devon at VSM level and above. ➤ Approve business cases for the termination of employment and other contractual terms and non-contractual terms (such as redundancy or early retirement provisions) for NHS Devon Executive members and other NHS Devon VSMs.
Partner Member – Providers of Primary Medical Services	➤ Approving the pay policy for NHS Devon staff (including the adoption of pay frameworks such as Agenda for Change). ➤ Overseeing staff contractual arrangements. ➤ Approving proposals for termination payments and any special payments (including arrangements for dealing with legal cases relating to employment issues). ➤ Providing assurance that robust succession planning is in place for the NHS Devon Board.
Co-Opted Member	➤ Reviewing the outcomes of the NHS Devon Board performance evaluation process, including thematic outcomes from appraisals, that relate to the performance and effectiveness of the NHS Devon Board ➤ Providing assurance with regard to the policy and process for the appointment of Co-opted Members of NHS Devon Board Committees. ➤ Providing assurance in relation to NHS Devon statutory duties relating to people such as compliance with employment legislation including such as Fit and Proper Person Regulation (FPPR) and conflicts of interest requirements.

5.7 Audit and Risk Committee

Membership

3 x NHS Devon Non-Executive Members, one of whom will be the Chair

Purpose: to provide oversight and seek assurance on the adequacy of governance, risk management and internal control processes within NHS Devon. The Committee will also make recommendations on those areas of system audit or risk management where there is the biggest opportunity for improvement.

Key responsibilities:

- To review the adequacy and effectiveness of the system of integrated governance, risk management and internal control across the whole of the ICB’s activities that support the achievement of its objectives, and to highlight any areas of weakness to the Board.
- To ensure that there is an effective internal audit function that meets the Public Sector Internal Audit Standards and provides appropriate independent assurance to the Board.
- To review and monitor the external auditor’s independence and objectivity and the effectiveness of the audit process.
- To assure itself that the ICB has adequate arrangements in place for counter fraud, bribery and corruption (including cyber security).
- To receive regular updates on IG compliance (including uptake & completion of data security training), data breaches and any related issues and risks.
- To monitor the integrity of the financial statements of the ICB and any formal announcements relating to its financial performance.



Section 6 - NHS Devon Executive Structures

6.1 Principles informing NHS Devon Executive Governance

6.2 NHS Devon Executive

6.3 Commissioning Group



6.1 Principles informing NHS Devon Executive Governance

- Executive decision-making authority is delegated from the NHS Devon Board to the Chief Executive Officer. This includes allocation of all NHS resources in accordance with the plan approved by the Board (matters reserved to the Board as set out in the [Scheme of Reservation and Delegation](#))
- The Chief Executive Officer can choose to delegate some of their authority to individual executives and has also chosen to exercise most of their delegated functions through an executive committee (NHS Devon Executive)
- The Chief Executive Officer may also choose to reserve or delegate some functions and authority to themselves (the detail of this is set out in the [Operational Scheme of Delegation](#))
- Delegations to individual directors will be expressed as things each director can determine independently, and then things over and above those delegations which will be reserved for the Chief Executive Officer and will need to be taken to the NHS Devon Executive.

6.2 NHS Devon Executive

Membership	
Chief Executive Officer (Chair)	Steve Moore
Chief Finance Officer	Kirsty Denwood (Interim)
Chief Medical Officer	Dr Peter Collins
Chief Nursing Officer	Penny Smith
Chief Operating Officer	John Finn (Acting)
Chief People Officer	Piers Tetley
Chief Communications and Corporate Affairs Officer	Philippa Harding (Interim)

Purpose: to support the Chief Executive Officer (CEO) of NHS Devon in the discharge of their executive functions.

Key responsibilities:

- Recommend objectives and strategies for the NHS Devon Board in the development of its business, having regard to the interests of the population of Devon.
- Optimise the allocation and adequacy of NHS Devon resources.
- Recommend high level budgets and financial plans to the Board and ensure the achievement of these.
- Monitor performance against targets, objectives and KPIs agreed by the Board.
- Provide effective leadership within the One Devon Integrated Care System to ensure delivery of the Board's objectives and provide assurance around the arrangements for discharging and implications of, NHS Devon responsibilities in respect of the NHS Oversight Framework.
- Ensure appropriate levels of authority are delegated to senior management through NHS Devon and the provision of adequate management development and succession planning.
- Ensure the organisational structure of NHS Devon is fit for purpose.
- Ensure the control, co-ordination and monitoring within NHS Devon of risk and internal controls.
- Ensure compliance with relevant legislation and regulations.
- Safeguard the integrity of management information and financial reporting systems.

6.3 Commissioning Group

Membership	Purpose: to ensure that the commissioning and contracting functions of NHS Devon are discharged effectively to meet the needs of the population of Devon and in accordance with the resources allocated by the NHS Devon Board, enhancing productivity, value for money and quality of service. In particular, it should ensure that commissioning and contracting are carried out in such a manner as to ensure effective pathways of care, reducing gaps and overlaps in services.
Chief Medical Officer (Chair)	Key responsibilities: ➤ Development of NHS Devon as an effective strategic commissioner and local leader and build effective relationships with One Devon Integrated Care System partners. ➤ Articulation of NHS Devon's Commissioning Intentions and other Annual Plan priorities, in light of partnership working across the One Devon ICS for recommendation to the NHS Devon Executive and Board. ➤ Oversight of the operational commissioning of healthcare for the population of Devon in close liaison with other health and care commissioners within the One Devon ICS by exercising NHS Devon's commissioning functions and decisions. This includes commissioning policies, contracts and its procurement/contractual pipeline. ➤ Review of new contractual models to deliver NHS Devon's ambitions as set out in the Integrated Care Strategy, for recommendation to the NHS Devon Executive and Board. ➤ Review of proposals, businesses cases, service change, funding requests and scoping of procurements where they are in line with NHS Devon's Annual Plan, Scheme of Reservation and Delegation and approved budgets, ensuring that they cover full clinical pathways of care. ➤ Ensure the commissioning of NHS-funded services is undertaken in such a manner as to streamline the delivery of care. This will include decision-making in respect of: delegated regional specialist commissioning; delegated primary care commissioning; block contract agreements with local NHS Trusts; sub-contracts from those Trusts (e.g. mental health out of area, Plymouth community services); Provider Collaborative proposals; services commissioned through Local Authorities; private sector contracts (surgical, continuing care etc) and VCSE contracts and funding agreements
Chief Finance Officer (Vice Chair)	
Chief Operating Officer	
Director of Primary Care	
Director of Children and Young People	
Director of Mental Health Services	
Deputy Chief Operating Officer	
Chief Nursing Officer (or deputy)	
Chief People Officer (or deputy)	

Section 7 – System Governance Arrangements

[7.1 NHS Devon system-level responsibilities](#)

[7.2 One Devon Integrated Care System governance and assurance structures 2025/26](#)

[7.3 One Devon System Leadership Group](#)

[7.4 Transformation Oversight Group](#)

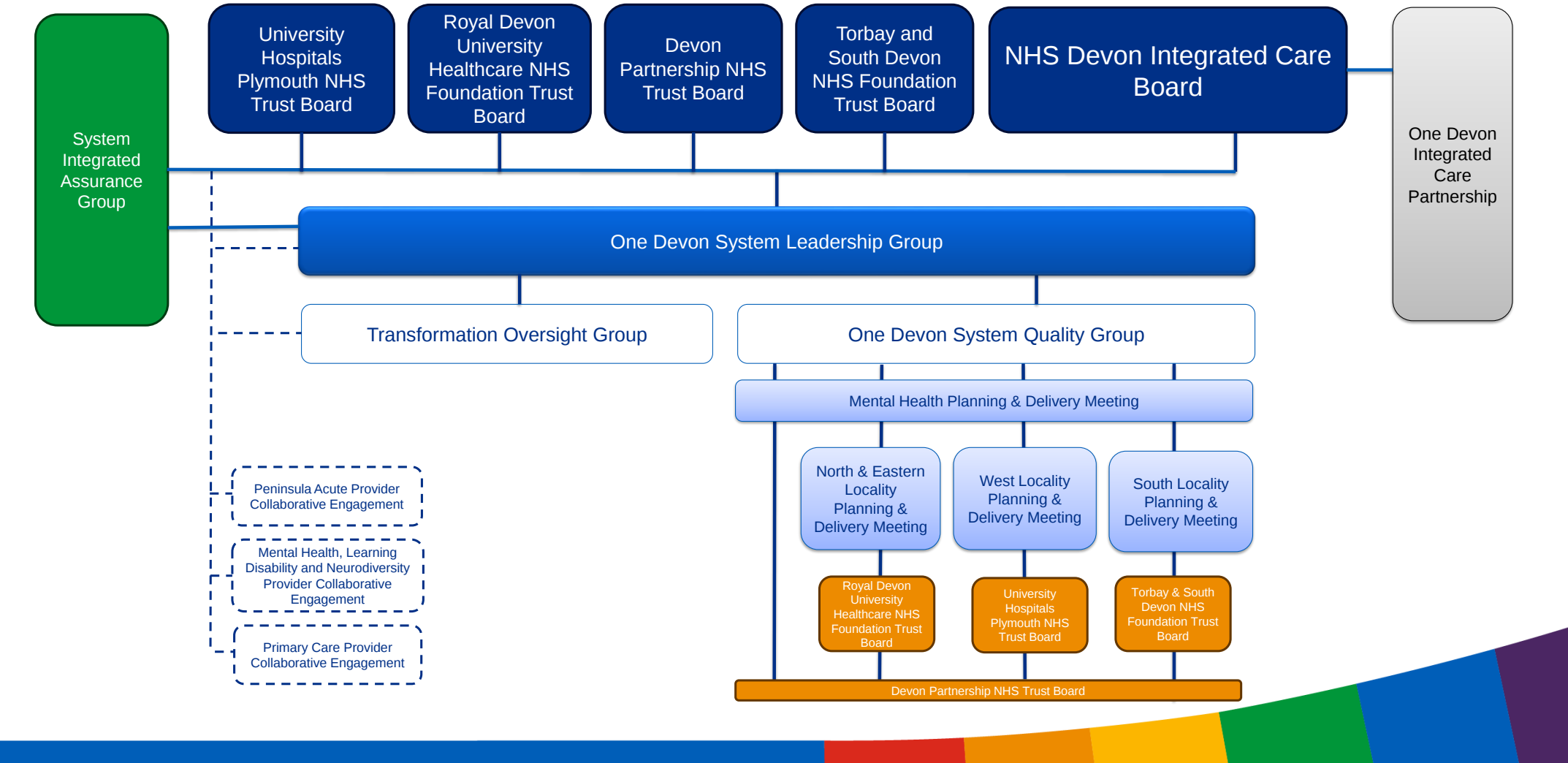
[7.5 Planning and Delivery Groups](#)



7.1 NHS Devon system-level responsibilities

- Developing a plan to meet the health needs of the population within the Devon area.
- Allocating resources to deliver the plan across the One Devon Integrated Care System.
- Establishing joint working arrangements with partners that embed collaboration as the basis for delivery of joint priorities within the plan.
- Establishing governance arrangements to support collective accountability between partner organisations for whole-system delivery and performance, underpinned by the statutory and contractual accountabilities of individual organisations, to ensure the plan is implemented effectively within a system financial envelope set by NHS England.
- Arranging for the provision of health services in line with the allocated resources across the One Devon Integrated Care System.
- Leading system implementation of the People Plan by aligning partners across the One Devon Integrated Care System to develop and support the 'one workforce', including through closer collaboration across the health and care sector, and with local government, the voluntary and community sector and volunteers.
- Leading system-wide action on data and digital: ICS NHS bodies will work with partners across the NHS and with local authorities to put in place smart digital and data foundations to connect health and care services and ultimately transform care to put the citizen at the centre of their care
- Using joined-up data and digital capabilities to understand local priorities, track delivery of plans, monitor and address variation and drive continuous improvement in performance and outcomes.
- Working alongside councils to invest in local community organisations and infrastructure and, through joint working between health, social care and other partners including police, education, housing, safeguarding partnerships, employment and welfare services, ensuring that the NHS plays a full part in social and economic development and environmental sustainability.
- Driving joint work on estates, procurement, supply chain and commercial strategies to maximise value for money across the system and support these wider goals of development and sustainability
- Planning for, responding to and leading recovery from incidents (EPRR), to ensure NHS and partner organisations are joined up at times of greatest need, including taking on incident coordination responsibilities as delegated by NHS England and NHS Improvement.
- Functions NHS England and NHS Improvement will be delegating including commissioning of primary care and appropriate specialised services.

7.2 One Devon Integrated Care System governance and assurance structures 2025/26



7.3 One Devon System Leadership Group

Membership	Purpose: to provide system level leadership to the delivery of system recovery, the Joint Forward Plan and other agreed system priorities.
NHS Devon CEO (Chair)	Key responsibilities: ➤ oversee the delivery of the criteria identified by NHS England for the exit of the One Devon Integrated Care System from Segment 4 of the NHS Oversight Framework. ➤ oversee the development of the NHS-led aspects of One Devon Integrated Care System Joint Forward Plan, Annual Plan and Operational Plan submissions at a system level. ➤ monitor the delivery of the Annual Plan setting out the NHS-led deliverables of the Joint Forward Plan, taking escalations from Provider Performance Meetings and agreeing a system response where necessary. ➤ be the formal route for change control of agreed Plans (for approval as appropriate by the respective governance bodies of each member). ➤ oversee the allocation of system resource and ensure it is managed to deliver the greatest impact. ➤ review system performance and agree strategic responses to emerging performance risks. ➤ agree system level risks and issues and agree mitigating actions. ➤ horizon scan for emerging future challenges to agree system response to allow early intervention. ➤ review opportunities for greater system working through the establishment of system level delivery mechanisms.
NHS Devon Chief Operating Officer (COO) (Vice Chair)	
Devon Partnership NHS Trust CEO	
Devon Partnership NHS Trust COO	
Torbay and South Devon NHS Foundation Trust CEO	
Torbay and South Devon NHS Foundation Trust COO	
University Hospitals Plymouth NHS Trust CEO	
University Hospitals Plymouth NHS Trust COO	
Royal Devon University Healthcare NHS Foundation Trust CEO	
Royal Devon University Healthcare NHS Foundation Trust COO	
South Western Ambulance Service NHS Foundation Trust CEO	
Primary Care representative – tbc	

7.4 One Devon Transformation Oversight Group

Membership
NHS Devon Transformation Director (Chair)
Transforming Devon Programme Director (Vice Chair)
Transformation Programme Senior Responsible Officers (SROs)
Provider Directors of Transformation
Agreed lead from system for - Finance - Nursing/Quality - Medicine - Workforce - BI - Governance
NHS England System Improvement Director

Purpose: driving the delivery of system-wide transformation programmes, managing interdependencies, ensuring alignment of outcomes and unblocking tactical delivery issues.

Key responsibilities:

- Consider the overall scope of the Transforming Devon Programme and each constituent project and act as forum for reaching consensus on recommendations to be presented to the SLG or individual NHS partner sovereign Boards as appropriate.
- Steer, scrutinise, inform and approve relevant programme activities – in particular, provide leadership, coordination and strategic direction of the programme and relevant workstream deliverables.
- Identifying and managing risks and issues, and determining which risks or issues should be escalated.
- Provide the SLG with assurance that the Transforming Devon Programme has a clear and consistent strategic direction of travel, which is aligned to the Integrated Care Strategy and Joint Forward Plan.
- Provide strong and effective leadership; transparent lines of accountability and responsibility; and effective and timely reporting to key internal and external decision-makers.
- Scrutinise programme and project documentation to ensure the direction of the Transforming Devon Programme remains within the scope set by the SLG and individual NHS partner sovereign Boards and is consistent with wider system plans and political environment.
- Advise on stakeholder management strategy and specific plans to ensure buy-in from key internal and external stakeholders has been secured.
- Act as the first escalation point for Transforming Devon Programme SROs or any other stakeholder involved in the programme to seek advice and direction on any points of contention.



7.5 Planning and Delivery Meetings

Locality (x3)

Membership	Purpose: Locality Planning and Delivery Meetings (LPDMs) are established by Integrated Care Board for Devon (known and referred to as NHS Devon) as the fora through which NHS Devon and NHS England can obtain assurance in relation to the key performance standards which the NHS providers within each of the localities of the One Devon Health and Care System are accountable for delivering.
NHS Devon Chief Executive Officer (Chair)	
NHS Devon Chief Officers as appropriate to the agenda	
NHS provider representation	There are three LPDMs:
Mental Health representation	- North & Eastern Locality Planning and Delivery Meeting - Plymouth Locality Planning and Delivery Meeting - South & West Locality Planning and Delivery Meeting
Primary Care representation (TBC)	Key responsibilities: - To oversee the delivery of the NHS-led, locality specific actions of the One Devon Integrated Care System Joint Forward Plan, System Recovery Plan, Annual Plan and Operational Plan. - To review locality performance and agree strategic responses to emerging performance risks. - To agree locality level risks and issues and agree mitigating actions. Escalating to the SLG in line with the System Risk Strategy - To horizon scan for emerging future challenges to agree system response to allow early intervention. - To review opportunities for greater collaborative working. - To report on progress against locality delivery to SLG, including making proposals for amendments to the Annual Plan.
Local Authority representation (TBC)	
VCSE representation (TBC)	

Mental Health

Membership	Purpose: The Mental Health Planning and Delivery Meeting (MHPDM) has been established by Integrated Care Board for Devon (known and referred to as NHS Devon) as the forum through which NHS Devon and NHS England can obtain assurance in relation to the key performance standards which the NHS providers of mental health services within the One Devon Health and Care System are accountable for delivering.
NHS Devon Chief Executive Officer (Chair)	
NHS Devon Chief Officers as appropriate to the agenda	
Mental Health representation	Key responsibilities: - To oversee the delivery of the NHS-led, mental-health specific actions of the One Devon Integrated Care System Joint Forward Plan, System Recovery Plan, Annual Plan and Operational Plan. - To review mental health performance against agreed standards detailed in the National Oversight Framework and NHS Devon Operating Plan, and agree strategic responses to emerging performance risks - To review delivery of the agreed finance and workforce plans for the year and oversee any responses to emerging risks related to delivery. - To agree mental health-specific level risks and issues and agree mitigating actions. Escalating to the SLG in line with the System Risk Strategy - To review key quality indicators related to patient safety, outcomes and experience and agree responses to any emerging risks. - To horizon scan for emerging future challenges to agree system response to allow early intervention. - To review opportunities for greater collaborative working. - To report on progress against mental health delivery to SLG, including making proposals for amendments to the Annual Plan.
Primary Care representation (TBC)	
Local Authority representation (TBC)	
VCSE representation (TBC)	

Section 8 – Provider Collaboratives

Three NHS Collaboratives have been established to facilitate Devon-wide working and help improve the quality of services in:

- Primary and Community Care (known as the Devon Collaborative Board)
- Acute Care (known as the Peninsula Acute Provider Collaborative)
- Mental Health Learning Disabilities and Neurodiversity (known as the Mental Learning Disabilities and Neurodiversity Collaborative)

These Collaboratives **do not** form part of the formal governance or accountability structures of the One Devon Integrated Care System but there is a need to continue to ensure coordination and collaboration around core services, which are critical for the development and delivery of more integrated health and care services.



Section 9 – Primary medical services and other commissioning responsibilities delegated to NHS Devon

9.1 Specialised Services

9.2 Primary Medical Services

9.3 List of providers of primary medical services in Devon



9.1 Specialised Services

- Specialised services support people with a range of rare and complex conditions. They often involve treatments provided to patients with rare cancers, genetic disorders or complex medical or surgical conditions. They deliver cutting-edge care and are a catalyst for innovation, supporting pioneering clinical practice in the NHS.
- Specialised services are not available in every local hospital because they have to be delivered by specialist teams of doctors, nurses and other health professionals who have the necessary skills and experience. Three factors determine whether a service is a prescribed specialised service. These are:
 - the number of individuals who require the service
 - the cost of providing the service or facility
 - the number of people able to provide the service or facility
- NHS England has delegated commissioning responsibility for 70 services to ICBs, whilst retaining accountability for this commissioning. NHS England continues to set consistent national standards, services specifications and clinical commissioning policies; develop metrics and quality dashboards to support improvement, oversight and assurance; and, provide national clinical leadership, expert advice and support to ICBs through their Clinical Reference Group infrastructure.
- Approximately 100 specialised services, including all highly specialised services, have not been delegated to ICBs and continue to be the direct commissioning responsibility and accountability of NHS England.



9.2 Primary Medical Services

- Primary medical services provide the first point of contact in the healthcare system, acting as the ‘front door’ of the NHS.
- In accordance with its statutory powers under section 65Z5 of the NHS Act, NHS England has delegated to NHS Devon the authority to commission the following range of services for the people of Devon:
 - Primary medical services;
 - Primary dental services and prescribed dental services;
 - Primary ophthalmic services;
 - Pharmaceutical services and local pharmaceutical services.
- As a system, NHS Devon looks to primary care to lead on improving the ‘whole person’ health of a local population. Strengthening primary care and developing integrated neighbourhood teams, is central to supporting NHS Devon’s fundamental shift from health care delivery focused on treating disease towards person-centred support to people facing the challenges of everyday life; in turn strengthening social cohesion and encouraging greater resilience.
- This is primary care’s core role in an Integrated Care System - a shift from general practice as commissioners to general practice as providers, working through Primary Care Networks as vehicles for delivery, as stated in the [NHS’s Long Term Plan](#) and the [five year framework for the GP contract](#), published in January 2019.



9.3 List of providers of primary medical services (1 of 3 - Devon)

• Mount Pleasant	• Heavitree	• South Lawn	• Bideford Medical Centre
• ISCA	• Hill Barton	• Axminster Medical Practice	• Castle Gardens Surgery
• Seaton and Colyton Medical Practice	• Townsend House Medical Practice	• Cranbrook Medical Centre	• Hartland Surgery
• Ide Lane Surgery	• Pinhoe and Broadclyst Medical Practice	• Topsham Surgery and Glasshouse Medical Centre	• Northam Surgery
• Westbank Practice	• Honiton Surgery	• Coleridge Medical Centre	• Wooda Surgery
• Sid Valley Practice	• Foxhayes Practice	• St Thomas Medical Group	• Torrington Health Centre
• Barnfield Hill Surgery	• Clocktower Surgery	• Southernhay House Surgery	• Brannams Medical Centre
• St Leonards Practice	• Whipton Surgery	• Wonford Green Surgery	• Fremington Medical Centre
• Claremont Medical Practice	• Rolle Medical Partnership	• Imperial Surgery	• Litchdon Medical Centre
• Haldon House Surgery	• Woodbury Surgery	• Budleigh Salterton Medical Practice	• Queens Medical Centre
• Raleigh Surgery	• Bramblehaes Surgery	• Blackdown Practice	• Ruby Country Medical Group
• College Surgery	• Sampford Peverell Surgery	• Wyndham House Surgery	• Bradworthy Surgery
• Amicus Health	• Castle Place Practice	• Bow Medical Practice	• Caen Medical Centre
• Cheriton Bishop and Teign Valley Practice	• Mid Devon Medical Practice	• Redlands Primary Care	• South Molton Medical Centre
• Wallingbrook Health Group	• Chagford Health Centre	• Blake House Surgery	• Lynton Health Centre
• Moretonhampstead Health Centre	• Okehampton Medical Centre		• Combe Coastal
• Abbey Surgery	• Tavyside Health Centre	• Yelverton Surgery	• Beacon Medical Group
• Wembury Surgery	• Dean Cross Surgery	• Church View Surgery	• Yealm Medical Centre

9.3 List of providers of primary medical services (2 of 3 - Plymouth)

• Beacon Medical Group	• Devonport Health Centre	• Wembury Surgery
• North Road West Medical Centre	• St Levan Surgery	• Dean Cross Surgery
• Roborough Surgery	• Adelaide Surgery	• Church View Surgery
• Knowle House Surgery	• West Hoe Surgery	• Yealm Medical Centre
• Wycliffe Surgery	• Stoke Surgery	• Budshead Medical Practice
• Lisson Grove and Woolwell Medical Centre	• Peverell Park Surgery and University Medical Centre	• Elm Surgery
• Mayflower Medical Group	• St Neots Surgery	• Friary House Surgery
• Oakside Surgery	• Southway Surgery	• Pathfields
• Beaumont Villa Surgery		

9.3 List of providers of primary medical services (3 of 3 – Torbay)

• Compass House Medical Centre	• Bovey Tracey and Chudleigh Medical Practice	• Corner Place Surgery
• Pembroke House Surgery	• Kingkerswell and Ipplepen Medical Practice	• Old Farm Surgery
• Chilcote Surgery	• Ashburton Surgery	• Channel View Medical Practice
• Southover Medical Practice	• Buckfastleigh Medical Centre	• Teign Estuary Medical Group
• Brunel Medical Practice	• Catherine House Surgery	• Dawlish Medical Group
• Chelston Hall Surgery	• Leatside Surgery	• Buckland Surgery
• Croft Hall Medical Practice	• South Brent Health Centre	• Cricketfield Surgery
• Albany Surgery	• Mayfield Medical Centre	• Devon Square Surgery
• Kingsteignton Medical Practice	• Dartmouth Medical Practice	• Modbury Health Centre
• Chillington Health Centre	• Redfern Health Centre	• Norton Brook Medical Centre

Reference	Theme	Decision/Responsibility	Reserved to the Board
Constitution 1.6.2	Risk, Regulation and Governance	Approve applications to NHS England on any material matters concerning changes to the ICB's Constitution	Yes
Constitution 1.6.2	Risk, Regulation and Governance	Lead any review of the ICB's Constitution and propose any amendments to it as a result	No
2006 NHS Act Schedule 1A, para 1	Risk, Regulation and Governance	Ensure appropriate arrangements are in place to inform decision-making on the ICB Constitution	No
Constitution 1.7.3(d)	Risk, Regulation and Governance	Approve the contents of the ICB's Governance Handbook	Yes
Constitution 1.7.3(d)	Risk, Regulation and Governance	Propose amendments to the ICB's Governance Handbook	No
Constitution 3.5-3.12	Risk, Regulation and Governance	Approve the appointment of Executive members, Independent Non-Executive Members and Partner Members to the Board.	No
N/A	Risk, Regulation and Governance	Ensure appropriate arrangements are in place to inform decision-making on the ICB's Governance Handbook	No
Constitution 4.4.2	Risk, Regulation and Governance	Approve the ICB's Scheme of Reservation and Delegation (SoRD) and any amendments to it	Yes
N/A	Risk, Regulation and Governance	Approve the ICB's Operational Scheme of Delegation (OSoD) and any amendments to it.	No
N/A	Risk, Regulation and Governance	Ensure appropriate arrangements are in place to inform decision-making on the ICB's SoRD	No
Constitution 4.5	Risk, Regulation and Governance	Approve the ICB Functions and Decisions Map which sets out at a high level its key functions and how it exercises them in accordance with the SoRD	Yes
Constitution 4.6	Risk, Regulation and Governance	Appoint members and approve terms of reference and reporting arrangements of all Committees and Sub-Committees	Yes
Constitution 5.2	Risk, Regulation and Governance	Approve the ICB's Standing Financial Instructions (SFIs)	Yes
N/A	Risk, Regulation and Governance	Ensure appropriate arrangements are in place to inform decision-making on the ICB's SFIs	No
Constitution 6	Risk, Regulation and Governance	Approve the ICB's policies and procedures for the identification and management of conflicts of interest: - Standards of Business Conduct Policy - Conflicts of Interest Policy and Procedures	Yes
ARC ToR	Risk, Regulation and Governance	Propose amendments to the ICB's policies and procedures for the identification and management of conflicts of interest	No
2006 NHS Act s.140	Risk, Regulation and Governance	Ensure appropriate arrangements are in place with regard to registers of interests and the management of conflicts of interest	No
Constitution 7.5	Risk, Regulation and Governance	Approve the ICB's annual report and annual accounts	Yes
ARC ToR	Risk, Regulation and Governance	Propose the approval of the ICB's annual report and accounts	No
2006 NHS Act Schedule 1A, para 17	Risk, Regulation and Governance	Prepare the ICB's annual accounts	No
2006 NHS Act s.14Z15	Risk, Regulation and Governance	Prepare the ICB's annual report	No

Tab 1.3 Annex C - Scheme of Reservation and Delegation (SoRD)

N/A	Risk, Regulation and Governance	Approve the appointment of external and internal auditors	Yes
N/A	Risk, Regulation and Governance	Recommend the appointment of external auditors	No
N/A	Risk, Regulation and Governance	Recommend the appointment of internal auditors	No
N/A	Risk, Regulation and Governance	Lead the process for the appointment of external auditors	No
N/A	Risk, Regulation and Governance	Lead the process for the appointment of internal auditors	No
ARMC ToR 6.9.2	Risk, Regulation and Governance	Approve the annual internal audit plan and more detailed programme of work	No
ARMC ToR 6.10.2	Risk, Regulation and Governance	Agree with the external auditors the nature and scope of the external audit plan	No
N/A	Risk, Regulation and Governance	Approve the ICB's counter fraud and security management arrangements	Yes
ARMC ToR 6.16	Risk, Regulation and Governance	Approve counter fraud work plans	No
ARMC ToR 6.18	Risk, Regulation and Governance	Approve the counter fraud Annual Report and Self-Review Assessment, outlining key work undertaken during the financial year to meet the NHS Standards for Commissioners, Fraud, Bribery and Corruption	No
N/A	Risk, Regulation and Governance	Ensure appropriate arrangements are in place with regard to the provision of a counter fraud service	No
N/A	Risk, Regulation and Governance	Approve the ICB's risk management arrangements	Yes
Standing Order 3.4	Risk, Regulation and Governance	Determine the final view to be taken in the case of conflicting interpretations of the Standing Orders	No
Standing Order 4.9.5	Risk, Regulation and Governance	Exercise the powers which are reserved to the Board for an urgent decision	No
Standing Order 4.11.2	Risk, Regulation and Governance	Approve the exclusion of the public from a meeting or part of a meeting where it would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings or for any other reason permitted by the Public Bodies (Admission to Meetings) Act 1960 as amended or succeeded from time to time.	Yes
Standing Order 5.1	Risk, Regulation and Governance	Approve the suspension of the ICB's Standing Orders	No
N/A	Risk, Regulation and Governance	Exercise or delegate those functions of the ICB which have not been retained as reserved by the Board or delegated to its Committees or to any other named individual set out in this document.	No
Civil Contingencies Act 2004	Risk, Regulation and Governance	Approve the ICB's arrangements for business continuity and for emergency planning.	Yes

Standing Order 6.1	Risk, Regulation and Governance	Authorise use of the ICB seal	No
2006 NHS Act 14Z34	Risk, Regulation and Governance	Ensure appropriate arrangements are in place to minimise clinical risk, maximise patient safety and to secure continuous improvement in quality and patient outcomes.	Yes
2006 NHS Act s. 14Z18(1) 2006 NHS Act s.14Z19(3) 2006 NHS Act s. 14Z23	Risk, Regulation and Governance	Ensure appropriate arrangements are in place with regard to the provision of information to the Secretary of State for Health and Social Care or NHS England or in response to requests made under the Freedom of Information Act 2000	No
N/A	Financial Resource Allocation	Approve the process by which the ICB determines investment and disinvestment decisions	Yes
N/A	Financial Resource Allocation	Propose the process by which the ICB determines investment and disinvestment decisions	No
N/A	Financial Resource Allocation	Approve arrangements for managing exceptional funding requests	Yes
N/A	Financial Resource Allocation	Propose the arrangements for managing exceptional funding requests	No
N/A	Financial Resource Allocation	Approve the ICB's financial strategy and plan	Yes
N/A	Financial Resource Allocation	Prepare the ICB's financial strategy and plan	No
N/A	Financial Resource Allocation	Approve additional investment and decommissioning decisions outside the approved financial plan with value greater than £5m	Yes
N/A	Financial Resource Allocation	Approve additional investment and decommissioning decisions outside the approved financial plan with value up to £5m	No
N/A	Financial Resource Allocation	Approve allocation of additional funds received in year over and above yearly ICB allocation	No
N/A	Financial Resource Allocation	Approve the arrangements for discharging the ICB's statutory financial duties, including the ICB's corporate budgets and any proposed significant variations to these once approved	Yes
N/A	Financial Resource Allocation	Ensure that there are appropriate arrangements in place to inform decision-making on financial resource allocation and the discharge of the ICB's statutory financial duties, including the reporting of relevant information	No
N/A	ICB Administration and Effectiveness	Agree the vision and values of the ICB	Yes
Constitution 3.14.2	ICB Administration and Effectiveness	Approve the terms and conditions, remuneration and other allowances for ICB members	No
Constitution 8	ICB Administration and Effectiveness	Approve terms and conditions of employment for all employees of the ICB	No
Constitution 8.1.6	ICB Administration and Effectiveness	Exercise the functions of the ICB relating to paragraphs 17 to 19 of Schedule 1B to the NHS Act 2006, by confirming the ICB Pay Policy including adoption of any pay frameworks for all employees including senior managers/directors (including ICB members) and Non-Executive Members excluding the Chair	No
Constitution 8.1.6	ICB Administration and Effectiveness	Determine and agree with the Board a framework and policy for the appropriate remuneration of Board members and other ICB VSMs (very senior managers), taking account of all factors which it deems necessary, including relevant legal and regulatory requirements, national guidance, and other best practice as appropriate	No
R&ICBWC ToR 2.6	ICB Administration and Effectiveness	Determine appropriate fees to be applied to other individuals who provide specific services to the ICB at VSM level and above	No

R&ICBWC ToR 2.7	ICB Administration and Effectiveness	Determine and approve arrangements for termination of employment and other contractual terms and non-contractual terms (including contractual payments such as redundancy or early retirement provisions as well as other payments) for Board members and other ICB VSMs	No
R&ICBWC ToR 2.8	ICB Administration and Effectiveness	Determine the ICB pay policy (including the adoption of pay frameworks such as Agenda for Change)	No
R&ICBWC ToR 2.10	ICB Administration and Effectiveness	Approve proposals for termination payments and any special payments (including arrangements for dealing with legal cases relating to employment issues) following scrutiny of their proper calculation and taking account of such national guidance as appropriate	No
N/A	ICB Administration and Effectiveness	Approve the high level ICB operating structure	Yes
Constitution 3	ICB Administration and Effectiveness	Approve the appointment of Board members, following a recommendation from the ICB Appointments Panel in the case of Non-Executive Directors and Partner Members and in line with the decision of the ICB Chief Executive for Executive Directors	No
Constitution 7.4.3	ICB Administration and Effectiveness	Approve arrangements for complying with the NHS Provider Selection Regime	No
Constitution 4.7.3	System Partnership Working	Approve delegation arrangements made under section 65z5 of the 2006 Act (where by the ICB may arrange for any functions exercisable by it to be exercised by or jointly with any one or more other relevant bodies (another ICB, NHS England, an NHS Trust, NHS Foundation Trust, local authority, combined authority or any other prescribed body))	Yes
N/A	System Partnership Working	Approve governance arrangements to support collective accountability between partner organisations for whole-system delivery and performance	Yes
N/A	System Partnership Working	Establish joint working arrangements with partners that embed collaboration as the basis for delivery within the plans approved by the ICB	No
Constitution 7.3.8	Commissioning of Services	Approve the ICB's five year delivery plan	Yes
N/A	Commissioning of Services	Approve the allocation of resources in accordance with the plan approved by the ICB	No
N/A	Commissioning of Services	Approve commissioning and contracting decisions in accordance with plan approved by the ICB	No
N/A	Commissioning of Services	Approve pre-consultation and post-consultation business cases in relation to major service change or reconfiguration	Yes
N/A	Commissioning of Services	Approve the commissioning of Primary Medical Services (as delegated by NHSE) resources, and commissioning and contracting decisions in accordance with the plan approved by the ICB	No
N/A	Commissioning of Services	Allocation of Pharmacy, Ophthalmic and Dental Services (as delegated by NHSE) resources, and commissioning and contracting decisions in accordance with the plan approved by the ICB	No
NHS 2006 Action Section 14Z3 and 14Z4 Ambulance Partnership ToR and Delegation	Commissioning of Services	Approve commissioning decisions relating to ambulance services and the exercise of the emergency ambulance functions as specified in the Delegation Agreement.	No
N/A	Strategic Prioritisation and Delivery	Approve arrangements to ensure that patients, carers and the public are able to influence decision-making on proposals likely to have an impact on service delivery or the range of services available	Yes

Delegated to Committee	Delegated to Individual	Further information/ comments	Lead ICB Officer
No	No	To be assured via Audit and Risk Committee, supported by advice from the Director of Governance	Chief Executive Officer
Audit and Risk Committee	No	Supported by advice from the Director of Governance	Chief Executive Officer
No	Chief Executive Officer	To be assured via Audit and Risk Committee, supported by advice from the Director of Governance	Chief Executive Officer
No	No	To be assured via Audit and Risk Committee, supported by advice from the Director of Governance	Chief Executive Officer
Audit and Risk Committee	No	Supported by advice from the Director of Governance	Chief Executive Officer
No	Chair	Supported by advice from the Chief Executive, Chief People Officer and Director of Governance	Chief Executive Officer
No	Chief Executive Officer	To be assured via Audit and Risk Committee, supported by advice from the Director of Governance	Chief Executive Officer
No	No	To be assured via Audit and Risk Committee, supported by advice from the Director of Governance	Chief Executive Officer
Executive	No	Supported by advice from the Director of Governance	Chief Finance Officer
No	Chief Executive Officer	Supported by advice from the Director of Governance	Chief Executive Officer
No	No	To be assured via Audit and Risk Committee, supported by advice from the Director of Governance	Chief Executive Officer
No	No	Supported by advice from the Chair, Chief Executive Officer and Director of Governance	Chief Executive Officer
No	No	To be assured via Audit and Risk Committee, supported by advice from the Director of Governance	Chief Finance Officer
No	Chief Finance Officer	Supported by advice from the Director of Governance	Chief Finance Officer
No	No	To be assured via Audit and Risk Committee, supported by advice from the Director of Governance	Chief Executive Officer
Audit and Risk Committee	No	Supported by advice from the Director of Governance	Chief Executive Officer
No	Chief Executive Officer	To be assured via Audit and Risk Committee, supported by advice from the Director of Governance	Chief Executive Officer
No	No	To be assured via Audit and Risk Committee, supported by advice from the Chief Finance Officer and Director of Governance	Chief Executive Officer
Audit and Risk Committee	No	Supported by advice from the Chief Finance Officer and Director of Governance	Chief Executive Officer
No	Chief Finance Officer	To be assured via Audit and Risk Committee	Chief Finance Officer
No	Chief Executive Officer	To be assured via Audit and Risk Committee, supported by advice from the Director of Governance	Chief Executive Officer

Tab 1.3 Annex C - Scheme of Reservation and Delegation (SoRD)

No	No	To be assured via Audit and Risk Committee, supported by advice from the Chief Finance Officer and Director of Governance	Chief Executive Officer
Audit and Risk Committee	No	N/A	Chief Finance Officer
Audit and Risk Committee	No	Supported by advice from the Director of Governance	Chief Executive Officer
No	Chief Finance Officer	To be assured via Audit and Risk Committee	Chief Finance Officer
No	Chief Executive Officer	To be assured via Audit and Risk Committee, supported by the Director of Governance	Chief Executive Officer
Audit and Risk Committee	No	Supported by advice from the Director of Governance	Chief Executive Officer
Audit and Risk Committee	No	N/A	Chief Finance Officer
No	No	To be assured via Audit and Risk Committee	Chief Finance Officer
Audit and Risk Committee	No	N/A	Chief Finance Officer
Audit and Risk Committee	No	N/A	Chief Finance Officer
No	Chief Finance Officer	To be assured via Audit and Risk Committee	Chief Finance Officer
No	No	To be assured via Audit and Risk Committee, supported by advice from the Director of Governance	Chief Executive Officer
No	Chair	Supported by advice from the Director of Governance	Chief Executive Officer
No	Chair and Chief Executive Officer (or the relevant Non-Executive Chair and lead Executive Director in the case of committees)	Subject to every effort having been made to consult with as many members as possible in the given circumstances.	Chief Executive Officer
No	No	Supported by advice from the Director of Governance	Chief Executive Officer
No	Chair	In exceptional circumstances, except where it would contravene any statutory provision or any direction made by the Secretary of State for Health and Social Care or NHS England, the decision is to be taken in discussion with the Chief Executive and at least 1 other member of the Board.	Chief Executive Officer
No	Chief Executive Officer	Supported by advice from the Director of Governance	Chief Executive Officer
No	No	To be assured via Audit and Risk Committee, supported by advice from the EPRR lead	Chief Operating Officer

Tab 1.3 Annex C - Scheme of Reservation and Delegation (SoRD)

No	Chair Chief Executive Officer Chief Finance Officer	To be assured via Audit and Risk Committee, supported by advice from the Director of Governance	Chief Executive Officer
No	No	To be assured via the Quality and Patient Experience Committee	Chief Nursing Officer
No	Chief Executive Officer	To be assured via Audit and Risk Management Committee, supported by advice from Data Protection Officer	Senior Information Risk Owner
No	No	To be assured via the Finance and Performance Committee	Chief Finance Officer
No	Chief Finance Officer	To be assured via the Finance and Performance Committee	Chief Finance Officer
No	No	To be assured via the Finance and Performance Committee	Chief Finance Officer
No	Chief Finance Officer	To be assured via the Finance and Performance Committee	Chief Finance Officer
No	No	To be assured via the Finance and Performance Committee	Chief Finance Officer
No	Chief Finance Officer	To be assured via Finance and Performance Committee	Chief Finance Officer
No	No	To be assured via Finance and Performance Committee	Chief Finance Officer
No	Chief Executive	To be assured via Finance and Performance Committee	Chief Finance Officer
No	Chief Finance Officer	Where time permits the Board will be consulted on the proposed allocation. Where time does not permit this, the Board will be notified via the Chief Executive Officer's report to the Board. Post decision assurance via the Finance and Performance Committee	Chief Finance Officer
No	No	To be assured via Finance and Performance Committee	Chief Finance Officer
No	Chief Finance Officer	To be assured via Finance and Performance Committee	Chief Finance Officer
No	No	N/A	Chief People Officer
Remuneration and Internal ICB Workforce Committee	No	N/A	Chief People Officer
Remuneration and Internal ICB Workforce Committee	No	N/A	Chief People Officer
Remuneration and Internal ICB Workforce Committee	No	N/A	Chief People Officer
Remuneration and Internal ICB Workforce Committee	No	N/A	Chief People Officer
Remuneration and Internal ICB Workforce Committee	No	N/A	Chief People Officer
Remuneration and Internal ICB Workforce Committee	No	N/A	Chief People Officer

Tab 1.3 Annex C - Scheme of Reservation and Delegation (SoRD)

Remuneration and Internal ICB Workforce Committee	No	N/A	Chief People Officer
Remuneration and Internal ICB Workforce Committee	No	N/A	Chief People Officer
Remuneration and Internal ICB Workforce Committee	No	N/A	Chief People Officer
No	No	To be assured via Reuneration and Internal ICB Workforce Committee, supported by advice from the Chief People Officer	Chief Executive Officer
No	Chair	To be supported by advice from the Chief People Officer and Director of Governance	Chief Executive Officer
No	Chief Executive Officer	To be assured via Audit and Risk Committee	Chief Finance Officer
No	No	To be supported by advice from the Director of Governance	Chief Executive Officer
No	No	To be supported by advice from the Director of Governance	Chief Executive Officer
No	Chief Executive Officer	To be supported by advice from the Director of Governance	Chief Operating Officer
No	No	To be supported by advice from the Deputy Chief Executive, the Director of Performance and Planning and the Director of Governance	Deputy Chief Executive
No	Chief Finance Officer	To be assured via Finance and Performance Committee	Chief Finance Officer
No	Chief Operating Officer	N/A	Chief Operating Officer
No	No	N/A	Chief Operating Officer
No	Chief Operating Officer	N/A	Chief Operating Officer
No	Chief Operating Officer	N/A	Chief Operating Officer
Ambulance Partnership Board	No	N/A	Chief Operating Officer
No	No	To be assured via Quality and Patient Experience Committee, supported by advice from the Director of Communications	Chief Executive Officer



NHS Devon Integrated Care Board Standing Financial Instructions

ICS implementation guidance

Integrated care systems (ICSs) are partnerships of health and care organisations that come together to plan and deliver joined up services and to improve the health of people who live and work in their area.

They exist to achieve four aims:

- **improve outcomes** in population health and healthcare
- **tackle inequalities** in outcomes, experience and access
- enhance **productivity and value for money**
- help the NHS support broader **social and economic development**.

Following several years of locally-led development, and based on the recommendations of NHS England, the government has set out plans to put ICSs on a statutory footing.

To support this transition, NHS England is publishing guidance and resources, drawing on learning from all over the country.

Our aim is to enable local health and care leaders to build strong and effective ICSs in every part of England.

Collaborating as ICSs will help health and care organisations tackle complex challenges, including:

- improving the health of children and young people
- supporting people to stay well and independent
- acting sooner to help those with preventable conditions
- supporting those with long-term conditions or mental health issues
- caring for those with multiple needs as populations age
- getting the best from collective resources so people get care as quickly as possible.

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1. Purpose and statutory framework

1.1.1 These Standing Financial Instructions (SFIs) shall have effect as if incorporated into the Integrated Care Board's (ICB) constitution. In accordance with the National Health Service Act 2006, as amended by the Health and Care Act 2022, the ICB must publish its constitution.

1.1.2 In accordance with the Act, as amended, NHS England is mandated to publish guidance for ICBs, to which each ICB must have regard, in order to discharge their duties.

1.1.3 The purpose of this governance document is to ensure that the ICB fulfils its statutory duty to carry out its functions effectively, efficiently and economically. The SFIs are part of the ICB's control environment for managing the organisation's financial affairs as they are designed to ensure regularity and propriety of financial transactions.

1.1.4 SFIs define the purpose, responsibilities, legal framework and operating environment of the ICB. They enable sound administration, lessen the risk of irregularities and support commissioning and delivery of effective, efficient and economical services.

1.1.5 The ICB is established under Chapter A3 of Part 2 of the National Health Service Act 2006, as inserted by the Health and Care Act 2022 and has the general function of arranging for the provision of services for the purposes of the health services in England in accordance with the Act.

1.1.6 Each ICB is to be established by order made by NHS England for an area within England, the order establishing an ICB makes provision for the constitution of the ICB.

1.1.7 All members of the ICB (its board) and all other Officers should be aware of the existence of these documents and be familiar with their detailed provisions. The ICB SFIs will be made available to all Officers on the intranet and internet website for each statutory body.

1.1.8 Should any difficulties arise regarding the interpretation or application of any of these SFIs, the advice of the chief executive or the chief financial officer must be sought before acting.

1.1.9 Failure to comply with the SFIs may result in disciplinary action in accordance with the ICBs applicable disciplinary policy and procedure in operation at that time.

2. Scope

2.1.1 All officers of the ICB, without exception, are within the scope of the SFIs without limitation. The term officer includes, permanent employees, secondees and contract workers.

2.1.2 Within this document, words imparting any gender include any other gender, words in the singular include the plural and words in the plural include the singular.

2.1.3 Any reference to an enactment is a reference to that enactment as amended.

2.1.4 Unless a contrary intention is evident, or the context requires otherwise, words or expressions contained in this document, will have the same meaning as set out in the applicable Act.

3. Roles and Responsibilities

3.1 Staff

3.1.1 All ICB Officers are severally and collectively, responsible to their respective employer(s) for:

- abiding by all conditions of any delegated authority;
- the security of the statutory organisations property and avoiding all forms of loss;
- ensuring integrity, accuracy, probity and value for money in the use of resources; and
- conforming to the requirements of these SFIs

3.2 Accountable Officer

3.2.1 The ICB constitution provides for the appointment of the chief executive by the ICB chair. The chief executive is the accountable officer for the ICB and is personally accountable to NHS England for the stewardship of ICBs allocated resources.

3.2.2 The chief financial officer reports directly to the ICB chief executive officer and is professionally accountable to the NHS England regional finance director

3.2.3 The chief executive will delegate to the chief financial officer the following responsibilities in relation to the ICB:

- preparation and audit of annual accounts;
- adherence to the directions from NHS England in relation to accounts preparation;
- ensuring that the allocated annual revenue and capital resource limits are not exceeded, jointly, with system partners;

- ensuring that there is an effective financial control framework in place to support accurate financial reporting, safeguard assets and minimise risk of financial loss;
- meeting statutory requirements relating to taxation;
- ensuring that there are suitable financial systems in place (see Section 6)
- meeting the financial targets set by NHS England;
- use of incidental powers such as management of ICB assets, entering commercial agreements;
- ensuring the Governance statement and annual accounts & reports are signed;
- ensuring planned budgets are approved by the relevant Board; developing the funding strategy for the ICB to support the board in achieving ICB objectives, including consideration of place-based budgets;
- making use of benchmarking to make sure that funds are deployed as effectively as possible;
- executive members (partner members and non-executive members) and other officers are notified of and understand their responsibilities within the SFIs;
- specific responsibilities and delegation of authority to specific job titles are confirmed;
- financial leadership and financial performance of the ICB;
- identification of key financial risks and issues relating to robust financial performance and leadership and working with relevant providers and partners to enable solutions; and
- the chief financial officer will support a strong culture of public accountability, probity, and governance, ensuring that appropriate and compliant structures, systems, and process are in place to minimise risk.

3.3 Audit and risk assurance committee

3.3.1 The board and accountable officer should be supported by an audit and risk assurance committee, which should provide proactive support to the board in advising on:

- the management of key risks
- the strategic processes for risk;
- the operation of internal controls;
- control and governance and the governance statement;
- the accounting policies, the accounts, and the annual report of the ICB;
- the process for reviewing of the accounts prior to submission for audit, management's letter of representation to the external auditors; and the planned activity and results of both internal and external audit.

4. Management accounting and business management

4.1.1 The chief financial officer is responsible for maintaining policies and processes relating to the control, management and use of resources across the ICB.

4.1.2 The chief financial officer will delegate the budgetary control responsibilities to budget holders through a formal documented process.

4.1.3 The chief financial officer will ensure:

- the promotion of compliance to the SFIs through an assurance certification process;
- the promotion of long term financial health for the NHS system (including ICS);
- budget holders are accountable for obtaining the necessary approvals and oversight of all expenditure incurred on the cost centres they are responsible for;
- the improvement of financial literacy of budget holders with the appropriate level of expertise and systems training;
- that the budget holders are supported in proportion to the operational risk; and
- the implementation of financial and resources plans that support the NHS Long term plan objectives.

4.1.4 In addition, the chief financial officer should have financial leadership responsibility for the following statutory duties:

- the duty of the ICB to perform its functions as to ensure that its expenditure does not exceed the aggregate of its allotment from NHS England and its other income; and

- the duty of the ICB, in conjunction with its partner trusts, to seek to achieve any joint financial objectives set by NHS England for the ICB and its partner trusts.

4.1.5 The chief financial officer and *any senior officer responsible* for finance within the ICB should also promote a culture where budget holders and decision makers consult their finance business partners in key strategic decisions that carry a financial impact.

5. Income, banking arrangements and debt recovery

5.1 Income

5.1.1 An ICB has power to do anything specified in section 7(2) of the Health and Medicines Act 1988 for the purpose of making additional income available for improving the health service.

5.1.2 The chief financial officer is responsible for:

- ensuring order to cash practices are designed and operated to support, efficient, accurate and timely invoicing and receipting of cash. The processes and procedures should be standardised and harmonised across the NHS System by working cooperatively with the existing Shared Services provider; and
- ensuring the debt management strategy reflects the debt management objectives of the ICB and the prevailing risks;

5.2 Banking

5.2.1 The CFO is responsible for ensuring the ICB complies with any directions issued by the Secretary of State with regards to the use of specified banking facilities for any specified purposes.

5.2.2 The chief financial officer will ensure that:

- the ICB holds the minimum number of bank accounts required to run the organisation effectively. These should be raised through the government banking services contract; and
- the ICB has effective cash management policies and procedures in place.

5.3 Debt management

5.3.1 The chief financial officer is responsible for the ICB debt management strategy.

5.3.2 This includes:

- a debt management strategy that covers end-to-end debt management from debt creation to collection or write-off in accordance with the losses and special payment procedures;
- ensuring the debt management strategy covers a minimum period of 3 years and must be reviewed and endorsed by the ICB board every 12 months to ensure relevance and provide assurance;
- accountability to the ICB board that debt is being managed effectively;
- accountabilities and responsibilities are defined with regards to debt management to budget holders; and
- responsibility to appoint a senior officer responsible for day to day management of debt.

6. Financial systems and processes

6.1 Provision of finance systems

6.1.1 The chief financial officer is responsible for ensuring systems and processes are designed and maintained for the recording and verification of finance transactions such as payments and receivables for the ICB.

6.1.2 The systems and processes will ensure, inter alia, that payment for goods and services is made in accordance with the provisions of these SFIs, related procurement guidance and prompt payment practice.

6.1.3 As part of the contractual arrangements for ICBs officers will be granted access where appropriate to the Integrated Single Financial Environment ("ISFE"). This is the required accounting system for use by ICBs, Access is based on single access log on to enable users to perform core accounting functions such as to transacting and coding of expenditure/income in fulfilment of their roles.

6.1.4 The Chief Financial officer will, in relation to financial systems:

- promote awareness and understanding of financial systems, value for money and commercial issues;
- ensure that transacting is carried out efficiently in line with current best practice – e.g. e-invoicing
- ensure that the ICB meets the required financial and governance reporting requirements as a statutory body by the effective use of finance systems;
- enable the prevention and the detection of inaccuracies and fraud, and the reconstitution of any lost records;
- ensure that the financial transactions of the authority are recorded as soon as, and as accurately as, reasonably practicable;
- ensure publication and implementation of all ICB business rules and ensure that the internal finance team is appropriately resourced to deliver all statutory functions of the ICB;
- ensure that risk is appropriately managed;

- ensure identification of the duties of officers dealing with financial transactions and division of responsibilities of those officers;
- ensure the ICB has suitable financial and other software to enable it to comply with these policies and any consolidation requirements of the ICB;
- ensure that contracts for computer services for financial applications with another health organisation or any other agency shall clearly define the responsibility of all parties for the security, privacy, accuracy, completeness, and timeliness of data during processing, transmission and storage. The contract should also ensure rights of access for audit purposes; and
- where another health organisation or any other agency provides a computer service for financial applications, the chief finance officer shall periodically seek assurances that adequate controls are in operation.

7. Procurement and purchasing

7.1 Principles

7.1.1 The chief financial officer will take a lead role on behalf of the ICB to ensure that there are appropriate and effective financial, contracting, monitoring and performance arrangements in place to ensure the delivery of effective health services.

7.1.2 The ICB must ensure that procurement activity is in accordance with the Public Contracts Regulations 2015 (PCR) and associated statutory requirements whilst securing value for money and sustainability.

7.1.3 The ICB must consider, as appropriate, any applicable NHS England guidance that does not conflict with the above.

7.1.4 The ICB must have a Procurement Policy which sets out all of the legislative requirements.

7.1.5 All revenue and non-pay expenditure must be approved, in accordance with the ICB business case policy, prior to an agreement being made with a third party that enters a commitment to future expenditure.

7.1.6 All officers must ensure that any conflicts of interest are identified, declared and appropriately mitigated or resolved in accordance with the ICB standards of business conduct policy.

7.1.7 Budget holders are accountable for obtaining the necessary approvals and oversight of all expenditure incurred on the cost centres they are responsible for. This includes obtaining the necessary internal and external approvals which vary based on the type of spend, prior to procuring the goods, services or works.

7.1.8 Undertake any contract variations or extensions in accordance with PCR 2015 and the ICB procurement policy.

7.1.9 Retrospective expenditure approval should not be encouraged. Any such retrospective breaches require approval from any committee responsible for approvals before the liability is settled. Such breaches must be reported to the audit and risk assurance committee.

8. Staff costs and staff related non pay expenditure

8.1 Chief People Officer

8.1.1 The chief people officer [CPO] (or equivalent people role in the ICB) will lead the development and delivery of the long-term people strategy of the ICB ensuring this reflects and integrates the strategies of all relevant partner organisations within the ICS.

8.1.2 Operationally the CPO will be responsible for;

- defining and delivering the organisation's overall human resources strategy and objectives; and
- overseeing delivery of human resource services to ICB employees.

8.1.3 The CPO will ensure that the payroll system has adequate internal controls and suitable arrangements for processing deductions and exceptional payments.

8.1.4 Where a third-party payroll provider is engaged, the CPO shall closely manage this supplier through effective contract management.

8.1.5 The CPO is responsible for management and governance frameworks that support the ICB employees' life cycle.

9. Annual reporting and Accounts

9.1.1 The chief financial officer will ensure, on behalf of the Accountable Officer and ICB board, that:

- the ICB is in a position to produce its required monthly reporting, annual report, and accounts, as part of the setup of the new organisation; and
- the ICB, in each financial year, prepares a report on how it has discharged its functions in the previous financial year;

9.1.2 An annual report must, in particular, explain how the ICB has:

- discharged its duties in relating to improving quality of services, reducing inequalities, the triple aim and public involvement;
- review the extent to which the board has exercised its functions in accordance with its published 5 year forward plan and capital resource use plan; and
- review any steps that the board has taken to implement any joint local health and wellbeing strategy.

9.1.3 NHS England may give directions to the ICB as to the form and content of an annual report.

9.1.4 The ICB must give a copy of its annual report to NHS England by the date specified by NHS England in a direction and publish the report.

9.2 Internal audit

The chief executive, as the accountable officer, is responsible for ensuring there is appropriate internal audit provision in the ICB. For operational purposes, this responsibility is delegated to the chief financial officer to ensure that:

- all internal audit services provided under arrangements proposed by the chief financial officer are approved by the Audit and Risk Assurance Committee, on behalf of the ICB board;
- the ICB must have an internal audit charter. The internal audit charter must be prepared in accordance with the Public Sector Internal Audit Standards (PSIAS);
- the ICB internal audit charter and annual audit plan, must be endorsed by the ICB Accountable Officer, audit and risk assurance committee and board;
- the head of internal audit must provide an annual opinion on the overall adequacy and effectiveness of the ICB Board's framework of governance, risk management and internal control as they operated during the year, based on a systematic review and evaluation;
- the head of internal audit should attend audit and risk assurance committee meetings and have a right of access to all audit and risk assurance committee members, the Chair and chief executive of the ICB.
- the appropriate and effective financial control arrangements are in place for the ICB and that accepted internal and external audit recommendations are actioned in a timely manner.

9.3 External Audit

The chief financial officer is responsible for:

- liaising with external audit colleagues to ensure timely delivery of financial statements for audit and publication in accordance with statutory, regulatory requirements;
- ensuring that the ICB appoints an auditor in accordance with the Local Audit and Accountability Act 2014; in particular, the ICB must appoint a local auditor to audit its accounts for a financial year not later than 31 December in the preceding financial year; the ICB must appoint a local auditor at least once every 5 years (ICBs will be informed of the transitional arrangements at a later date); and
- ensuring that the appropriate and effective financial control arrangements are in place for the ICB and that accepted external audit recommendations are actioned in a timely manner.

10. Losses and special payments

10.1.1 HM Treasury approval is required if a transaction exceeds the delegated authority, or if transactions will set a precedent, are novel, contentious or could cause repercussions elsewhere in the public sector.

10.1.2 The chief financial officer will support a strong culture of public accountability, probity, and governance, ensuring that appropriate and compliant structures, systems, and process are in place to minimise risks from losses and special payments.

10.1.3 NHS England has the statutory power to require an integrated care board to provide NHS England with information. The information, is not limited to losses and special payments, must be provided in such form, and at such time or within such period, as NHS England may require.

10.1.4 ICBs will work with NHS England teams to ensure there is assurance over all exit packages which may include special severance payments. ICBs have no delegated authority for special severance payments and will refer to the guidance on that to obtain the approval of such payments

10.1.5 All losses and special payments (including special severance payments) must be reported to the ICB Audit and Risk Assurance Committee.

10.1.6 For detailed operational guidance on losses and special payments, please refer to the ICB losses and special payment guide which includes delegated limits.

11. Fraud, bribery and corruption (Economic crime)

11.1.1 The ICB is committed to identifying, investigating and preventing economic crime.

11.1.2 The ICB chief financial officer is responsible for ensuring appropriate arrangements are in place to provide adequate counter fraud provision which should include reporting requirements to the board and Audit and Risk Assurance Committee and defined roles and accountabilities for those involved as part of the process of providing assurance to the board.

11.1.3 These arrangements should comply with the NHS Requirements the Government Functional Standard 013 Counter Fraud as issued by NHS Counter Fraud Authority and any guidance issued by NHS England .

12. Capital Investments & security of assets and Grants

12.1.1 The chief financial officer is responsible for:

- ensuring that at the commencement of each financial year, the ICB and its partner NHS trusts and NHS foundation trusts prepare a plan setting out their planned capital resource use;
- ensuring that the ICB and its partner NHS trusts and NHS foundation trusts exercise their functions with a view to ensuring that, in respect of each financial year local capital resource use does not exceed the limit specified in a direction by NHS England;
- ensuring the ICB has a documented property transfer scheme for the transfer of property, rights or liabilities from ICB's predecessor clinical commissioning group(s);
- ensuring that there is an effective appraisal and approval process in place for determining capital expenditure priorities and the effect of each proposal upon business plans;
- ensuring that there are processes in place for the management of all stages of capital schemes, that will ensure that schemes are delivered on time and to cost;
- ensuring that capital investment is not authorised without evidence of availability of resources to finance all revenue consequences; and
- for every capital expenditure proposal, the chief financial officer is responsible for ensuring there are processes in place to ensure that a business case is produced.

12.1.2 Capital commitments typically cover land, buildings, equipment, capital grants to third parties and IT, including:

- authority to spend capital or make a capital grant; and
- authority to enter into leasing arrangements.

12.1.3 Advice should be sought from the chief financial officer or nominated officer if there is any doubt as to whether any proposal is a capital commitment requiring formal approval.

12.1.4 For operational purposes, the ICB shall have nominated senior officers accountable for ICB property assets and for managing property.

12.1.5 ICBs shall have a defined and established property governance and management framework, which should:

- ensure the ICB asset portfolio supports its business objectives; and
- complies with NHS England policies and directives and with this guidance

12.1.6 Disposals of surplus assets should be made in accordance with published guidance and should be supported by a business case which should contain an appraisal of the options and benefits of the disposal in the context of the wider public sector and to secure value for money.

12.2 Grants

12.2.1 The chief financial officer is responsible for providing robust management, governance and assurance to the ICB with regards to the use of specific powers under which it can make capital or revenue grants available to;

- any of its partner NHS trusts or NHS foundation trusts; and
- to a voluntary organisation, by way of a grant or loan.

12.2.2 All revenue grant applications should be regarded as competed as a default position, unless, there are justifiable reasons why the classification should be amended to non-competed.

13. Legal and insurance

13.1.1 This section applies to any legal cases threatened or instituted by or against the ICB. The ICB should have policies and procedures detailing:

- engagement of solicitors / legal advisors;
- approval and signing of documents which will be necessary in legal proceedings; and
- Officers who can commit ICB revenue resources in relation to settling legal matters.

13.1.2 ICBs are advised not to buy commercial insurance to protect against risk unless it is part of a risk management strategy that is approved by the accountable officer.

Queries: England.assurance@nhs.net



Policy for the Development and Management of Procedural Documents

NHS Devon



Proud to be part of One Devon: NHS and CARE working with communities and local organisations to improve people's lives

Version	3.0
Policy Sponsor	Chief Communications and Corporate Affairs Officer
Policy Lead	Director of Governance
Approver	NHS Devon Board
Approval Date	27/03/2025
To be reviewed by	31/03/2026

Document change history (to add rows, copy and paste)			
Date	Change	Version number of policy	Comments
04/10/2023	New Policy	1.0	
01/03/2024	Policy Amendment	2.0	Update for Executive Committee to approve all new documents and agree approval routes Updates to EDI statement; EQIA information; names of decision-making bodies; approval routes; and references to section numbers aligned. Flowcharts in appendices streamlined.
27/03/2025	Policy Amendment	3.0	

Equality, diversity and inclusion statement
[Section 14Z35 of the National Health Service 2006 Act imposes the general inequality duty on Integrated Care Boards that they must have regard to the need reduce inequalities between those accessing health care services and in respect of the outcomes achieved for those who access health care services.](#)

NHS Devon is committed to [reducing](#) health inequalities. [These are unfair and avoidable differences in health across the population, and between different groups within society. These include how long people are likely to live, the health conditions they may experience and the care that is available to them. The conditions in which we are born, grow, live, work and age can impact our health and wellbeing. These are sometimes referred to as wider determinants of health.](#)

[We will ensure that we reduce inequalities by considering them as a key part of all our policies plans and monitoring process and by using an Equality and Quality Impact Assessment whenever we make changes to services](#)

[We are also committed to the promotion of equal opportunities](#) and fostering of good relations between people protected under the terms of the Equality Act 2010, the Health and Care Act 2022 and Human Rights legislation. We are equally committed to the elimination of unlawful discrimination, harassment and victimisation. To demonstrate this commitment, we develop, promote and maintain policies, strategies and operating procedures. Every effort is made to ensure that patients, employees, contractors or visitors do not experience discrimination; either directly or indirectly, because of their vulnerability; disadvantage; age; disability; gender reassignment;

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marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex (gender) or sexual orientation.

All staff must comply with this policy. Compliance must reflect our organisational commitment to and policy on, equality, diversity and inclusion. In addition, each manager and member of staff involved in implementing this policy must give due regard to the needs of those protected under law.

If you, or any other groups, believe you are discriminated against under the terms of the Equality Act, the Health and Care Act 2022 or Human Rights legislation by anything contained in this document; or you need this document in an alternative format, for example, large print, Braille, Easy read or other languages; please contact our Patient Advice and Complaints Team (PACT):

Tel: 0300 123 1672
Email: pals.devon@nhs.net



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1. Introduction

1.1. The Devon Integrated Care Board (NHS Devon) is required to have procedural documents acknowledging and complying with the Health and Care Act 2022, other relevant legislative and regulatory requirements and national standards relevant to fulfilling planning and allocation decisions and promoting collaboration in the health and care system, as well as quality and safety of the population of Devon. This policy sets out how NHS Devon will go about developing, approving and reviewing these procedural documents.

2. Purpose and objectives

- 2.1. The purpose of this policy is to ensure a well governed, structured and systematic approach to the development, approval, implementation and review of all procedural documentation in use throughout NHS Devon.
- 2.2. This policy will:
- Ensure that NHS Devon complies with the Health and Care Act 2022 and other relevant legislation and national standards in developing and reviewing its procedural documents.
 - Provide a standard format and corporate style for drafting all NHS Devon procedural documents.
 - Set out the requirements for the development and approval of all NHS Devon procedural documents.
 - Establish the requirements for regular reporting and provision of assurance with regard to the efficacy and effectiveness of the NHS Devon policy framework.

3. Definitions

3.1. “Procedural documents” is a collective term relating to any of the following documents in the hierarchy set out below:

Figure 1: Procedural Document Hierarchy



Table 1: Definitions

Terms	Definition
Law/ Regulations	Laws are created by an Act of Parliament or statute. The Health and Social Care Act 2006 and the Health and Care Act 2022 are the key statutes providing the law governing health and care in the UK. Regulations are secondary to statute as they are made under the authority derived from a statute. Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and Care Quality Commission (Registration) Regulations 2009 are examples of regulations.
Constitution	The NHS Constitution establishes the principles and values of the NHS in England and sets out rights to which patients, public and staff are entitled, and pledges that the NHS is committed to achieving. The NHS Devon Constitution outlines how it will comply with its statutory duties set out in the Health and Care Act 2022 and associated regulations.
Strategy	A high level plan of action designed to achieve a long-term or overall aim. Strategies identify the medium- to long-term aims and objectives of a given subject (for example the Digital Strategy).
Policy	A high level agreed statement intended to assign responsibility and to direct subsequent decisions, actions and other matters. Should state NHS Devon's commitment to deliver one or more duties and will be written for audiences at all levels. Acknowledges legislation, regulation, Department of Health and Social Care and NHS England direction or guidance and best practice that will be complied with in the discharge of NHS Devon's duties.
Procedure/ Protocol	An established or official way of doing something in the organisation. Describes the activities that, in support of the relevant policy, will deliver the discharge of NHS Devon's duties. Can be amended when NHS Devon assesses that the current procedure is not effectively supporting the relevant policy.
Supporting Documents	Describes the steps that are taken by individual teams in support of relevant procedures. These steps may be used a few or many times. Includes Guidelines, Forms, Handbooks and Manuals providing general advice but allow for local discretion.

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4. Style and format of procedural documents

4.1. A standard template has been developed for the formation of NHS Devon policies. This can be found at Appendix D. There is no standard format requirement for any other procedural documents used by NHS Devon. The Corporate Governance team, with support from the Communications team, will be responsible for ensuring that the authors of procedural documents are aware of corporate style requirements. Procedural documents should be concise and clear, using unambiguous terms and language. The organisation's Style Guide should be referred to when drafting these documents.

4.2. Titles should be simple and informative of the document's contents. They should ensure that the procedural document is easy to find via the NHS Devon website search function. Document titles should not begin with "Approved", "Final" or a date.

4.3. NHS Devon is signed up to a number of countywide interagency documents which support local practice and collaborative working arrangements as part of integration. For these documents, the lead agency is responsible for the style and format, distribution and archiving arrangements of the publication, regardless of whether it adheres to NHS Devon's recommendations. Wherever possible, each interagency document must have a relevant member of NHS Devon's staff on its working group to ensure that appropriate consultation at the development stage is achieved.

5. Developing a new procedural document

5.1. NHS Devon will identify the need to develop new procedural documents in line with the priorities of the organisation e.g., national guidance, legislation, organisational changes, service requirements and evidence-based practice whether in the form of the latest research, audit findings, national inquiries, or serious investigation reports.

5.2. Any proposals for a new procedural document should be discussed with the Corporate Governance team to determine applicable legislation, regulations, and standards. The Corporate Governance team will advise policy leads of the requirements of this policy and relevant approval routes for proposed procedural documents (see section 9 below).

5.3. The Corporate Governance team will also advise on the process and expected timeframes for the approval of any proposed procedural documents.

5.4. Once a procedural document requirement has been identified, a policy sponsor (relevant Chief Officer) and policy lead should be confirmed to the Corporate Governance Team. The policy sponsor and/or policy lead, will be responsible for confirming the nature of the procedural document (whether it is a strategy, policy, procedure/protocol or supporting document).

Commented [PH1]: Previously a separate section (Section 11 - Interagency Policies, Procedures and Guidelines). Incorporated into section 4 as related to style and format.

Commented [PH2]: Previously section 6 - moved to improve flow of document, but not changes made to substance of content

5.5. The Corporate Governance team will be responsible for ensuring that all new policies are presented to the NHS Devon Executive for approval, including the approval route for any future amendments. A full list of approval routes for all strategies and policies can be found at Appendix C(i).

5.6. The policy sponsor will be responsible for ensuring that any proposed strategy or policy (procedures/protocols do not require a policy sponsor) is appropriate for consideration via the relevant approval route. The policy lead will be responsible for the content and drafting of the proposed strategy, policy, or procedure/protocol.

5.7. Any proposals for a new procedural document should be discussed with the Corporate Governance team to determine applicable legislation, regulations, and standards.

6. Reviewing and amending existing procedural documents

6.1. All approved strategies and policies will be published on either the NHS Devon intranet, the NHS Devon internet or in some cases both. Any strategy or policy available on the intranet should be considered to be the current version and the one by which NHS Devon stands, even if the review date has passed. An expired date does not automatically indicate that the strategy or policy has been superseded.

6.2. Policy sponsors and policy leads are responsible for maintaining and updating procedures/protocols and other supporting documents. These will not be included on the Policy Register maintained by the Corporate Governance team.

6.3. All procedural documents should be reviewed at least every three years and preferably annually. However, a review may take place earlier if new evidence becomes available that renders this necessary e.g., changes in legislation, or to reflect changes to working practices.

6.4. The Corporate Governance team will take responsibility for contacting policy leads and policy sponsors 3 months before their policies are due to become overdue to advise on the process and expected timeframes for approval.

6.5. If, when undertaken, a review indicates that only minor amendments are required, which will not alter current practice and as such involve no significant change to the document, the requirement to consult on a revised strategy or policy (see section 9) does not apply. Similarly, appendices, which can be reviewed, revised and replaced at any point without the need to follow the consultation process set out below. Proposed minor updates to strategies or policies can go forward for approval via the relevant approval route (see section 9 below), once the relevant impact assessments (see section 8) and implementation plans (see section 9) have been completed.

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6.6. If a review indicates significant changes in current practice and major amendments to the document will be required, the procedures outlined in this policy apply and must be followed.

6.7. If a policy lead is unclear whether the proposed changes to a procedural document constitute a significant change to current practice or not, they should consult with the Corporate Governance team, who will provide advice on this matter.

5.7. Accountabilities, duties and responsibilities

- 5.1 Chief Officers will act as policy sponsors and will determine if a new strategy, policy, or other approved document is required. They will support policies appropriate to their responsibilities and approve the strategy or policy as set out in section ~~4.2~~ 9 of this policy.
- 5.2 Policy owners are staff charged with producing or reviewing policies and must follow the guidance contained in this policy when writing their documents. They will be identified by the Chief Officer and tasked with producing a draft policy or taking responsibility for the review of an existing policy, and where appropriate forwarding to the appropriate group for feedback. They will then work through and consider any feedback on the policy. Policy owners will also be responsible for the review process which occurs on a regular basis.
- 5.3 The Corporate Governance team will maintain a Policy Register to prevent part or whole duplication of another approved strategy or policy in operation. Policy leads should liaise with the Corporate Governance team, who will check the Policy Register to ensure that proposed strategies or policies do not duplicate any other work. Where a potentially similar strategy or policy is already in operation, the policy lead will be asked to discuss with the policy sponsor whether it is more prudent to develop the existing document further, rather than develop a new one.

6. Developing a new procedural document

~~34.1.8.1.~~ All public bodies have a specific duty under the Equality Act 2010 to carry out equality analysis and to have clear arrangements to assess and consult on how their policies and functions impact on the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

8.2. An Equality Quality Impact Assessment (EQIA) should be completed for all NHS Devon's new and reviewed (with significant changes) strategies and policies to ensure fairness, transparency and that the strategy or policy will not adversely impact individuals in protected groups as provided in the Equality Act 2010. An EQIA will also help the organisation to open services up to new groups and ensure focus on the impact of the change on the user. Further information on EQIAs can be found [via this link](#).

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8.3. In 2012, the National Quality Board (NOB) issued guidance that quality impact assessments should be completed. This guidance aims to ensure proper scrutiny by provider boards and commissioning authorities and encompasses six key quality components:

- **Safety:** Ensuring that patients are not harmed by the healthcare they receive.
- **Effectiveness:** Providing care, treatments, interventions, support, and services that are based on evidence and deliver the best outcomes.
- **Patient Experience:** Ensuring that the patient's experience is positive and centered on their needs and preferences.
- **Well-Led:** Leadership that is collective and compassionate, fostering a culture of high-quality care.
- **Sustainably Resourced:** Achieving optimal health outcomes within available financial resources, while minimising environmental impact and promoting public health.
- **Equity:** Ensuring everyone has access to high-quality care and reducing variations and inequalities in health outcomes.

8.4 NHS Devon wants to ensure that all the decisions it makes are informed by a clear understanding of:

- Potential impacts on quality (safety, effectiveness and experience)
- Potential impacts on health inequalities (access, experience and outcomes)

35.9. Implementation

35.9.1. All strategies and policies need to identify arrangements for training, support and implementation as necessary. An implementation plan (template at Appendix [EB](#)) should be completed by the policy lead and included in the consultation on the policy (see [section 10](#) below).

35.9.2. For strategies and policies with minor changes following a review, if the document already has an implementation plan in place, then a new one is not required to be completed. If a strategy or policy which requires minor changes following a review does not have an implementation plan in place, then one should be completed.

35.9.3. Completed implementation plans should be submitted alongside the proposed strategy or policy to the policy sponsor for sign off and with the final draft submitted for approval.

35. Consultation

Commented [PH6]: Removed section heading, as all content relates to implementation

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35.6.9.5. It should be noted that NHS Devon is committed to full Staff Partnership consultation on its people-related policies. People-related policies should always be subject to full Staff Partnership Forum consultation before being submitted for approval.

35.7.9.6. To allow a reasonable time for responses, a consultation period of two-four weeks is generally appropriate. All comments received should be recorded by the policy lead and amendments to the document considered accordingly. If the decision is taken not to amend the document in line with comments received during consultation, relevant consultees should be provided with a written response explaining why. If the consultation process results in a substantial change to the consultation document, a revised draft document should be sent out again to stakeholders for further consultation and comment.

35.8.9.7. For strategies and policies with minor changes following a review, a consultation period is not required.

35.9.9.8. Consultation is not required for the approval of protocols, procedures or other supporting documents; however, it is recommended.

35. Interagency Policies, Procedures and Guidelines

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Procedural document	Review	Assurance	Approval
Strategy	NHS Devon Executive Committee and approval of onward submission to Board	Relevant Board Committee	ICB Board
Policy	Core corporate governance and finance policies - NHS Devon Senior Executive Team and approval of onward submission to Board	Audit and Risk Committee	ICB Board
	New policies – Relevant Chief Officer	N/A	NHS Devon Executive Committee
	Existing high risk or high impact policies other than core corporate governance and finance policies - Relevant Chief Officer	N/A	NHS Devon Executive Committee
	Remaining existing policies - Relevant Chief Officer with the consultation of at least one other Chief Officer	N/A	Chief Officer
Procedure/ Protocol	N/A	N/A	Senior Leadership Team member with

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			responsibility for relevant policy area.
Supporting Documents	N/A	N/A	Team Leader with responsibility for implementing relevant policy area.

35.14.9.10. The review routes set out in the table above are a formal part of the corporate governance process for the approval of procedural documents and not part of the consultation process set out ~~in section 9~~ above, which should be completed prior to the document's submission for review.

35.15.9.11. In the absence of a specified Chief Officer to approve a policy, policies can be approved by their nominated deputy for that period of absence. It is not possible for policies to be approved by any other member of staff than Chief Officers, or their nominated deputy in the event of their absence.

36.10. ~~Dissemination and monitoring~~ Monitoring of compliance and/ effectiveness

36.1.10.1. All policies and procedures can be accessed electronically via the NHS Devon intranet. All newly uploaded policies and procedures are highlighted in the latest documents area on the intranet, to alert and direct staff who access the intranet, to their publication and availability. The Corporate Governance team will also provide a notification and a link to the policy or procedure via the staff bulletin.

36.2.10.2. Departmental managers, team leaders and professional leads are responsible for having a system in place within their sphere of responsibility that ensures their staff are aware of and have read and understood relevant new and revised policies.

36.3.10.3. The Corporate Governance team will make available a report to the NHS Devon Executive ~~Committee~~ on a quarterly basis setting out the details of all new policies and procedures that have been ratified and uploaded on to the intranet and those which are due for review in the next quarter.

APPENDIX A – Glossary of terms used

Terms	Definition
Health and Care Act 2022	The law establishing Integrated Care Boards as statutory bodies
NHS Devon	Name that will be used for the Devon Integrated Care Board (ICB).
Quality Equality Quality Impact Assessment (QEQIA)	The EQEIA process considers the extent to which a policy or strategy (including strategic decisions, service or function) may impact, on any groups of the community within Devon. The impact may be neutral, negative or positive and where appropriate the EQEIA process allows recommendations or alternative mitigation measures to be made to ensure equal access to services and opportunities
Dissemination	Policy dissemination will include publication of policies and enable target audience internally and externally to access and understand the policy
Implementation Plan	The Implementation Plan identifies the steps and communication strategies for new or amended policies and procedures.
Policy Sponsor	The policy sponsor should be a Chief Officer, who will be responsible for ensuring that any proposed strategy or policy (procedures/protocols do not require a policy sponsor) is appropriate for consideration via the relevant approval route.
Policy Lead	The policy lead will be responsible for the content and drafting of the proposed strategy, policy or procedure/protocol.
Chief Officer	A Chief Officer is a direct report of the Chief Executive.
NHS Devon Board	The NHS Devon Board is the “controlling mind” of NHS Devon – it acts as the agent for the organisation and exercises power on its behalf.
<u>NHS Devon Executive Committee</u>	The <u>NHS Devon Executive Committee</u> consists of the direct reports of the NHS Devon Chief Executive. It supports the Chief Executive in the discharge of their NHS Devon executive functions.
Policy Register	The Policy Register is the formal list of NHS Devon strategies and policies. It includes information about approval routes and review dates.
Law/ Regulations	Laws are created by an Act of Parliament or statute. The Health and Social Care Act 2012 and the Health and Care

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Terms	Definition
	Act 2022 are the key statutes providing the law governing health and care in the UK. Regulations are secondary to statute as they made under the authority derived from a statute. Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and Care Quality Commission (Registration) Regulations 2009 are examples of regulations.
Constitution	The NHS Constitution establishes the principles and values of the NHS in England and sets out rights to which patients, public and staff are entitled, and pledges that the NHS is committed to achieving. The NHS Devon Constitution outlines how the organisation will comply with statutory duties set out in the Health and Care Act 2022 and associated regulations.
Strategy	A high level plan of action designed to achieve a long-term or overall aim. Strategies identify the medium- to long-term aims and objectives of a given subject (for example the Risk Management Strategy).
Policy	A high level agreed statement intended to assign responsibility and to direct subsequent decisions, actions and other matters. Should state NHS Devon's commitment to deliver one or more duties and will be written for audiences at all levels. Acknowledges legislation, regulation, Department of Health and Social Care and NHS England direction or guidance and best practice that will be complied with in NHS Devon's duties.
Procedure/ Protocol	An established or official way of doing something in the organisation. Describes the activities that, in support of the relevant policy, will deliver NHS Devon's duties. Can be amended when NHS Devon assesses that the current procedure is not supporting the relevant policy.
Supporting Documents	Describes the steps that are taken by individual teams in support of the relevant procedure. These steps may be used a few or many times. Includes Guidelines, Forms, Handbooks and Manuals providing general advice but allow for local discretion.

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APPENDIX B – Procedural document implementation plan (Template)

Title	<i>Add in title of procedural document</i>
New/Revised	<i>Is this a new policy or a revision of an existing policy?</i>
Policy Sponsor	<i>Add information about Policy Sponsor (Chief Officer)</i>
Policy Lead	<i>Add information about Policy Lead (individual responsible for</i>
Overview	
<i>Provide a brief overview of the proposed procedural document.</i>	
Anticipated impact	
Changes in practice anticipated	<i>Provide a brief summary of the anticipated impact on working practices arising from the proposed procedural document and the outcomes expected as a result.</i>
Stakeholders likely to be affected	<i>Provide a brief summary of the members of staff, patients and the public likely to be affected by the proposed procedural document.</i>
EQIA outcome	<i>Provide a brief summary of the outcome of the <u>Equality</u> Quality Equality Impact Assessment undertaken in relation to the proposed procedural document.</i>
Implications	
Training	<i>Provide a brief summary of the likely training requirements associated with the proposed procedural document and how these will be addressed.</i>
Resources	<i>Provide a brief summary of the likely resource implications associated with the proposed procedural document and how these will be addressed.</i>
Communications	<i>Provide a brief summary of how the proposed procedural document will be disseminated.</i>
Effectiveness	
Monitoring and Measuring effectiveness	<i>Provide a brief summary of how the anticipated changes in practice and outcomes will be monitored and measured.</i>
Approval of Implementation Plan	
Policy Sponsor	
Signature:	
Date:	

Appendix **CB(i)** – Approval routes for NHS Devon non-clinical policies and strategies

NB: These are procedural documents separate to the Policy for the Development and Management of Procedural Documents and may be amended without requiring the amendment of the policy.

Strategy Title	Chief Officer	Approval requires the agreement of
Equality Diversity and Inclusion Strategy	Chief Communications and Corporate Affairs Officer	ICB Board
Green Plan	Chief Communications and Corporate Affairs Officer	ICB Board
People & Communities	Chief Communications and Corporate Affairs Officer	ICB Board
5 Year Joint Forward Plan	Chief Executive Officer	ICB Board
Digital Strategy	Chief Finance Officer	ICB Board
Primary Care Strategy	Chief Medical Officer	ICB Board
Community First Strategy	Chief Medical Officer	ICB Board
Children & YP Strategy	Chief Nursing Officer	ICB Board
Women's Health Strategy for England and Women's Health Hubs	Chief Nursing Officer	ICB Board
Workforce Strategy	Director of Workforce	ICB Board
Learning and Education Strategy	Director of Workforce	ICB Board

Policy Title	Chief Officer	Approval requires the agreement of
Policy for the Development and Management of Procedural Documents	Chief Communications and Corporate Affairs Officer	ICB Board
Risk Management Policy	Chief Communications and Corporate Affairs Officer	ICB Board
Standards of Business Conduct Policy	Chief Communications and Corporate Affairs Officer	ICB Board
Policy for Co-option to Board Committees	Chief Communications and Corporate Affairs Officer	ICB Board
Conflict of Interest Policy	Chief Communications and Corporate Affairs Officer	ICB Board

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Policy Title	Chief Officer	Approval requires the agreement of
Receipt, Acceptance and Management of Petitions Policy	Chief Communications and Corporate Affairs Officer	ICB Board
Confidentiality & Data Protection Act policy	Chief Communications and Corporate Affairs Officer	Chief Finance Officer
Individual Rights policy	Chief Communications and Corporate Affairs Officer	Chief Finance Officer
Records Management Policy	Chief Communications and Corporate Affairs Officer	Chief Finance Officer
Secure Handling and Transfer of Information (Safe Haven) Policy	Chief Communications and Corporate Affairs Officer	Chief Finance Officer
Data Protection Framework	Chief Communications and Corporate Affairs Officer	Chief Finance Officer
DPIA Framework	Chief Communications and Corporate Affairs Officer	Chief Finance Officer
Freedom of Information Act and Environmental Information Regulations Policy	Chief Communications and Corporate Affairs Officer	Chief Medical Officer
Data Quality Assurance Policy	Chief Communications and Corporate Affairs Officer	Chief Finance Officer

Policy Title	Chief Officer	Approval requires the agreement of
Emergency Preparedness, Resilience & Response Policy	Chief Delivery Operating Officer	ICB Board
Procurement Policy for all NHS Devon Expenditure	Chief Operating Officer	Chief Finance Officer

Policy Title	Chief Officer	Approval requires the agreement of
Environmental Policy	Chief Finance Officer	Chief Communications and Corporate Affairs Officer
Password Policy	Chief Finance Officer	Chief Communications and Corporate Affairs Officer
Registration Authority Policy	Chief Finance Officer	Chief Communications and Corporate Affairs Officer
Counter Fraud, Bribery and Corruption Policy	Chief Finance Officer	Chief Communications and Corporate Affairs Officer

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Policy Title	Chief Officer	Approval requires the agreement of
Mobile Devices when Remote Working Policy	Chief Finance Officer	Chief Finance Officer and Chief Communications and Corporate Affairs Officer
Privileged Access Acceptable User Policy	Chief Finance Officer	Chief Communications and Corporate Affairs Officer
IT Security Policy	Chief Finance Officer	Chief Communications and Corporate Affairs Officer

Policy Title	Chief Officer	Approval requires the agreement of
Patient Group Direction (PGD) Policy	Chief Medical Officer	Chief Nursing Officer
Defining the Boundaries between NHS & Private Healthcare	Chief Medical Officer	Chief Nursing Officer
Individual Funding Request Policy & Associated SOP	Chief Medical Officer	Chief Delivery Officer
Primary Care Prescribing Rebates Policy	Chief Medical Officer	Chief Finance Officer
Service Review Policy		

Policy Title	Chief Officer	Approval requires the agreement of
Previously Unassessed Periods of Care (Pupocs) Policy	Chief Nursing Officer	Chief Medical Officer
Individual Packages of Care Policy (IPOC)	Chief Nursing Officer	Chief Medical Officer
CHC Appeals Policy	Chief Nursing Officer	Chief Medical Officer
Personal Health Budgets	Chief Nursing Officer	Chief Medical Officer
Children in Care	Chief Nursing Officer	Chief Medical Officer
Mental Capacity and Deprivation of Liberty Policy	Chief Nursing Officer	Chief Communications and Corporate Affairs Officer
PREVENT Policy	Chief Nursing Officer	Chief Medical People Officer
Safeguarding Adult Policy	Chief Nursing Officer	Chief Medical Officer
Safeguarding Children Policy	Chief Nursing Officer	Chief Medical Officer
Safeguarding Supervision Policy	Chief Nursing Officer	Chief Medical Officer

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Policy Title	Chief Officer	Approval requires the agreement of
Dealing with persistent and unreasonable members of the public policy	Chief Nursing Officer	Chief Communications and Corporate Affairs Officer
Informal Feedback and Formal Complaints Policy	Chief Nursing Officer	Chief Medical Officer
Redress Policy	Chief Nursing Officer	Chief Finance Officer
Disputes Policy	Chief Nursing Officer	Chief Medical Officer
CHC Joint Funding Policy	Chief Nursing Officer	Chief Medical Officer
Equality and Quality Equality Impact Assessment (EQEIA) Policy	Chief Nursing Officer	Chief Medical Officer
Serious Incident Policy	Chief Nursing Officer	Chief Medical Officer
Freedom to Speak Up Policy	Chief Nursing Officer	ICB Board
All Age Continuing Healthcare Operational Policy	Chief Nursing Officer	Chief Medical Officer
Patient Safety Incident Reporting Framework (PSIRF)	Chief Nursing Officer	Chief Medical Officer

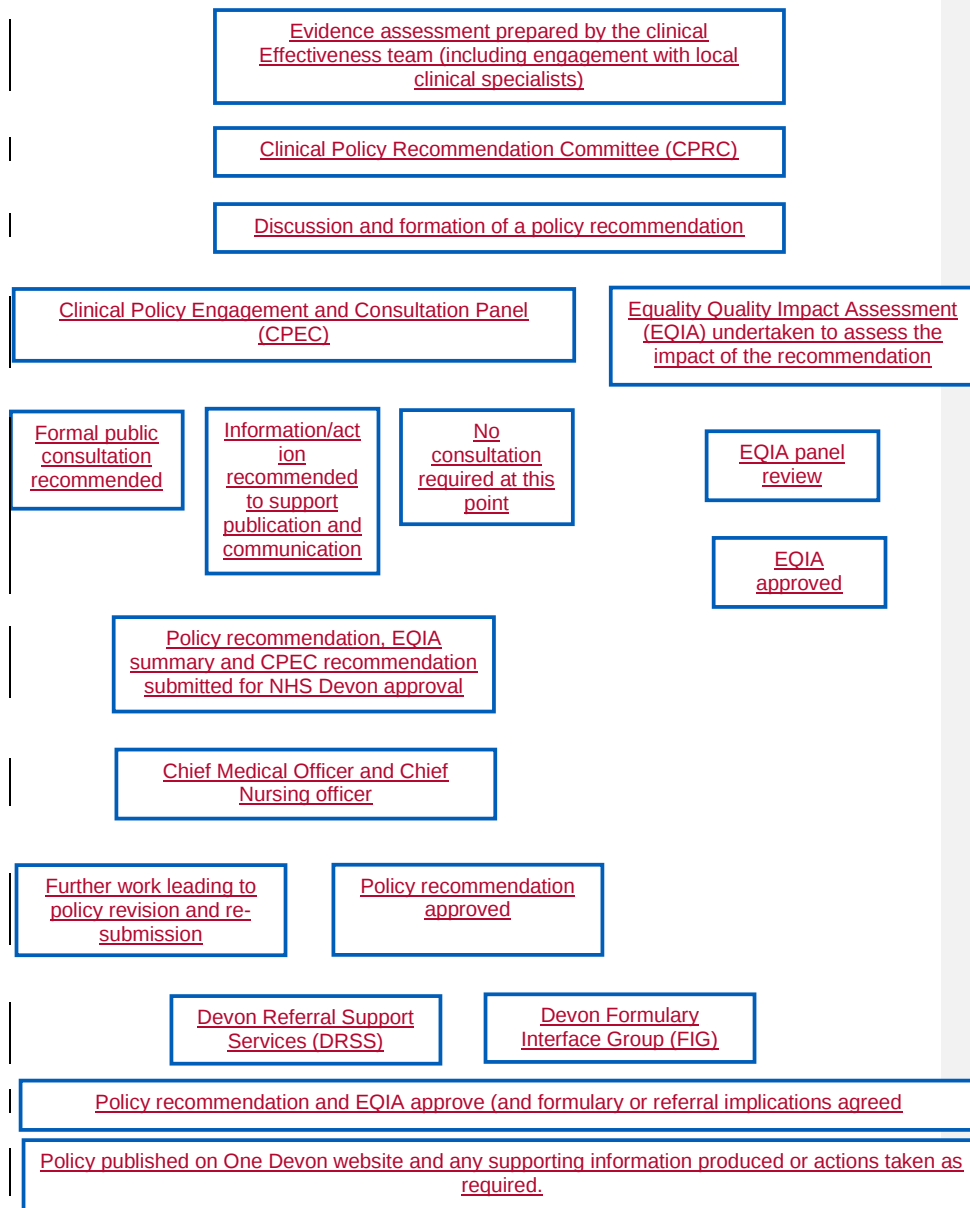
Policy Title	Chief Officer	Approval requires the agreement of
Flexible Working Policy	Chief People Officer	Chief Communications and Corporate Affairs Officer
Disciplinary Policy	Chief People Officer	Chief Communications and Corporate Affairs Officer
Developing and Growing our People Policy	Chief People Officer	Chief Communications and Corporate Affairs Officer
Internal Incident and Accident Management Policy	Chief People Officer	Chief Communications and Corporate Affairs Officer
Health & Safety Policy	Chief People Officer	Chief Communications and Corporate Affairs Officer
Equality, Diversity, and Inclusion (EDI) Policy	Chief People Officer	Chief Communications and Corporate Affairs Officer
Attendance Policy	Chief People Officer	Chief Communications and Corporate Affairs Officer
Improving Performance Policy	Chief People Officer	Chief Communications and Corporate Affairs Officer

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Policy Title	Chief Officer	Approval requires the agreement of
Fair Treatment Policy	Chief People Officer	Chief Communications and Corporate Affairs Officer
Mutually Agreed Resignation Scheme Policy	Chief People Officer	Chief Finance Officer
Probation Policy Probation period for new starters	Chief People Officer	Chief Communications and Corporate Affairs Officer
Recruitment (Inc. movement of employees) Policy	Chief People Officer	Chief Communications and Corporate Affairs Officer
Leave and Pay for New Parents Policy	Chief People Officer	Chief Communications and Corporate Affairs Officer
Time Off Policy	Chief People Officer	Chief Finance Officer
Domestic Abuse & Sexual Violence (DASV) Employee Support Policy	Chief People Officer	Chief Nursing Officer
Social Media Policy	Chief People Officer	Chief Communications and Corporate Affairs Officer
Organisational Change Policy - HR019 NEWD Organisational Change policy	Chief People Communications and Corporate Affairs Officer	Remuneration & Internal ICB Workforce Committee
Organisational Change Policy - HR22A SD&T Organisational Change, Redundancy and Redeployment policy	Chief People Communications and Corporate Affairs Officer	Remuneration & Internal ICB Workforce Committee

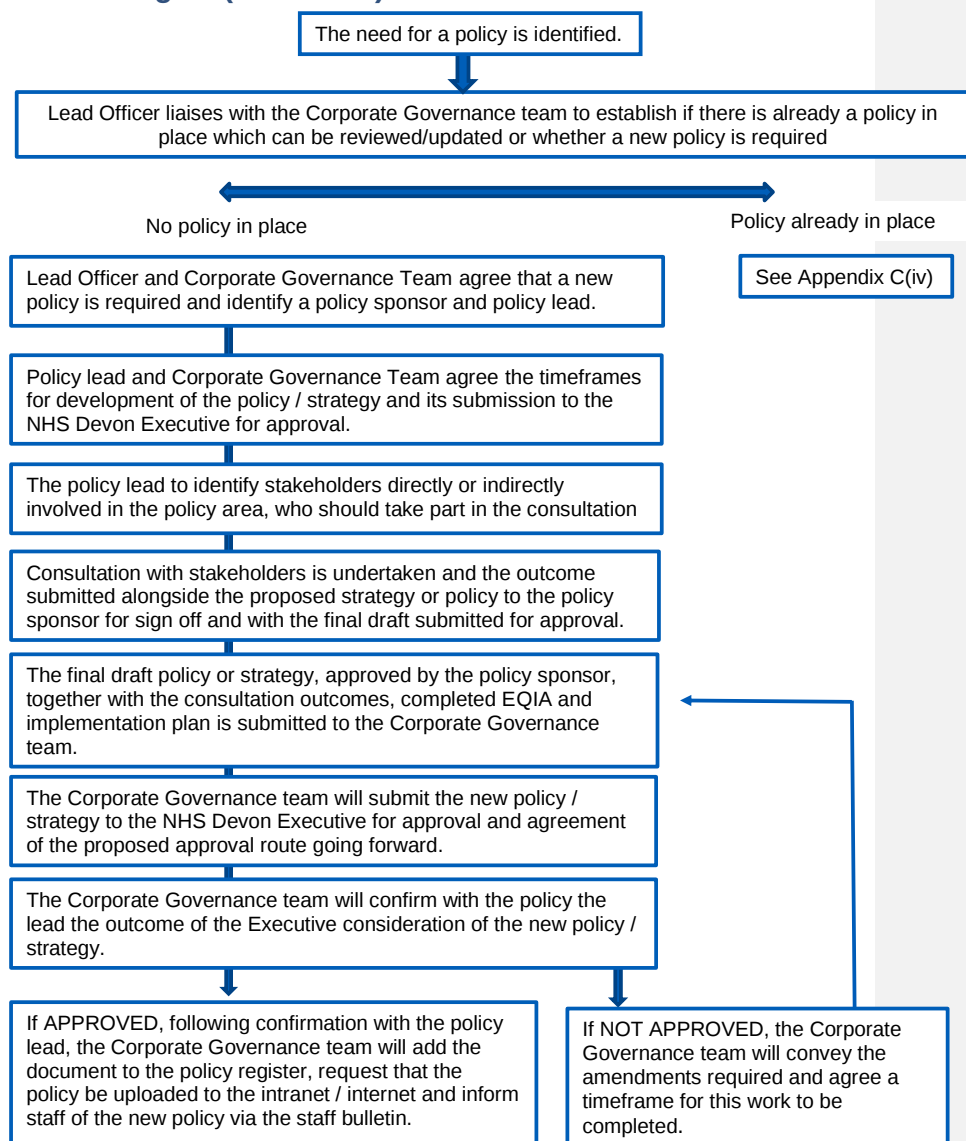
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APPENDIX C(ii) – Developing and reviewing clinical policies and strategies (flow chart)

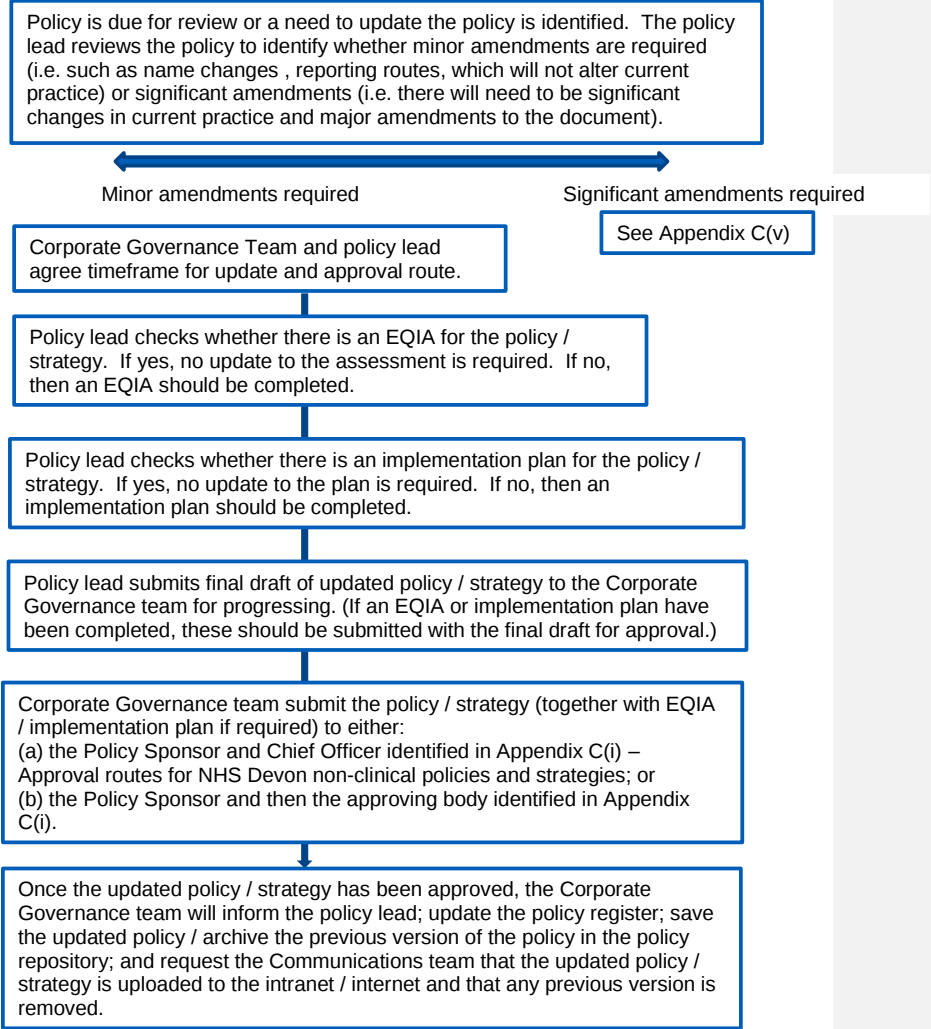


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APPENDIX BC(iii) – Developing new non-clinical policies and strategies (flow chart)

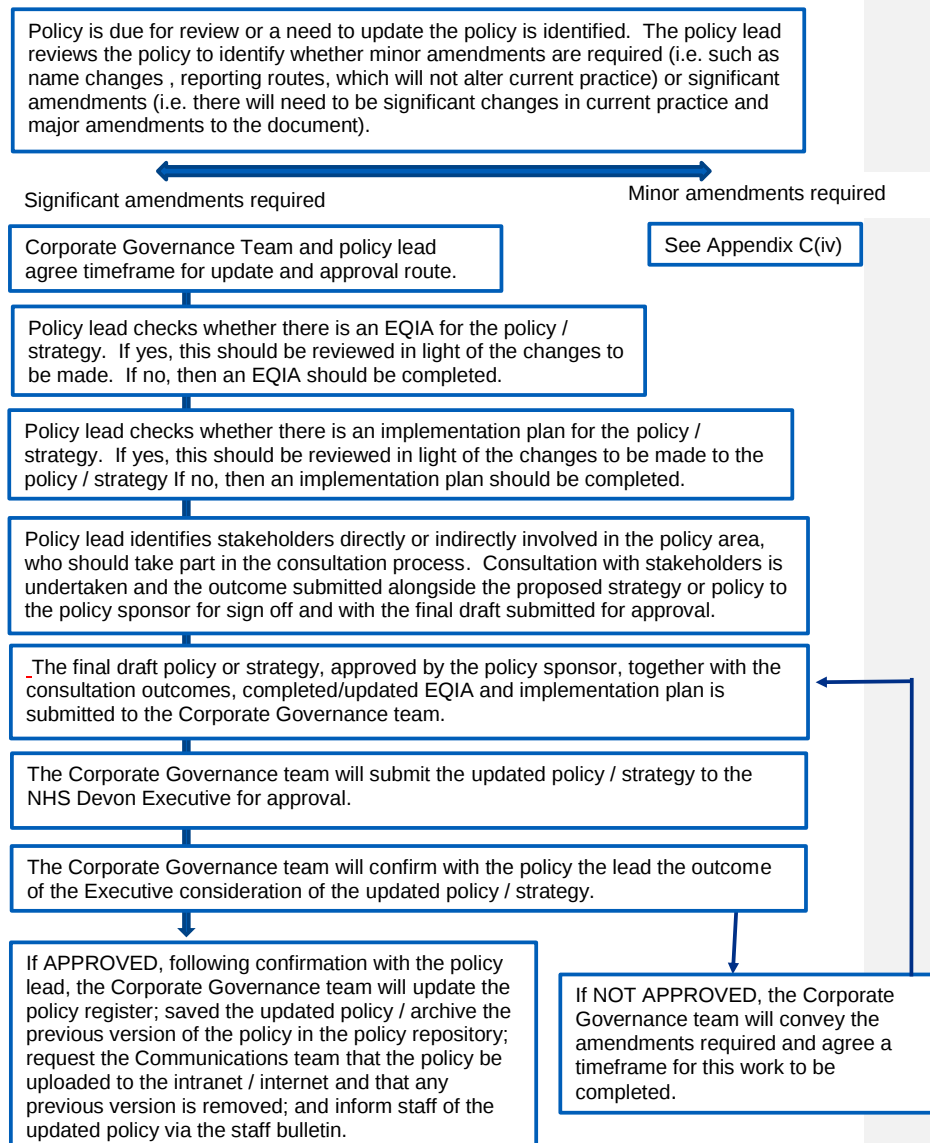


APPENDIX BC(ivii) – Reviewing and amending non-clinical policies and strategies (minor changes) (flow chart)



Note: There is no requirement to undertake consultation for minor amendments.

APPENDIX C(iv) – Reviewing and amending non-clinical policies and strategies (significant amendments) (flow chart)



Appendix D – Policy Template

Policy Title
NHS Devon

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Version	0.1 is first draft of new policy and first approved version is 1.0. First draft/amendment of version 1.0 is 1.1 and incremental until approved as version 2.0 edit
Policy Sponsor	Choose an item.
Policy Lead	
Approved by	
Approved on	Select a date
To be reviewed by	Select a date

Document change history (to add rows, copy and paste)			
Date	Change	Version number of policy	Comments
Select a date	Select		
Select a date	Select		

Equality, diversity and inclusion statement

NHS Devon is committed to the promotion of equal opportunities, addressing health inequalities and fostering of good relations between people protected under the terms of the Equality Act 2010, the Health and Social Care Act 2012 and Human Rights legislation. We are equally committed to the elimination of unlawful discrimination, harassment and victimisation. To demonstrate this commitment, we develop, promote and maintain policies, strategies and operating procedures. Every effort is made to ensure that patients, employees, contractors or visitors do not experience discrimination; either directly or indirectly, because of their vulnerability; disadvantage; age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex (gender) or sexual orientation.

All staff must comply with this policy. Compliance must reflect our organisational commitment to and policy on, equality, diversity and inclusion. In addition, each manager and member of staff involved in implementing this policy must give due regard to the needs of those protected under law.

If you, or any other groups, believe you are discriminated against under the terms of the Equality Act, the Health and Social Care Act 2012 or Human Rights legislation by anything contained in this document; or you need this document in an alternative format, for example, large print, Braille, Easy read or other languages; please contact our Patient Advice and Complaints Team (PACT):

Tel: 0300 123 1672
Email: pals.devon@nhs.net

Contents		
Section	Title	Page
1	Introduction	
2	Purpose and objectives	
3	Definitions	
4	Insert title of this section	
5	Accountabilities, duties and responsibilities	
6	Impact assessments	
7	Implementation	
8	Monitoring compliance and effectiveness	
9	References	
	Appendix 1: Glossary of Terms	
	Appendix 2: [insert the title of any other Appendix]	

Red text is provided to support you in writing your policy.
This text is to be removed once the policy is approved.

1. Introduction

Why is this policy needed? Provide a summary of the subject matter, legislation, regulation, national standards, NHS Devon Constitution context.

2. Purpose and objectives

Explain what this policy seeks to achieve e.g., meeting a regulatory or legislative requirement or how the policy will support NHS Devon in achieving its strategic objectives.

- 2.1 The aim of this policy is
- 2.2 This policy will:
 - Set out clearly and succinctly what will happen or change as a result of the adoption of the policy

3. Definitions

Include in the table brief definitions of the terms contained in the policy, such as abbreviations, technical terms and acronyms. (N.B. if required, more terms can be appended in a Glossary.

Terms	Definition

4. Content – key aspects of your policy [title this section as appropriate and ensure that this is reflected in the content list]

This is the main part of the document – the bit that the reader probably wants to get to and should include all of the key aspects of how NHS Devon will deal with the particular issue which is the subject of the policy.

5. Accountabilities, duties and responsibilities

This section is to clarify the specific duties associated with the policy and where the responsibilities lie.

Chief Executive Officer	The Chief Executive Officer has ultimate accountability for the strategic direction and operational management of NHS Devon, including compliance with all legal, statutory and policy requirements.
Policy Sponsor	The Policy Sponsor is responsible for: - ensuring that policy is appropriate for consideration for approval; - endorsing this policy ahead of submission for approval; - with the Policy Lead, maintaining and updating procedures/protocols and other supporting documents for this policy; [include any specific responsibilities in respect of this policy]
Policy Lead / Author	It is the responsibility of the Policy Lead / author to: - ensure as far as possible that the policy is in line with Department of Health and Social Care guidance, legal requirements and advice from clinical bodies; - to complete a EQIA and Implementation Plan where required - undertake a fair and proportionate consultation period with the relevant stakeholders as part of the document's development - to ensure that the policy is in alignment with NHS Devon's strategy and values - ensure that the policy is developed, approved, disseminated and monitored as set out in the document; - with Policy Sponsors, maintaining and updating procedures / protocols and other supporting documents for this policy. [include any specific responsibilities in respect of this policy]
Title of any other relevant Officer	[Set out the specific responsibility for implementation of any part of the process, clearly stating what that officer's responsibility is, including who is responsible for drafting and updating any part of the document]
Titles of any Committee	[Set out the specific responsibility for any part of the process, including reviewing the policy and receiving updates on its effectiveness and compliance]
Line Managers	Line managers have a responsibility to ensure their staff comply with NHS Devon policies and standards within their areas of responsibility.
All Staff	Employed or engaged staff have a duty to comply with NHS Devon policies and standards as outlined in their contracts of employment and codes of conduct.

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6. Impact assessments

A EQIA should be completed for all new policies and where **significant amendments** are made. The NHS Devon EQIA can be found [here](#)

Confirmation that a EQIA has been completed in respect of the policy should be included, together with a brief overview of the findings and any subsequent actions.

The completed EQIA should be submitted with the policy to the Policy Sponsor for sign off with the final draft at the approval stage.

7. Implementation

- 7.1 All staff will be informed of the approval of the Policy via the Staff Bulletin which will provide a link to the document on the NHS Devon Intranet.
- 7.2 NHS Devon Senior Managers, or their designated representatives, will implement this policy by:
 - Notifying all staff of its existence. New staff will be informed of this policy as part of their induction.
 - Destroying all superseded paper-based versions of the policy and electronic versions retained in their area.
 - Having adequate knowledge of, and / or access to, all relevant legislation in order to ensure that compliance with such legislation is maintained.
 - Discussing with staff as part of their regular one-to-ones how they seek to achieve their individual objectives around policy review and maintenance.

An implementation plan should be completed for all new policies. The template can be found [here](#). The completed implementation plan should be submitted with the policy to the Policy Sponsor with the final draft at approval stage.

If the need for training has been identified for all staff or particular groupings of staff, include an overview here. Reference should be made to who will require the training, the type of training, how it will be delivered and how often it should be undertaken.

8. Monitoring compliance and effectiveness

Explain how the policy will monitored to provide assurance as to its application and effectiveness. Areas to consider are include:

- Is the policy achieving what we said it would?
- Are we doing all of the things that we said we would?
- Is the policy making a difference?

Be realistic around the frequency and detail of the monitoring process. Specify what will be monitored, how this will be done and by whom and where this will be reported and when.

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9. References

Other related policy documents

List any other NHS Devon policies which relate to the subject matter of this policy.

Legislation and statutory requirements

List any relevant legislation and statutory documentation including a link the documents referred to.

Best practice recommendations and other key guidance

List any best practice and other guidance including a link the documents referred to.

APPENDIX A – Glossary of terms

List terms/definitions used in this document, including abbreviations, technical terms, and acronyms

Terms	Definition

APPENDIX B – [insert title, which should match the title included on the contents page]

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Standards of Business Conduct Policy

NHS Devon



Proud to be part of One Devon: NHS and CARE working with communities and local organisations to improve people's lives

Version	2.0
Policy Sponsor	Chief Communications and Corporate Affairs Officer
Policy Lead	Director of Governance
Approved by	NHS Devon Board
Approved on	27/03/2025
To be reviewed by	31/03/2026

Document change history (to add rows, copy and paste)			
Date	Change	Version number of policy	Comments
11/12/2023	New Policy	1.0	
27/03/2025	Amendments made	2.0	<u>Updates to names of decision-making groups and job titles.</u> <u>Update to Local Counter Fraud Service Officer contact.</u> <u>Update to reporting scheduled to NHS Devon Executive and Audit and Risk Committee.</u> <u>Reference to introduction of ESR Modules for Conflict of Interests training.</u>

Equality, diversity and inclusion statement
Section 14Z35 of the National Health Service 2006 Act imposes the general inequality duty on Integrated Care Boards that they must have regard to the need reduce inequalities between those accessing health care services and in respect of the outcomes achieved for those who access health care services.

NHS Devon is committed to reducing health inequalities. These are unfair and avoidable differences in health across the population, and between different groups within society. These include how long people are likely to live, the health conditions they may experience and the care that is available to them. The conditions in which we are born, grow, live, work and age can impact our health and wellbeing. These are sometimes referred to as wider determinants of health.

We will ensure that we reduce inequalities by considering them as a key part of all our policies plans and monitoring process and by using an Equality and Quality Impact Assessment whenever we make changes to services

We are also NHS Devon is committed to the promotion of equal opportunities, addressing health inequalities and fostering of good relations between people protected under the terms of the Equality Act 2010, the Health and Social Care Act

2012 and Human Rights legislation. We are equally committed to the elimination of unlawful discrimination, harassment and victimisation. To demonstrate this commitment, we develop, promote and maintain policies, strategies and operating procedures. Every effort is made to ensure that patients, employees, contractors or visitors do not experience discrimination; either directly or indirectly, because of their vulnerability; disadvantage; age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex (gender) or sexual orientation.

All staff must comply with this policy. Compliance must reflect our organisational commitment to and policy on, equality, diversity and inclusion. In addition, each manager and member of staff involved in implementing this policy must give due regard to the needs of those protected under law.

If you, or any other groups, believe you are discriminated against under the terms of the Equality Act, the Health and Social Care Act 2012 or Human Rights legislation by anything contained in this document; or you need this document in an alternative format, for example, large print, Braille, Easy read or other languages; please contact our Patient Advice and Complaints Team (PACT):

Tel: 0300 123 1672
Email: pals.devon@nhs.net

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1. Introduction

- 1.1 It is a long and well-established principle that public-sector organisations must be impartial and honest in their business and that their officers must act with integrity. As a publicly funded organisation NHS Devon aspires to the highest standards of corporate behaviour and responsibility.
- 1.2 The NHS Constitution sets out some of the key responsibilities of NHS staff. All officers, regardless of their role, are expected to act in the spirit set out in the seven principles of public life; the ‘Nolan Principles’ which are outlined in Appendix 1.
- 1.3 The Standards of Business Conduct Policy describes the standards and values which underpin the work of NHS Devon and reflects current guidance and best practice which all NHS Devon Board members, staff and decision-making groups should follow.

2. Purpose and objectives

- 2.1 This policy seeks to describe the public service values, which underpin the work of the NHS and to reflect the current guidance and best practice to which all individuals within NHS Devon must have regard when undertaking their role.
- 2.2 This policy will:
 - Set out a clear framework of the expected high standards of corporate behaviour and responsibility from NHS Devon Board members, staff and decision-making groups;
 - Support staff in ensuring that NHS Devon is impartial and honest in its business and that its staff act with integrity; and
 - Protect NHS Devon from any suggestion of corruption, partiality or dishonesty by providing a clear framework through which the organisation can provide guidance and assurance that its decision-makers conduct themselves appropriately.
- 2.3 This policy is supported by the Declaration of Interest, including Gifts, Hospitality and Sponsorship Standard Operating Procedure (SOP) owned by the Corporate Governance Team.

Scope

4.3. Definitions

Terms	Definition
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Third party	In this policy, “third party” refers to any individual or organisation that officers may come into contact with during the course of their work for NHS Devon, and includes actual and potential clients, suppliers, distributors, business contacts, agents, advisers, and government and public bodies, including their advisors, representatives and officials, politicians and political parties.
Joint Working	Joint working is defined as situations where, for the benefit of patients, organisations pool skills, experience and/or resources for the joint development and implementation of patient centred projects and share a commitment to successful delivery. Joint working agreements and management arrangements are conducted in an open and transparent manner.
Commercial sponsorship	Commercial sponsorship is defined as including: NHS funding from an external source, including funding of all or part of the costs of an officer, NHS research, training, pharmaceuticals, equipment, meeting rooms, costs associated with meetings, meals, gifts, hospitality, hotel and transport costs (including trips abroad), provision of free services (speakers), buildings or premises.
Industry	Commercial and non-commercial organisations (including patient groups) external to NHS Devon.
Officer	An individual who is directly or not directly employed by NHS Devon but is involved in the delivery of its work.

5.4. Managing Standards of Business Conduct

54.1 Conflicts and Declarations of Interest

54.1.1 Officers are expected to act at all times with the utmost integrity and objectivity and in the best interests of the organisation in performing their duties, and to avoid situations where there may be a potential conflict of interest. Officers must not use their position for personal advantage or seek to gain preferential treatment. Any actual or potential interests which may be perceived as conflicting with that overriding requirement must be declared.

54.1.2 Further information about what constitutes a conflict of interest and how these should be managed can be found in the NHS Devon Conflicts of Interest Policy. The Conflicts of Interest Policy also addresses the management of the following:

- Managing Conflicts of Interest at meetings
- Managing Conflicts of Interest in the procurement process
- Gifts and Hospitality

- Meals and Refreshments
- Travel and Accommodation
- Outside employment
- Patents

54.1.3 Registers of these interests are maintained by the governance team who will formally record the declared interests of all decision-making officers. They will retain a record of historic interests for a minimum of six years after the date on which the interest expired. There may be occasions when an officer declares an interest which the governance team later decides is not material. In such an instance the declaration will be recorded but not published.

4.2 Working with Industry and Sponsorship

54.2.1 The Department of Health and Social Care recognises that joint working with the pharmaceutical industry or other third-party organisations, where the benefits to patient care and the difference it could make to their health and wellbeing are clearly advantageous, should be considered by NHS organisations and their employees.

54.2.2 *Commercial Sponsorship - Ethical Standards in the NHS* requires local arrangements to be developed in relation to commercial sponsorship within a national framework. This document recognises that there can be mutual benefit in partnership arrangements with organisations external to the NHS, but only if they are agreed within a framework with the necessary safeguards and checks.

54.2.3 Positively engaging with companies and practices may lead to larger, longer term collaborations that meet the needs of all parties; however; the benefits of greater collaboration must be weighed against any potential risks and it is essential therefore that all projects are subject to the widest scrutiny; that the business priorities of commercial organisations do not lead to a distortion of local priorities or investment; and that any such arrangements are fully transparent and deliver maximum benefits for patients and the health economy.

54.2.4 The principles underpinning sponsorship and joint working are at Appendix 2

54.2.5 Potential joint working arrangements and sponsorship will be considered through a process for consideration, approval, recording, monitoring and evaluation. Initial consideration is undertaken by the Working with Industry & Sponsorship Group (Wwl&SG) which makes its recommendations to the [NHS Devon Executive Committee](#). Information as to the process to be followed in respect of joint working or sponsorship initiatives, including application form to be considered by the Wwl&SG can be found on the intranet [here](#).

54.2.6 One of the main ways in which officers may interact with industry is when an organisation sponsors an event or meeting; provides training or educational materials; offers gifts or hospitality; or offers to support other costs and

equipment. The way in which such offers should be considered is set out in the NHS Conflicts of Interest Policy. However; as a general rule:

- Attendance at event or conference sponsored / hosted by an external organisation, e.g. clarify with the sponsor and record the sponsor's expectation from providing the sponsorship concerning attendance. If there are no known expectations from the sponsor the attendance can be acceptable but agreed by a line manager in advance and a declaration form completed.
- Offers of individual funding to allow officers to attend educational courses / obtain professional qualification - the offer should be declined and recorded on declaration form.

54.2.7 All offers of sponsorship, funding or gifts from pharmaceutical companies must comply with the current ABPI Code of Practice (available at <https://www.pmcpa.org.uk/the-code/>)

54.3 Bribery and Corruption

54.3.1 Under the Bribery Act (2010), it is a criminal offence for an employee to:

- offer, promise or give a bribe;
- request, agree to receive or accept a bribe; and
- make a representation that is false for personal or other gain or that puts NHS Devon at risk of loss.

54.3.2 It is also a criminal offence for NHS Devon to fail to prevent bribery.

54.3.3 Bribery can be money, gifts, hospitality or anything else that may be of benefit to the person, which in turn creates a conflict between his/her own interests and the interests of those that he/she is expecting to be serving.

54.3.4 The Bribery Act (2010) also covers individuals who have an association with an organisation - an 'associated person'. This term is not just limited to NHS Devon Board members and officers, but any person, company or legal entity the carries out a service under the ICB's name, represents NHS Devon in an official capacity, acts on behalf of NHS Devon or in the place of other NHS Devon. The maximum penalty for bribery is 10 years imprisonment for individuals engaging in bribery and an unlimited fine for NHS Devon.

54.3.5 NHS Devon is keen to prevent fraud and encourages officers with concerns or reasonably held suspicions about potentially fraudulent activity or practice, to report these. Officers must inform the Chief Finance Officer or NHS Devon's Local Counter Fraud Specialist (LCFS) gareth.cottrell@nhs.net or sandra.bell@nhs.net or anonymously by contacting the NHS Reporting Line on 0800 028 40 60 or via www.reportnhsfraud.nhs.uk. Officers must not ignore any suspicion and must not under any circumstances investigate the matter themselves or inform colleagues or members of the public about their suspicions.

54.4 Charitable Collections

Individual

54.4.1 Whilst NHS Devon supports officers who wish to undertake charitable collections amongst immediate colleagues, no reference or implication should be drawn to suggest that NHS Devon is supporting the charity.

54.4.2 Collection tins or boxes must not be placed in offices. With line management agreement, collections may be made among immediate colleagues and friends to support small fundraising initiatives, such as raffle tickets and sponsored events.

54.4.3 Permission is not required for informal collections amongst immediate colleagues on an occasion like retirement, marriage, birthday or a new job.

Organisational

54.4.4 Charitable collections which reference NHS Devon must be authorised and documented by the appropriate Executive in advance and reported to the Governance Team.

54.5 Political Activities

54.5.1 Any political activity should not identify an individual as an officer of NHS Devon. Conferences or functions run by a party-political organisation should not be attended in an official capacity, except with prior written permission from the relevant Executive Director.

54.6 Personal Conduct

Corporate Responsibility

54.6.1 All officers have a responsibility to respect and promote the corporate or collective decision of NHS Devon, even though this may conflict with their personal views. This applies particularly if NHS Devon is yet to decide on an issue or has decided in a way with which they personally disagree. Directors and officers may comment as they wish as individuals. However, if they decide to do so, they should make it clear that they are expressing their personal view and not the view of NHS Devon.

54.6.2 When speaking as a member of NHS Devon, whether to the media, in a public forum or in a private or informal discussion, officers should ensure that they reflect the current policies or view of the organisation. For any public forum or media interview, approval should be sought in advance.

54.6.3 All officers must ensure their comments are well considered, sensible, well informed, made in good faith, in the public interest and without malice and that they enhance the reputation and status of NHS Devon.

54.6.4 Officers must follow the guidance for communication with the media; disciplinary action may be taken if this is not followed.

Use of Social Media

54.6.5 Officers should be aware that social networking websites are public forums and should not assume that their entries will remain private. Officers communicating via social media must comply with the NHS Devon Social Media Policy.

54.6.6 Officers must not conduct themselves in a way that brings NHS Devon into disrepute or disclose information that is confidential to NHS Devon business, officers or patients.

Confidentiality

54.6.7 Officers must, at all times, operate in accordance with the Data Protection Act 2018 and UK General Data Protection Regulations, and maintain the confidentiality of information of any type, including but not restricted to patient information; personal information relating to officers; or commercial information.

54.6.8 This duty of confidence remains after officers (however employed) leave NHS Devon.

54.6.9 For the avoidance of doubt, this does not prevent the disclosure of information where there is a lawful basis for doing so (e.g. consent). Officers should refer to the suite of NHS Devon Information Governance policies for detailed information.

Lending or Borrowing

54.6.10 The lending or borrowing of money between officers is not permitted, whether informally or as a business.

54.6.11 It is a particularly serious breach of the NHS Devon Disciplinary Policy for any officer to use their position to place pressure on someone in a lower pay band, a business contract, or a member of the public to loan them money.

Gambling

54.6.12 No officer may bet or gamble when on duty or on NHS Devon premises, with the exception of small lottery syndicates or sweepstakes related to national events such as the World Cup or Grand National among immediate colleagues where no profits are made or the lottery is wholly for

purposes that are not for private or commercial gain (e.g. to raise funds to support a charity see section 5.4).

Trading on Official Premises

- | 54.6.13 Trading on official premises is prohibited, whether for personal gain or on behalf of others. This includes but is not limited to flyers advertising services and/ or products in shared areas and catalogues in shared areas.
- | 54.6.14 Canvassing within the office by, or on behalf of, outside bodies or firms (including non-NHS Devon interests of officers or their relatives) is also prohibited.
- | 54.6.15 Trading does not include small tea or refreshment arrangements solely for officers.

Individual Voluntary Arrangements, County Court Judgment, Bankruptcy / Insolvency

- | 54.6.16 Any officer who becomes bankrupt, insolvent, has an active County Court Judgment, or made individual voluntary arrangements with organisations must inform their line manager and the HR team as soon as possible. Officers who are bankrupt or insolvent cannot be employed, or otherwise engaged, in posts that involve duties which might permit the misappropriation of public funds or involve the approval of orders or handling of money.
- | 54.6.17 An officer who is arrested, subject to continuing criminal proceedings, or convicted of any criminal offence must inform their line manager and the HR team as soon as is practicably possible. Cautions, penalty charge notices, and fixed penalty notices are not considered to be criminal convictions.

PREVENT

- | 54.6.18 Any officer who has concerns regarding the possibility of a potential link to extremism or radicalisation in relation to the areas covered by this policy should refer to the NHS Devon PREVENT Policy which provides guidance on how to seek advice.

54.7 Publication

- | 54.7.1 Declarations made in accordance with this policy by decision making officers will be published on the NHS Devon website. Registers of all officer declarations held by the governance team will be made available on request.
- | 54.7.2 In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be redacted from the publicly available register(s). Where an officer believes that substantial damage or distress may be caused to him/herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. Such a request must be made in writing to the governance team, who will seek legal advice where required. All requests for non-publication will be

considered by the Conflicts of Interest Guardian and the Director of Governance. Non-publication of interests would only be agreed as the exception and information will not be withheld or redacted merely because of a personal preference. A confidential, un-redacted version of the register will be held securely by the governance team.

54.7.3 Officers should be aware that external organisations, e.g. Association of British Pharmaceutical Industries (ABPI), may also publish information relating to commercial sponsorship or other payments. ~~The Governance Team~~We will review such publications to ensure that appropriate internal declarations have been made in accordance with this policy and will take appropriate action where they have not.

54.7.4 Anonymised information relating to breaches and how those breaches have been managed will be published on the NHS Devon website quarterly and held on the website for a year.

54.8 Raising a Concern or Reporting a Breach

54.8.1 There may be occasions when breaches have not been identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of deliberate actions. Officers should speak up about any genuine concerns in relation to compliance with this policy. These concerns can be raised directly with the officer's line manager or alternatively the Director of Governance, the Chief Finance Officer or the Conflicts of Interest Guardian.

54.8.2 All reported concerns will be treated with the appropriate confidentiality and investigated in line with NHS Devon's policies and procedures.

54.8.3 Compliance with this policy will be monitored by the Governance Team who will report to the ~~NHS Devon Executive Committee~~ on a ~~six~~ monthly basis and ~~on a six-monthly basis to each meeting of~~ the Audit & Risk Committee in respect of compliance together with any breaches and the impact of these breaches to ensure learning and improvement.

54.8.4 Significant breaches should be reported to the Audit & Risk Committee as soon as practicably possible, together with the action being taken to address it.

54.8.5 Officers must report any suspicions of fraud, bribery and corruption as soon as they become aware of them to the Counter Fraud Team to ensure that they are investigated appropriately and to maximise the chances of financial recovery.

54.8.6 Officers may also wish to report concerns via the Freedom to Speak Up Guardian.

54.9 Failure to comply with the Standards of Business Conduct Policy

- 54.9.1 Failure by an officer to comply with the requirements set out in this policy may result in action being taken in accordance with the relevant organisational disciplinary procedure. Such disciplinary action may include termination of employment (where applicable).
- 54.9.2 Where the failure to comply relates to an officer that is not a direct employee of NHS Devon, this may result in action being taken in accordance with the relevant engagement procedures (e.g. termination of a secondment agreement).
- 54.9.3 Any financial or other irregularities or impropriety which involve evidence or suspicion of fraud, bribery or corruption by any officer, will be reported to the Counter Fraud team in accordance with Standing Financial Instructions and the Fraud, Bribery and Corruption policy, with a view to an appropriate investigation being conducted and potential prosecution being sought.

6.5.Accountabilities, duties and responsibilities

Chief Executive Officer	The Chief Executive Officer has ultimate accountability for the strategic direction and operational management of NHS Devon, including compliance with all legal, statutory and policy requirements.
Policy Sponsor	The Policy Sponsor is responsible for: - ensuring that policy is appropriate for consideration for approval; - endorsing this policy ahead of submission for approval; - with the Policy Lead, maintaining and updating procedures/protocols and other supporting documents for this policy.
Policy Lead / Author	It is the responsibility of the Policy Lead / author to: - ensure as far as possible that the policy is in line with Department of Health and Social Care guidance, legal requirements and advice from clinical bodies; - to complete a QEIA and Implementation Plan where required - undertake a fair and proportionate consultation period with the relevant stakeholders as part of the document's development - to ensure that the policy is in alignment with NHS Devon's strategy and values - ensure that the policy is developed, approved, disseminated and monitored as set out in the document; - with Policy Sponsors, maintaining and updating procedures / protocols and other supporting documents for this policy;

	As Director of Governance, the Policy Lead is also responsible for (in conjunction with the Conflicts of Interest Guardian: • Considering any requests for non-publication of interests. • Following any investigation into a potential breach: ○ Deciding if there has been or is potential for a breach and if so what the severity of the breach is. ○ Assessing whether further action is required in response; this is likely to involve any officer involved and their line manager, as a minimum. ○ Considering who else inside and outside the organisation should be made aware. ○ Taking appropriate action.
Conflicts of Interest (Col) Guardian	This role is undertaken by a Non-Executive Director of the NHS Devon Board and further strengthens scrutiny and transparency of NHS Devon's decision-making processes. The Col Guardian is supported by the Director of Governance to: • Act as a conduit for officers, members of the public and healthcare professionals who have any concerns regarding Col. • Be a safe point of contact for officers to raise concerns in relation to this policy. • Support the rigorous application of Col principles and policies. • Provide independent advice and judgement to officers where there is any doubt about how to apply Col policies and principles. • Provide advice on minimising the risks of Col. In conjunction with the Director of Governance, the Guardian is also responsible for considering any requests for non-publication of interests and actions following any investigation into a possible breach.
Audit & Risk Committee	Reports in relation to conflicts of interest and standards of business conduct (including Gifts and Hospitality, and Sponsorship and Joint Working) will be received by NHS Devon's Audit and Risk Committee for assurance.
NHS Devon Executive Committee	Reports in respect of compliance with the Standards of Business Conduct policy, together with any breaches and the impact of those breaches to ensure learning and improvement.
Working with Industry & Sponsorship Group	Reviews applications for sponsorship and joint working agreements (making recommendations to the NHS Devon Executive Committee) and monitors compliance with this policy.

Governance Team	Ensuring that the Standards of Business Conduct Policy is implemented by teams across NHS Devon and that compliance is monitored and reported.
Line Managers	Line managers have a responsibility to ensure their staff comply with NHS Devon policies and standards within their areas of responsibility including Standing Financial Instructions.
All Officers	Employed or engaged staff have a duty to comply with NHS Devon policies and standards, including Standing Financial Instructions, as outlined in their contracts of employment and codes of conduct.

6. Quality & Equality Impact Assessments (QEIA)

196.1 A Quality Equality Impact Assessment (QEIA) has been completed in respect of this policy. No concerns were highlighted.

7. Implementation

- 7.1 NHS Devon staff will be informed of the approval of the Policy via the Staff Bulletin which will provide a link to the document on the NHS Devon Intranet.
- 7.2 NHS Devon Senior Managers, or their designated representatives, will implement this policy by:
- Notifying all staff of its existence. New staff will be informed of this policy as part of their induction.
 - Destroying all superseded paper-based versions of the policy and electronic versions retained in their area.
 - Having adequate knowledge of, and / or access to, all relevant legislation in order to ensure that compliance with such legislation is maintained.
 - Discussing with staff as part of their regular one-to-ones how they seek to achieve their individual objectives around policy review and maintenance.
- 7.3 Training in respect of conflicts of interest forms part of the training programme for all NHS Devon staff and ~~—This~~ takes the form of ~~two on-line modules provided~~ which can be accessed via the Electronic Staff Record. ~~(The training is currently being updated by NHSE and is anticipated to be available in Q4 2023-24)~~
- Module 1 – covers what conflicts of interest are; how to declare and manage conflicts of interest, including individuals' responsibilities; and how to report any concerns. (This is mandatory training for all staff and is required to be completed on an annual basis.)

- Module 2 – provides further information on managing conflicts of interest throughout the whole commissioning cycle and in recruitment processes. ~~(Agreement is being sought as Confirmation is awaited as to the staff this module applies to. It is also required to be completed on an annual basis) and the required frequency of its completion.)~~

7.4 In addition to the mandatory training, the Governance Team will provide awareness sessions to staff via Staff Briefings and articles in the Staff Bulletin.

~~8-17.5~~ This policy is subject to approval of the NHS Devon Board following recommendation from Audit & Risk Committee.

~~8-27.6~~ This policy will be reviewed annually, or sooner if required, in order to ensure that it is current, relevant and reflects the strategic aims, objectives, organisational structures and responsibilities of NHS Devon.

8. Monitoring compliance and effectiveness

9.1 The Chief Executive will review compliance and effectiveness of the Standards of Business as part of the Annual Report process.

9.2 Compliance with this policy will be monitored by the Governance Team who will report to the NHS Devon Executive ~~Committee~~ on a ~~six~~bi-monthly basis and ~~on a six-monthly basis to each meeting of to~~ the Audit & Risk Committee in respect of compliance together with any breaches and the impact of these breaches to ensure learning and improvement.

9.3 Any trends resulting from non-compliance will be raised with officers through management routes.

10.9. References

~~10-19.1~~ Other related policy documents

- Anti-Fraud and Bribery Policy
- Freedom to Speak Up Policy
- Conflict of Interests Policy
- Procurement Policy for all ICB Expenditure
- Social Media Policy
- Standing Financial Instructions
- Scheme of Reservation and Delegation.

~~11-9.2~~ Legislation and statutory requirements

- Bribery Act 2010: <https://www.legislation.gov.uk/ukpga/2010/23/contents> and www.gov.uk/government/publications/bribery-act-2010-guidance

- Equality Act 2010: www.legislation.gov.uk/ukpga/2010/15/contents
www.gov.uk/guidance/equality-act-2010-guidance
- European Public Contracts Regulations 2015:
www.legislation.gov.uk/uksi/2015/102/contents/made and
<https://www.gov.uk/government/publications/public-contracts-regulations-2015-for-nhs-commissioners>
- Fraud Act 2006: www.legislation.gov.uk/ukpga/2006/35/contents
- Freedom of Information Act 2000: [Freedom of Information Act 2000 \(legislation.gov.uk\)](http://www.legislation.gov.uk/ukpga/2000/18/contents) and [What is the Freedom of Information Act? | ICO](http://www.ico.gov.uk/what-is-the-freedom-of-information-act/)
- Health and Care Act 2022: [Health and Care Act 2022 \(legislation.gov.uk\)](http://www.legislation.gov.uk/ukpga/2022/25/contents)
and <https://nhsproviders.org/topics/governance/health-and-care-act-2022>
- Medicines (Monitoring of Advertising) Regulations 1994:
[https://www.legislation.gov.uk/uksi/1994/1933/made](http://www.legislation.gov.uk/uksi/1994/1933/made)
- The Money Laundering Regulations 2007: [The Money Laundering Regulations 2007 \(legislation.gov.uk\)](http://www.legislation.gov.uk/ukpga/2007/29/contents)
- National Health Service Act 2006: [National Health Service Act 2006 \(legislation.gov.uk\)](http://www.legislation.gov.uk/ukpga/2006/42/contents)
- Public Contracts Regulations 2015:
[https://www.legislation.gov.uk/uksi/2015/102/contents/made](http://www.legislation.gov.uk/uksi/2015/102/contents/made)
- Proceeds of Crime Act 2002: [Proceeds of Crime Act 2002 \(legislation.gov.uk\)](http://www.legislation.gov.uk/ukpga/2002/29/contents)
- NHS England: Managing Conflicts of Interest: Statutory Guidance:
<https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf>
- NHS England - Standards of Business Conduct for NHS Staff:
www.england.nhs.uk/publication/standards-of-business-conduct-policy/
- NHS England Guidance on Appearance of Bias:
<https://www.england.nhs.uk/professional-standards/medical-revalidation/ro/con-of-int/>
- Commercial Sponsorship – Ethical Standards for the NHS:
<https://data.parliament.uk/DepositedPapers/Files/DEP2009-1886/DEP2009-1886.pdf>

- Association of the British Pharmaceutical (ABPI) Code of Practice:
<https://www.abpi.org.uk/reputation/abpi-2021-code-of-practice/>
- Department of Health - Confidentiality: NHS Code of Practice:
www.gov.uk/government/publications/confidentiality-nhs-code-of-practice
- General Medical Council (GMC) : www.gmc-uk.org/guidance/good_medical_practice.asp www.gmc-uk.org/guidance/ethical_guidance.asp
- Good Governance Standards of Public Services:
www.irf.org.uk/report/good-governance-standard-public-services
- Department of Health. *Best Practice Guidance on joint working between the NHS and pharmaceutical industry and other relevant commercial organisations* 2008. https://www.networks.nhs.uk/nhs-networks/joint-working-nhs-pharmaceutical/documents/dh_082569.pdf.

APPENDIX 1 – Nolan Principles

1. Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so to gain financial or other benefits for themselves, their family or their friends.

2. Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

3. Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

4. Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

5. Openness

Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

6. Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7. Leadership

Holders of public office should promote and support these principles by leadership and example.

APPENDIX 2 – Principles of Sponsorship and Joint Working

Working in the interests of patients to deliver high quality care

- Joint projects between NHS Devon and industry must be for the benefit of their populations
- Any joint project must adequately respect and safeguard confidential patient information in line with the NHS Devon policy on confidentiality and the Data Protection Act 2018, incorporating the UK General Data Protection Regulations.
- Joint working between NHS Devon and industry must promote evidence-based medicine and support only those drugs and treatments that have an acceptable evidence base and which have local formulary approval where applicable.

Supporting the delivery of NHS Devon's strategic objectives and local needs

- NHS Devon will take a whole-systems approach to joint working. This will ensure that only arrangements that benefit the whole NHS are approved. Arrangement which would lead to higher costs or a reduction in quality in other areas of the NHS or shift the balance of investment in service in a manner not consistent with local priorities, are not acceptable.
- NHS Devon will not undertake joint working or accept sponsorship from industry to support projects that are contrary to their strategic priorities
- The continuity of any services funded through sponsorship or joint working must be fully considered before entering into any arrangements.

Selection and approval of sponsorship and joint working partners

- Where sponsorship or joint working is being sought by NHS Devon, the opportunity to participate should be offered to an appropriate range of companies within the pharmaceutical industry
- All joint working or sponsorship must be assessed and declared.
- NHS Devon may pursue joint working with any interested company of good standing regardless of its size.
- No preferential access to NHS Devon is to be given to any commercial company unless this is necessary as part of a specific NHS Devon approved project.

Transparency and openness

- All relationships with industry must be handled in an open and transparent manner as befits publicly funded bodies
- Joint working or sponsorship will not be accepted for projects that have the prime objective of increasing the usage of a specific brand of pharmaceutical or other product
- Collaborative working arrangements should take place at a corporate, rather than an individual, level

Relationship between NHS Devon and industry

- NHS Devon seeks to develop long term relationships with industry and will look favourably on undertaking joint projects with companies that have a proven history of ethical and productive joint working

- NHS Devon will preferentially support sponsorship and joint working that develops the expertise and capabilities of the employees and organisations within the health and social care community to provide high quality care for their populations
- All joint working projects and associated materials must comply with the current Association of the British Pharmaceutical Industry (ABPI) code of practice, whether or not the company is a member of the ABPI
- Any learning or products (such as protocols, guidelines, intellectual property) developed through joint working will be the property of NHS Devon unless specifically agreed otherwise in a signed contract with the company(ies) and may be shared with other NHS organisations.
- NHS Devon will consider supporting the dissemination of lessons learned from joint working but retain the right of approval of associated literature and material.



Conflicts of Interest Policy

NHS Devon



Proud to be part of One Devon: NHS and CARE working with communities and local organisations to improve people's lives

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Policy Lead	Director of Governance
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Date	Change	Version number of policy	Comments
26/03/2024	New Policy	1.0	
<u>27/03/2025</u>	<u>Policy Amendment</u>	<u>2.0</u>	<u>Updates to group/meeting names and job titles throughout.</u> <u>Para 4.2 – examples of financial and non-financial interest aligned to NHS England guidance</u> <u>Para 5.2 – inserted to reflect the importance of perception when considering interests</u> <u>Para 5.33 – inclusion of reference to sponsored posts</u> <u>Section 9 and para 17.2 – inclusion of reference to the Provider Selection Regime and Procurement Regulations 2024</u> <u>Para 11.3 and 15.3 – updated to reflect current reporting arrangements</u> <u>13.3 – reference to ESR training modules updated.</u>

Equality, diversity and inclusion statement
Section 14Z35 of the National Health Service 2006 Act imposes the general inequality duty on Integrated Care Boards that they must have regard to the need reduce inequalities between those accessing health care services and in respect of

the outcomes achieved for those who access health care services.

NHS Devon is committed to reducing health inequalities. These are unfair and avoidable differences in health across the population, and between different groups within society. These include how long people are likely to live, the health conditions they may experience and the care that is available to them. The conditions in which we are born, grow, live, work and age can impact our health and wellbeing. These are sometimes referred to as wider determinants of health.

We will ensure that we reduce inequalities by considering them as a key part of all our policies plans and monitoring process and by using an Equality and Quality Impact Assessment whenever we make changes to services

~~NHS Devon is~~ We are also committed to the promotion of equal opportunities, ~~addressing health inequalities~~ and fostering of good relations between people protected under the terms of the Equality Act 2010, the Health and Social Care Act 2012 and Human Rights legislation. We are equally committed to the elimination of unlawful discrimination, harassment and victimisation. To demonstrate this commitment, we develop, promote and maintain policies, strategies and operating procedures. Every effort is made to ensure that patients, employees, contractors or visitors do not experience discrimination; either directly or indirectly, because of their vulnerability; disadvantage; age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex (gender) or sexual orientation.

All staff must comply with this policy. Compliance must reflect our organisational commitment to and policy on, equality, diversity and inclusion. In addition, each manager and member of staff involved in implementing this policy must give due regard to the needs of those protected under law.

If you, or any other groups, believe you are discriminated against under the terms of the Equality Act, the Health and Social Care Act 2012 or Human Rights legislation by anything contained in this document; or you need this document in an alternative format, for example, large print, Braille, Easy read or other languages; please contact our Patient Advice and Complaints Team (PACT):

Tel: 0300 123 1672
Email: pals.devon@nhs.net

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1. Introduction

- 1.1 All NHS Devon Board members and staff have a duty to ensure that all their dealings are conducted to the highest standards of integrity and that NHS monies are used effectively, efficiently and in the best interests of patients.
- 1.2 Partnerships with other organisations have many benefits and should help ensure that public money is spent well, but there is a risk that conflicts of interest may arise. NHS Devon must ensure the integrity of the processes that it follows when making decisions for its communities, so that they are taken without the influence (or perceived influence) of external or private interests.
- 1.3 NHS Devon Board members and staff, as guardians of public money, need to have regard to the Good Governance Standards of Public Services and holders of public office need to uphold the Seven Principles of Public Life, often referred to as the Nolan Principles. (Appendix A).
- 1.4 Providing best value for taxpayers and ensuring that decisions are taken transparently and clearly (accountability to the public, communities and patients) are also key principles in the NHS Constitution.
- 1.5 There are also specific statutory requirements for managing conflicts of interest under the National Health Service Act 2006 (as inserted by the Health and Care Act 2022) and under the NHS (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 (and related substantive guidance).

2. Purpose and objectives

- 2.1. This policy will support NHS Devon in managing conflicts of interest effectively as it introduces consistent principles and rules for the management of interests.
- 2.2. This policy should be read in conjunction with the NHS Devon Standards of Business Conduct Policy.
- 2.3 This policy is supported by the Declaration of Interest, including Gifts, Hospitality and Sponsorship Standard Operating Procedure (SOP) owned by the Corporate Governance Team.
- 2.4 This policy applies to all NHS Devon Board members and staff (including interim and temporary staff, and contractors and seconded staff).
- ~~2.5~~ ~~3.2~~—This policy also applies to those individuals who serve on Committees of the Board or who are involved in any NHS Devon decision-making forums but who are not NHS Devon Board members or staff.

4.3. Definitions

4.3.1 A conflict of interest (COI) is defined by NHS England in its “Managing Conflicts of Interest in the NHS” guidance (2017) as:

“a set of circumstances by which a reasonable person would consider that an individual’s ability to exercise judgement or act, in the context of delivering, commissioning or assuring taxpayer funded health and care services, is or could be, or is seen to be or could be seen to be, impaired or influenced by his or her involvement in another role or relationship.”

4.3.2 Interests fall into one of the following four categories:

4.3.2.1 Financial interests

Where an individual may get direct financial benefit. This may be a financial gain, or avoidance of a loss from the consequences of a decision they are involved in making. For example:

- A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A management consultant for a provider in secondary employment.
- [Someone in outside employment, in receipt of a secondary income or a grant.](#)
- [Someone in receipt of other payments \(eg honoraria, day allowances, travel or subsistence\)](#)
- [Some in receipt of research sponsorship.](#)

4.3.2.2 Non-financial professional interests

Where an individual may obtain a non-financial professional benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or promoting their professional career. For example:

- An advocate for a particular group of patients.
- A [clinician](#)GP with [a](#) special interests.
- A member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needs to be declared).
- An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE).

43.2.3 Non-financial personal interests

Where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit, because of decisions they are involved in making in their professional career. This could include where an individual is a member of a voluntary sector board or has a position of authority within a voluntary sector organisation or is a member of a lobbying or pressure group with an interest in health and care. For example:

- A voluntary sector champion for a provider.
- A volunteer for a provider.
- A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation.
- Suffering from a particular condition requiring individually funded treatment.
- A member of a lobby or pressure group with an interest in health.

43.2.4 Indirect interests

Where an individual has a close association with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest and could stand to benefit from a decision they are involved in making. A common sense approach should be applied to the term “close association”. Such an association might arise, depending on the circumstances, through relationships with close family members and relatives, close friends and associates, and business partners. For example:

- Spouse / Partner.
- Close relative e.g., parent, grandparent, child, grandchild or sibling.
- Close friend.
- Business partner.

43.3 A conflict of interest may be:

- **Actual** – there is a material conflict between one or more interests.
- **Potential** – there is the possibility of a material conflict between one or more interests in the future.
- **Perceived** – there is a possibility that a reasonably well-informed person could properly have a reasonable belief that an actual conflict of interest exists, even where that is not the case in fact.

3.4 Staff may hold interests for which they cannot see a potential conflict, but others may see the situation differently. The perception of wrongdoing, impaired judgement or undue influence can be as damaging as it actually occurring. All interests should be declared where there is a risk of perceived improper conduct.

3.5 The following table provides other key definitions in respect of Conflicts of Interests:

Terms	Definition
Decision Making Staff	For the purposes of this Policy, NHS Devon follows guidance from NHS England and includes all Board members together with all staff who are graded at 8D and above.
Breaches	There will be situations when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of deliberate actions. For the purposes of this policy these instances are referred to as “breaches”.
Gifts	A gift is defined as any item of cash or goods, or any service that is provided for personal benefit, free of charge or at less than its commercial value.
Hospitality	For the purposes of this policy hospitality means offers of meals, refreshments, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events.
Sponsorship	For the purposes of this Policy sponsorship is funding from an external source, including funding of all or part of the cost of a member of staff, NHS research, staff training, pharmaceuticals, equipment, meeting rooms, costs associated with meetings, meals, gifts, hospitality, hotel and transport costs, provision of free services (including printing costs) and buildings or premises.
Joint working	Where, for the benefit of patients, organisations pool skills, experience and/or resources for the joint development and implementation of patient-centred projects and share a commitment to successful delivery.

5.4. What should be declared

4.1 5.1 The following provides an overview of the types of interest that should be declared. This list is not exhaustive and if staff have any queries, advice is available from the Governance team via d-icb.governance@nhs.net

5.2 When considering whether any of the below interests should be declared, staff and organisations should be mindful that they may give rise to the perception of impropriety and might influence behaviour if not handled in an appropriate way.

Loyalty interests

54.23 Loyalty interests should be declared by staff involved in decision making where they:

- Hold a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body which could be seen to influence decisions they take in their NHS role.
- Sit on advisory groups or other paid or unpaid decision-making forums that can influence how an organisation spends taxpayers' money.
- Are, or could be, involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners.
- Are aware that their organisation does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

Gifts

54.34 Staff should not accept gifts that may affect, or be seen to affect, their professional judgement:

- Gifts from suppliers or contractors:
 - Gifts offered directly to individuals from suppliers or contractors doing business or likely to do business with the organisation should be declined, whatever their value, and should be declared.
 - Gifts offered to the organisation from suppliers or contractors doing business or likely to do business with the organisation may be accepted on a case-by-case basis to be offered as prizes or gifts to staff as part of a lottery and must be approved by the relevant Executive Director and Director of Governance and should be declared.
 - Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6 in total and need not be declared. The £6 value has been selected with reference to existing industry guidance issued by the ABPI: <https://www.pmcpsa.org.uk/media/3406/2021-abpi-code-of-practice.pdf>
- Gifts from other sources (for example patients, families, service users):
 - Any personal gift of cash or cash equivalents (for example: vouchers, tokens or offers of remuneration to attend meetings while working for or representing NHS Devon), whatever their value, should always be declined and should be declared.
 - Staff should not ask for any gifts.
 - Modest gifts under a value up to £50 may be accepted and do not need to be declared.
 - Gifts valued at over £50 should be treated with caution and only accepted on behalf of NHS Devon and not in a personal capacity and should be declared by staff. Prior written approval must be obtained from the appropriate line manager following due consideration in cases where it is deemed appropriate to accept a gift of this nature.
 - A common-sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable

- person would make as to its value).
- Multiple gifts from the same source over a 12-month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

Hospitality

- | **54.45** Staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement.
- | **54.65** Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event.
- | **54.76** Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. This hospitality can be accepted if modest and reasonable, but approval from an Executive Director must be obtained and a declaration made.

Meals and refreshments

- | **54.87** Under a value of £25 may be accepted and need not be declared.
- | **54.98** Of a value between £25 and £75 may be accepted and must be declared. (The £75 value has been selected with reference to existing industry guidance issued by the ABPI – Code of Practice, Clause 10.)
- | **54.109** Over a value of £75 should be refused unless (in exceptional circumstances) approval is given in advance by an Executive Director. A clear reason should be recorded on the Gifts and Hospitality Register as to why it was permissible to accept.
- | **54.119** A common-sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or a reasonable estimate).

Travel and accommodation

- | **54.121** Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared.
- | **54.132** Offers which go beyond modest or are of a type that the organisation itself might not usually offer, need approval in advance by an Executive Director, should only be accepted in exceptional circumstances, and must be declared. A non-exhaustive list of examples includes officers of business or first class travel and accommodation (including domestic travel) and offers of foreign travel and accommodation.

Outside employment

- | **54.143** Staff should declare any existing outside employment (including directorships, self-employment, contracted engagements and other similarly remunerated situations) to their line manager on appointment and any new outside employment when it arises.

54.154 Board members should disclose any outside employment, along with any other conflicts of interest, as requested during the recruitment process and any new outside employment when it arises.

54.156 Potential conflicts of interest with employment include:

- Employment with another NHS body;
- Employment with another organisation which might be in a position to supply goods or services to the groups;
- Self-employment, including consultancy and/or private practice, in a capacity which might conflict with the work of NHS Devon or which might be in a position to supply goods or services to NHS Devon;
- Directorship of a GP Federation; and
- Working whilst on sick leave.

54.176 Where a risk of conflict of interest arises, the general management actions outlined in this policy should be considered and applied to mitigate risks.

54.187 Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from the organisation to engage in outside employment.

54.198 The organisation may also have legitimate reasons within employment law for knowing about outside employment of staff, even when this does not give rise to risk of a conflict.

Shareholdings and other ownership issues

54.2019 Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the organisation.

54.210 Where shareholdings or other ownership interests are declared and give rise to risk of conflicts of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

54.221 There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

Patents

45.232 Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the organisation.

54.243 Staff should seek prior permission from the organisation before, for example, entering into any agreement with bodies regarding product development, research, and work on pathways, where this impacts on the organisation's own time, or uses its equipment, resources or intellectual

property.

54.254 Where holding of patents and other intellectual property rights gives rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

54.265 The Governance team will keep a register to record all patents / intellectual property. Gains from external work benefitting NHS Devon can give rise to conflicts of interest and actions to take to mitigate the risks should be agreed with the Director of Governance.

Donations

54.276 Donations made by suppliers or bodies seeking to do business with the organisation should be treated with caution and not routinely accepted. In exceptional circumstances they may be accepted but should always be declared. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.

54.287 Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the organisation.

54.298 Staff must obtain permission from the organisation if in their professional role they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign.

54.3029 Donations, when received, should be made to a specific charitable fund (never to an individual) and a receipt should be issued.

54.319 Staff wishing to make a donation to a charitable fund in lieu of receiving a professional fee may do so, subject to ensuring that they take personal responsibility for ensuring that any tax liabilities related to such donations are properly discharged and accounted for.

Clinical private practice

54.321 Clinical staff should declare all private practice on appointment, and / or any new private practice when it arises including:

- Where they practice (name of private facility);
- What they practice (specialty, major procedures);
- When they practice (identified sessions or time commitment);
- Clinical staff should (unless existing contractual provisions require otherwise or unless emergency treatment for private patients is needed);
- Seek prior approval of their organisation before taking up private practice;
- Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work;
- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines:

assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf

Sponsored Posts

54.33 Guidance in respect of sponsored events and research can be found in the NHS Devon Standards of Business Conduct Policy. With regard to sponsored posts:

- Staff who are establishing the external sponsorship of a post should seek formal prior approval.
- Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and confirm the appropriateness of arrangements continuing.
- Sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits and auditing arrangements are established.
- Written agreements should detail the circumstances under which organisations have the ability to exit the sponsorship arrangement if conflicts of interest which cannot be managed arise.
- Sponsored post holders must not promote or favour the sponsor's products.
- Sponsors should not have any undue influence over the duties of the post or have any preferential access to services, materials or intellectual property relating to or developed in connect with the sponsored post.

6.5. Declarations – submission, review, management and publication

65.1 Making a declaration of interest

65.1.1 All staff should identify and declare interests at the earliest opportunity (and in any event within 28 calendar days of the circumstances outlined below). If staff have no interests to declare, then a nil return must be made.

65.1.2 Declarations (including nil returns) should be made:

- On appointment to the organisation.
- When staff move to a new role or their responsibilities change significantly.
- At the beginning of a new project / piece of work / procurement.
- As soon as circumstances change and new interests arise.
- At a meeting should interests staff hold are relevant to the matters in discussion. (See Section 8)
- At an annual review of interests each April.

65.1.3 Declarations are uploaded and managed by individuals on an online web-portal at <https://nhsdevonicb.mydeclarations.co.uk/home>, which can also be accessed via a desktop icon. Help and advice on completing and uploading declarations is available from the Governance team at: d-icb.governance@nhs.net.

5.2 ~~6.2~~ Management Actions

~~6.5.2.1~~ Staff who declare material interests should discuss them with their line manager or the person(s) they are working to and agree a management action plan for mitigation of the risks. The general management actions that could be applied include:

- Restricting staff involvement in associated discussions and excluding them from decision making.
- Removing staff from the whole decision-making process.
- Removing staff responsibility for an entire area of work.
- Removing staff from their role altogether if they are unable to operate effectively in it because the conflict is so significant.

5.2.2 Each case will be different and context-specific, and the Governance team will clarify the circumstances and issues with the individuals involved. Staff should maintain a written audit trail of information considered and actions taken. Advice on management actions can be obtained from the Governance team. In the case of disputes about the most appropriate management action, the individual or their line manager should refer to the Conflicts of Interest Guardian or the Director of Governance.

~~6.5.3~~ Review of declarations of interest

~~6.5.3.1~~ When a Declaration of Interest(s) (DOI) is completed, the Governance team will check that sufficient information has been provided in order to complete the register and that it has been approved by the line manager of the declarer. The team will request clarification from the declarer if needed.

~~6.5.3.2~~ The Governance team will check on materiality of the declaration(s) and ensure there is a suitable management action plan for each material declaration. If any issues arise that are complex or unclear, the Governance team will refer to the Conflicts of Interest Guardian for advice or a decision.

~~6.5.4~~ Publication of registers

~~6.5.4.1~~ NHS Devon maintains the following registers associated with declarations:

- Declarations of Interest(s)
- Gifts and Hospitality
- Procurement Decisions

~~6.5.4.2~~ All declared interests that are material will be available on the appropriate register.

~~6.5.4.3~~ NHS Devon will:

- Publish the interests declared by decision making staff in the appropriate Register on the NHS Devon website.
- Update these Registers at least annually.

65.5 Requests for non-publication of interests

65.5.1 If decision making staff have grounds for believing that publication of their interests should not take place then they should contact the Governance team to explain why. In exceptional circumstances, for instance where the publication of information might put a member of staff at risk of harm, information may be withheld or redacted on public registers.

65.5.2 All requests for non-publication will be considered by the Conflicts of Interest Guardian and the Director of Governance. Non-publication of interests will only be agreed as the exception and information will not be withheld or redacted merely because of a personal preference. A confidential, un-redacted version of the register(s) will be kept by the Governance team.

65.6 Leavers

65.6.1 Register entries for leavers will be removed from the live register and stored separately for a minimum of six years.

65.7 Expired Interests

65.7.1 After expiry, an interest will remain on the register for a minimum of six months. After six months, the Governance team will remove the interest from the live register and a private record of historic interests will be retained [separately](#) for a minimum of six years.

7.6. Management of interests in meetings

76.1 NHS Devon uses a variety of different groups to make key strategic decisions about things such as:

- Approving strategy and long term plans.
- Entering into (or renewing) large scale contracts.
- Making procurement decisions.
- Selection of equipment and services.

76.2 The interests of those who are involved in these groups should be well known so that they can be managed effectively. The principles outlined in this policy apply to all committees and groups that have the power to make decisions on behalf of NHS Devon, such as those in relation to the spending of taxpayers' money, procurements, purchasing of goods, medicines, medical devices or equipment, formulary decisions and contract monitoring.

76.3 Committees and other decision-making groups should adopt the following principles:

- Chairs should consider any known interests of members in advance, and begin each meeting by asking for declarations of relevant material interests
- Members should take personal responsibility for declaring material

- interests at the beginning of each meeting and as they arise
- Any new interests identified should be added to the organisation's register(s)
- The Vice-Chair (or other non-conflicted member) should chair all or part of the meeting if the Chair has an interest that may prejudice their judgement.

7.4 The default response should not always be to exclude members with interests. Actions to mitigate conflicts of interest should be proportionate and should seek to preserve the spirit of collective decision-making wherever possible. Mitigation should take account of a range of factors including the perception of any conflicts and how a decision may be received if an individual with a perceived conflict is involved in that decision, and the risks and benefits of having a particular individual involved in making the decision. Potential options in relation to mitigation could include:

- including a conflicted person in the discussion but not in decision-making
- excluding a conflicted person from both the discussion and the decision-making
- including a conflicted person in the discussion and decision where there is a clear benefit to them being included in both – however, including the conflicted person in the actual decision should be done after careful consideration of the risk and with proper mitigation in place. The rationale for inclusion should also be properly documented and included in minutes
- excluding the conflicted individual and securing technical or local expertise from an alternative, unconflicted source.

7.5 The Chair of a meeting or committee has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action to manage the conflict of interest.

7.6 If the Chair of a meeting has a conflict of interest, the Vice-Chair is responsible for deciding the appropriate course of action to manage the conflict of interest. If the Vice-Chair is also conflicted then the remaining non-conflicted voting members of the meeting should agree how to manage the conflict(s).

7.7 In making such decisions, the Chair, Vice-Chair or remaining non-conflicted members may wish to consult with the Conflicts of Interest Guardian or Director of Governance.

7.8 It is imperative that NHS Devon ensures complete transparency in its decision-making processes through robust record keeping. If any conflicts of interest are declared or otherwise arise at a meeting the Chair must ensure that the following information is recorded in the minutes:

- Who has the interest;
- The nature of the interest and why it gives cause to a conflict;
- The items on the agenda to which the items relate;
- How the conflict was agreed to be managed; and

- Evidence that the conflict was managed as intended.

7.9 The meeting administrator will then ensure that this information is provided to the Governance team to ensure the accuracy of records.

8.7. Management of interests during recruitment

8.7.1 Potential conflicts of interest for Board members, Executives and roles at Band 8d and above, should be considered during the recruitment process. Following shortlisting for interview, candidates will be asked to complete a Declaration of Interest so that any conflicts can be considered prior to and during interview. NHS Devon will need to consider whether the individual (or anyone they have a close association with) could benefit from any decision NHS Devon might make, which may cause an individual to be excluded from being appointed to the relevant role. These will have to be considered on a case-by-case basis.

8.7.2 Key considerations when appointing Board members or Executives include:

- Whether Conflicts of Interest should exclude individuals from appointment.
- Assessing materiality of interests.
- Determining the extent of the interest.

9.8. Procurement and contract monitoring

9.8.1 Procurements should be managed in an open and transparent manner, compliant with [the NHS Provider Selection Regime and the Procurement Regulations 2024](#) and other relevant law, to ensure there is no discrimination against or in favour of any provider. Accordingly, the management of interests is required.

9.8.2 The management of interests in respect of procurement and contract monitoring is undertaken by the Procurement Team and is governed by the Procurement Policy for [all ICB Expenditure, Clinical Healthcare Services, Non-Clinical Services and for all Supplies](#).

10.9. Working with industry and sponsorship

10.9.1 The Department of Health and Social Care recognises that joint working with the pharmaceutical industry or other third-party organisations, where the benefits to patient care and the difference it could make to their health and wellbeing are clearly advantageous, should be considered by NHS organisations and their employees.

10.9.2 NHS organisations are required to consider fully the impact of any sponsorship or joint working arrangements on wider healthcare services and the risks of

conflicts of interest.

~~109~~.3 NHS Devon's approach to interacting with third party organisations and the potential conflicts of interest which may arise is set out in the Standards of Business Conduct Policy.

~~11~~.10. Raising concerns and breaches

~~11~~10.1 Identifying and reporting breaches

~~11~~10.1.1 There will be situations when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of the deliberate actions of staff or other organisations. For the purposes of this policy these situations are referred to as "breaches". Failing to respond to a request for information in relation to this policy, including a request to submit a declaration, will also be considered a breach of this policy.

~~11~~10.1.2 Staff who are aware of actual breaches of this policy, or who are concerned that there has been, or may be, a breach should report these concerns to the Governance team.

~~11~~10.1.2 To ensure that interests are effectively managed staff are encouraged to speak up about actual or suspected breaches. Every individual has a responsibility to do this. For further information about how concerns should be raised see the Freedom to Speak Up Policy.

~~11~~10.1.3 Each reported breach will be investigated according to its own specific facts and merits and relevant parties will be given the opportunity to explain and clarify any relevant circumstances. Investigations will be organised by the Governance team and, following investigation, the Conflicts of Interest Guardian and Director of Governance will:

- Decide if there has been or is potential for a breach and if so what the severity of the breach is.
- Assess whether further action is required in response; this is likely to involve any staff member involved and their line manager, as a minimum.
- Consider who else inside and outside the organisation should be made aware.
- Take appropriate action.

~~11~~10.2 Taking action in response to breaches

~~11~~10.2.1 Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of NHS Devon and could involve the organisational leads for staff support (for example Human Resources), fraud (for example Local Counter Fraud Specialists), or members of the [Executive and Directors Group](#). ~~Senior Leadership Team or Senior Executive Teams.~~

1110.2.2 Breaches could require action in one or more of the following ways:

- Clarification or strengthening of existing policy, process and procedures;
- Consideration as to whether HR, employment law or contractual action should be taken against staff or others;
- Consideration being given to escalation to external parties. This might include referral of matters to external auditors, NHS Counter Fraud Authority, the Police, statutory health bodies (such as NHS England and Improvement or the CQC), and/or health professional regulatory bodies.

1110.2.3 Inappropriate or ineffective management of interests can have serious implications for the organisation and staff. There will be occasions where it is necessary to consider the imposition of sanctions for breaches.

1110.2.4 Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrong-doing or fault then the organisation can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:

- Employment law action against staff, which might include;
 - informal action (such as reprimand or signposting to training and / or guidance).
 - formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal).
- Reporting incidents to the external parties described above for them to consider what further investigations or sanctions there might be.
- Contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach.
- Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.

1110.2.5 The LCFS works with key colleagues and stakeholders to promote anti-fraud work and effectively respond to system weaknesses and investigate allegations of fraud and corruption. This will include the undertaking of risk assessments to identify fraud, bribery, and corruption risks at NHS Devon.

1110.3 Learning and transparency concerning breaches

1110.3.1 Reports on breaches, the impact of these, and action taken will be reported to the [NHS Devon Executive on a six monthly basis and also on a six-monthly basis to the Senior Executive Team on a quarterly basis and to each meeting of the](#) Audit & Risk Committee to ensure lessons are learned and the management of interests can continually improve.

12.11. Accountabilities, duties and responsibilities

Chief Executive Officer	The Chief Executive Officer has ultimate accountability for the strategic direction and operational management of NHS Devon, including compliance with all legal, statutory and policy requirements.
Policy Sponsor	The Policy Sponsor is responsible for ensuring that this policy is appropriate for consideration for approval.
Policy Lead / Author	It is the responsibility of the Policy Lead / author to: • ensure as far as possible that the policy is in line with Department of Health and Social Care guidance, legal requirements and advice from clinical bodies; • to complete a QEIA and Implementation Plan where required • undertake a fair and proportionate consultation period with the relevant stakeholders as part of the document's development • to ensure that the policy is in alignment with NHS Devon's strategy and values • ensure that the policy is developed, approved, disseminated and monitored as set out in the document; • maintaining and updating procedures / protocols and other supporting documents for this policy. As Director of Governance, the Policy Lead is also responsible for (in conjunction with the Conflicts of Interests Guardian): • Consider any requests for non-publication of interests. • Following any investigation into a potential breach: ○ Deciding if there has been or is potential for a breach and if so what the severity of the breach is. ○ Assessing whether further action is required in response; this is likely to involve any staff member involved and their line manager, as a minimum. ○ Considering who else inside and outside the organisation should be made aware. ○ Taking appropriate action.
Conflicts of Interest Guardian	The Chair of the Audit & Risk Committee is the NHS Devon Conflicts of Interest Guardian. The Guardian is supported by the Director of Governance and Governance Team to: • Act as a conduit for members of the public and healthcare professionals who have any concerns regarding conflicts of interest. • Be a safe point of contact for staff to raise concerns in relation to this policy and conflicts of interest.

	• Support the rigorous application of conflicts of interest principles and policies. • Provide independent advice and judgement to staff where there is any doubt about how to apply the Conflicts of Interest Policy. • Provide advice on minimising the risks of Conflicts of Interest. In conjunction with the Director of Governance, the Guardian is also responsible for considering any requests for non-publication of interests and actions following any investigation into a possible breach. (See above.)
Audit & Risk Committee	To receive reports in respect of compliance and any breaches, to take assurance from the policy and processes associated with Conflicts of Interest.
NHS Devon Executive Committee	Receive a six monthly <u>quarterly</u> report in respect of compliance together with any breaches and the impact of these breaches to ensure learning and improvement.
Meeting Chairs	Meeting Chairs have responsibility for ensuring that declarations of interest are a standing agenda item and addressed appropriately at the start of all meetings.
Procurement Team	The Procurement team is responsible for managing Conflicts of Interest in respect of procurement and contracts, liaising with the Governance team as required.
Governance Team	The Governance team is responsible for managing conflicts of interest processes and monitoring compliance.
Recruiting Managers	Managers involved in the recruitment of Board members, Executives and roles at Band 8d and above, should consider potential conflicts of interest during the recruitment process.
Line Managers	Line managers have a responsibility to ensure their staff comply with NHS Devon policies and standards within their areas of responsibility including Standing Financial Instructions. Line Managers also have a responsibility to ensure that all conflicts of interest declared by their staff have an appropriate management action plan.
All Staff	All employed or engaged staff (including interim and temporary staff, and contractors and seconded staff) have a duty to comply with NHS Devon policies and standards, including Standing Financial Instructions, as outlined in their contracts of employment and codes of conduct.

12. Impact assessments

12.1 A EQIA has been completed in respect of this policy. No concerns were highlighted.

13. Implementation

- 13.1 All staff will be informed of the approval of the Policy via the Staff Bulletin which will provide a link to the document on the NHS Devon Intranet.
- 13.2 NHS Devon Senior Managers, or their designated representatives, will implement this policy by:
- Notifying all staff of its existence. New staff will be informed of this policy as part of their induction.
 - Destroying all superseded paper-based versions of the policy and electronic versions retained in their area.
 - Having adequate knowledge of, and / or access to, all relevant legislation in order to ensure that compliance with such legislation is maintained.
 - Discussing with staff as part of their regular one-to-ones how they seek to achieve their individual objectives around policy review and maintenance.
 - Ensuring themselves and their teams remain compliant, and relevant declarations are made in line with the policy.
- 13.3 Training in respect of conflicts of interest forms part of the training programme for all staff. This takes the form of ~~two~~ on-line modules provided which can be accessed via the Electronic Staff Record. ~~(The training is currently being updated by NHSE and is anticipated to be available in Q4 2023-24)~~
- Module 1 – covers what conflicts of interest are; how to declare and manage conflicts of interest, including individuals' responsibilities; and how to report any concerns. (This is mandatory training for all staff and is required to be completed on an annual basis.)
 - Module 2 – provides further information on managing conflicts of interest throughout the whole commissioning cycle and in recruitment processes. ~~(Agreement is being sought as Confirmation is awaited as to the staff this module applies to. It is also required to be completed on an annual basis, and the required frequency of its completion.)~~
- 13.4 In addition to the mandatory training, the Governance Team will provide awareness sessions to staff via Staff Briefings and articles in the Staff Bulletin.
- ~~14.13.15~~ This policy is subject to the approval of the NHS Devon Board following its consideration by the NHS Devon Senior Executive Team and the Audit & Risk Committee.
- ~~14.13.26~~ This policy will be reviewed annually, or sooner if required, in order to ensure that it is current, relevant and reflects the strategic aims, objectives, organisational structures and responsibilities of NHS Devon.

14. Monitoring compliance and effectiveness

1514.1 The effectiveness of the way in which NHS Devon manages conflicts of interests and how it complies with this policy will be the subject of an annual internal audit review. The outcome of this audit is presented to the Audit & Risk Committee and is reported in the annual Head of Internal Audit Opinion.

1514.2 The Chief Executive will review compliance and effectiveness as part of the Annual Report process, which includes the consideration of the Head of Internal Audit Opinion.

1514.3 Compliance with conflicts of interest processes will be monitored by the Governance Team who will report to the [NHS Devon Executive Committee](#) on a ~~six bi-monthly~~ [six-monthly basis](#) to ~~each meeting of~~ the Audit & Risk Committee in respect of compliance together with any breaches and the impact of these breaches to ensure learning and improvement.

1514.4 Any trends resulting from non-compliance will be raised with staff through management routes.

15. References

1715.1 Other related NHS Devon policy documents

- Standards of Business Conduct Policy
- Procurement Policy for all ICB Expenditure
- Freedom to Speak Up Policy
- Anti Fraud and Bribery Policy
- Standing Financial Instructions
- Scheme of Reservation and Delegation

1715.2 Legislation and statutory requirements

- Bribery Act 2010: www.legislation.gov.uk/ukpga/2010/23/contents
www.gov.uk/government/publications/bribery-act-2010-guidance
- Fraud Act 2006: www.legislation.gov.uk/ukpga/2006/35/contents
- National Health Service Act 2006:
www.legislation.gov.uk/ukpga/2006/41/contents
- Health and Care Act 2022:
www.legislation.gov.uk/ukpga/2022/31/contents/enacted
- NHS (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013

1715.3 Best practice recommendations and other key guidance

- Department of Health - Confidentiality: NHS Code of Practice:
www.gov.uk/government/publications/confidentiality-nhs-code-of-practice

- General Medical Council (GMC) : www.gmc-uk.org/guidance/good_medical_practice.asp www.gmc-uk.org/guidance/ethical_guidance.asp
www.gmc-uk.org/about/council/register_code_of_conduct.asp
- Good Governance Standards of Public Services:
www.jrf.org.uk/report/good-governance-standard-public-services
- NHS Counter Fraud Authority: cfa.nhs.uk/
- NHS England - Standards of Business Conduct for NHS Staff:
www.england.nhs.uk/publication/standards-of-business-conduct-policy/
- NHS England – Managing conflicts of interest in the NHS:
www.england.nhs.uk/long-read/managing-conflicts-of-interest-in-the-nhs/
- Seven Key Principles of the NHS Constitution:
www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england

APPENDIX 1 – Nolan Principles

1. Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so to gain financial or other benefits for themselves, their family or their friends.

2. Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

3. Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

4. Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

5. Openness

Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

6. Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7. Leadership

Holders of public office should promote and support these principles by leadership and example.



Risk Management Policy

NHS Devon



Proud to be part of One Devon: NHS and CARE working with communities and local organisations to improve people's lives

Version	3.0
Policy Sponsor	Chief Communications and Corporate Affairs Officer
Policy Lead	Director of Governance
Approved by	NHS Devon Board
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Date	Change	Comments
06/09/2023	New Policy	
23/02/2024	Policy Amendment	Updated for minor changes and to address Internal Audit recommendations (Report Ref. DICB03/24A

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Date	Change	Version number of policy	Comments
06/09/2023	New Policy	1.0	
23/02/2024	Policy Amendment	2.0	Updated for minor changes and to address Internal Audit recommendations (Report Ref. DICB03/24A
<u>24/02/2025</u>	<u>Policy Amendment</u>	<u>3.0</u>	<u>Updates for minor changes and removal of issue log reference</u>

Equality, Diversity, and Inclusion Statement
Section 14Z35 of the National Health Service 2006 Act imposes the general inequality duty on Integrated Care Boards that they must have regard to the need reduce inequalities between those accessing health care services and in respect of the outcomes achieved for those who access health care services.

NHS Devon is committed to reducing health inequalities. These are unfair and avoidable differences in health across the population, and between different groups within society. These include how long people are likely to live, the health conditions they may experience and the care that is available to them. The conditions in which we are born, grow, live, work and age can impact our health and wellbeing. These are sometimes referred to as wider determinants of health.

We will ensure that we reduce inequalities by considering them as a key part of all our policies plans and monitoring process and by using an Equality and Quality Impact Assessment whenever we make changes to services

~~We are also NHS Devon is~~ committed to the promotion of equal opportunities, ~~addressing health inequalities,~~ and fostering of good relations between people protected under the terms of the Equality Act 2010, the Health and Social Care Act 2012 and Human Rights legislation. We are equally committed to the elimination of unlawful discrimination, harassment, and victimisation. To demonstrate this commitment, we develop, promote, and maintain policies, strategies, and operating procedures. Every effort is made to ensure that patients, employees, contractors, or visitors do not experience discrimination; either directly or indirectly, because of their vulnerability; disadvantage; age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex (gender) or sexual orientation.

All staff must comply with this policy. Compliance must reflect our organisational commitment to and policy on, equality, diversity, and inclusion. In addition, each manager and member of staff involved in implementing this policy must give due regard to the needs of those protected under law.

If you, or any other groups, believe you are discriminated against under the terms of the Equality Act, the Health and Social Care Act 2012 or Human Rights legislation by anything contained in this document; or you need this document in an alternative format, for example, large print, Braille, Easy read, or other languages; please contact our Patient Advice and Complaints Team (PACT):

Tel: 0300 123 1672
Email: pals.devon@nhs.net

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** All appendices to this policy are procedural documents*

4 – NHS Devon Risk Management Policy

1. Introduction

- 1.1 Risk management plays a critical role in helping NHS Devon understand and manage risks to the achievement of its priorities. It helps us to determine an appropriate control environment and balance of strategies to address risk, so that we use resources both efficiently and effectively. It involves making decisions and establishing governance systems that embed and support effective risk processes, as well as building an organisational culture that supports integrity, accountability, honesty, openness, and responsiveness to change.
- 1.2 This policy sets out the key principles that guide risk management within NHS Devon.
- 1.3 Further advice and guidance is available from the Corporate Governance team by emailing d-icb.governance@nhs.net.

2. Purpose and Objectives

- 2.1. Risks will always occur. Many risks are manageable, but others pose a more serious possibility of impact on the organisation, staff, patients and / or the general public. Once identified, risks must be assessed, recorded, managed according to severity, reported and scrutinised.
- 2.2. NHS Devon is required by statute and by guidance from the Department of Health and Social Care (DHSC), to systematically identify and control all significant strategic and operational risks. These arise across the organisation and include clinical and corporate services.
- 2.3. The Board is required to ensure that robust risk management processes exist and assured that there are systems in place to control and manage risk and that these systems are working effectively. This involves the proactive identification and management of risks that may threaten achievement of NHS Devon's objectives, its statutory or regulatory duties and the response to adverse events or learning from audits and other independent reviews.
- 2.4. The Chief Executive Officer (CEO) is required to sign an Annual Governance Statement (as part of the Annual Report and Accounts) to provide reasonable assurance that NHS Devon has been properly informed about the totality of its risks and can evidence they have identified NHS Devon's strategic and corporate objectives, and managed the principal risks to achieving them. This includes all measures and practices that are used to control and manage risks. The system operates at all levels within NHS Devon and is continuously monitored for effectiveness on behalf of, and by, the Board.

2.5. This policy will:

- Establish a framework for risk management and board assurance which embraces organisational, financial, clinical, and non-clinical risks and in which all parts of the organisation are involved.
- Provide an environment for proactive decision making.
- Empower all staff to manage risk within delegated limits.
- Provide a proactive early warning system and enable a comprehensive response to mitigate risk where indicated.
- Establish a platform for managing risks within partnership working.
- Ensure the integration of risk management with NHS Devon's strategies and objectives and with local (directorate / team) objectives that these support.

2.6. This policy also helps to reduce the risk of fraud and bribery by providing a robust system of internal control for risk management. It supports and complements NHS Devon's Counter Fraud, Bribery and Corruption Policy and has been reviewed by the organisation's Local Counter Fraud Specialist. Fraud and bribery risks will be included in NHS Devon's risk register and its performance against standards will be assessed annually via completion of the NHS Counter Fraud Authority (CFA) Counter Fraud Functional Standard Return.

2.7. The NHS Devon Board recognises that risk management is an integral part of good management practice and an effective corporate governance framework and, to be most effective, it must become part of the organisation's culture. The Board is therefore committed to ensuring that risk management forms a part of the NHS Devon philosophy, practice, and planning, rather than being viewed or practised as a separate programme, and that responsibility for implementation is accepted at all levels of the organisation.

2.8. The Board acknowledges that the provision of appropriate training is central to the achievement of this aim.

2.9. A critical role of any Board is to focus on the risks that may compromise the achievement of the organisation's strategic and corporate objectives its statutory or regulatory duties. In order to be confident that the systems of internal control are robust, the NHS Devon Board must be able to provide evidence that it has systematically identified its strategic objectives and managed the principal risks to achieving them.

2.10. The NHS Devon Board is committed to the following key principles:

- **A Just Culture** – Staff reporting or directly involved in incidents are assured that any investigation will be carried out fairly, openly, transparently, without prejudice and with the aim of identifying learning and correcting underlying causes of the incident to prevent recurrence.
- **Freedom to Speak Up (Whistleblowing)** – All staff should be familiar with NHS Devon's Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy, available on the staff intranet, which sets out

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procedures and guidance to staff on raising concerns. NHS Devon has Freedom to Speak Up Guardians to whom staff may raise concerns; their details can be found on the staff intranet.

3. Definitions

- 3.1. For a full glossary of terms used within this policy document and in risk management in general, please refer to **Appendix A**.

Risk

- 3.2. Risk is defined as:

“An uncertain event or set of events, that should it occur, will have an effect on the achievement of objectives. A risk is measured by the combination of the probability of perceived threat or opportunity occurring and the magnitude of its perceived impact on objectives”.

(Management of Risk: Guidance for Practitioners, Officer of Government Commerce, 2010)

- 3.3. For example, the potential occurrence of an event that may either cause harm or have an impact on patients, visitors, partner organisations, strategic objectives, assets and / or reputation.

- 3.4. In particular:

- Any element which has the potential to damage or threaten the achievement of the statutory or regulatory duties, strategic and corporate objectives, programmes, or service delivery of NHS Devon.
- Anything that could damage the reputation of NHS Devon and undermine the public's confidence in NHS Devon.
- Failure to guard against impropriety, malpractice, waste and / or poor value for money.
- Non-compliance with regulations and / or legislation such as those covering health and safety, safeguarding and the environment.
- An inability to respond to, or manage, changed circumstances in a way that prevents or minimises adverse effects on the delivery of NHS Devon's statutory or regulatory duties, strategic and corporate objectives.

- 3.5. NHS Devon distinguishes between **inherent risks** and **residual risks**. An inherent risk is one that is unmitigated whilst a residual risk is the risk that remains once the inherent risk has been mitigated or managed. **Appendix B** provides an illustration of the difference between these two types of risk.

Issues

- 3.6. An issue is an event that has happened or is happening. It is a 'known' as opposed to an 'unknown' quantity. The outcome of the actions and events is no longer subject to uncertainty as in the case of a risk. The consequences may be observed and measured. However, that is not to say that new risks will not emerge as the 'issue' continues.

In simplistic terms, the difference comes down to whether the event has the **potential to occur** (i.e. it is a risk), or **has already occurred** and the impact / consequence is now present (i.e. it is an issue).

Appendix C provides more detailed information in relation to the key differences between risks and issues. NHS Devon does not hold a corporate issue log. This policy does not mandate the recording of issues; it is for teams / directorates to decide whether to do so. Where this is the case, the level of detail and the related action plans to address an issue should be proportionate to the nature of the issue that has arisen.

Risk Management Principles

- 3.7. Risk management within NHS Devon will be carried out in accordance with the principles set out in **Appendix D**. Examples include alignment with objectives, fits the context, promotes, guides, and supports a clear and consistent approach, informs decision-making, facilitates continual improvement, and achieves measurable value.

4. Risk Management Activities and Processes

- 4.1. Risk management involves the following activities (see **Appendix E**):

- 4.1.1. **Identify the risk:** Consider how and why the successful achievement of a goal / objective might be prevented. Hazards, barriers, and challenges to achievement of objectives, at strategic and operational level, can be identified from a variety of internal and external sources such as staff resource issues, workforce recruitment problems, incompatibility of IT systems, a lack of assurance on areas of quality and performance data or information from staff and / or patients etc.
- 4.1.2. **Assess the risk:** Describe the risk and give it a succinct title which clearly identifies the risk, the area to which it relates and, where appropriate, the financial year to which it relates. Consider how the risk could occur, who or what might be involved, what the effect(s) would be if the risk were to materialise and how this could be reduced or minimised. Describe the risk clearly and concisely; think in terms of the "if", "then", "resulting in" statement e.g. **if** (the cause – why the risk is happening) **then** (the risk event, that if it happened, could have an impact on objectives) **resulting in** (the effect or impact of the risk – what will happen if the risk realises).

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- 4.1.3. **Analyse, evaluate and score the risk:** Assess the likelihood of the risk materialising, and the level of its impact should it occur; it informs the risk score matrix. See **Appendix F** to assess whether the risk scores highly enough to take action. The total risk score will also determine whether the risk is managed at a team / directorate level or via the NHS Devon Corporate Risk Register (CRR).
- 4.1.4. **Treat the risk:** Determine which of the following actions will be required:

Treatment	Treatment Description
Treat	Draw up a specific action plan (which includes consideration of funding / associated costs) to reduce the impact or likelihood scores to an acceptable level, as articulated in the 'risk appetite' agreed by the NHS Devon Board, in order to gain further control.
Tolerate	It is not always possible to identify and then fully implement actions that eliminate or minimise the risk. Where this is the case, it is essential that the significance of the risk that remains (the residual risk) is understood and the organisation, in accordance with the level of authority for risk management, confirms that it is prepared to accept that level of risk.
Transfer	Transfer the risk to another organisation (this is rare).
Terminate	Close the risk (subject to approval) – for example, decide to no longer do the activity that is causing the risk.

- 4.1.5. **Report the risk:** All identified risks should be recorded on a risk register; the risk score determines where it is reported:

- 4.1.5.1. **All team / directorate risks** (generally scoring 10 or below) are reported and managed locally via a team / directorate risk register. The risk register should be reviewed monthly and escalated to the relevant Chief Officer as required.

A quarterly review of all team / directorate risk registers should be undertaken by the Corporate Governance team to ensure oversight of any risks that may need to be escalated.

All teams / directorates should maintain their own risk registers.

If a risk is deemed to be a risk to the achievement of NHS Devon's statutory or regulatory duties, corporate objectives or statutory purposes, and not just those of the team / directorate, and scores 12 or above, then it can be escalated for inclusion on the NHS Devon Corporate Risk Register (CRR).

- 4.1.5.2. **All project / programme risks** (any score) are reported and managed locally via a project / programme risk register. The risk register should be reviewed regularly by the Project / Programme Manager. Where there is a significant risk to the non-achievement of the project / programme objective which may then pose a further risk to the achievement of an organisational statutory or regulatory duty, objective, operational or strategic, the Project / Programme Manager will discuss with the most senior officer with portfolio responsibility for the risk and seek advice and guidance from the central Corporate Governance team as appropriate.

- 4.1.5.3. **All operational risks** (generally scoring 12 and above) are added to the NHS Devon Corporate Risk Register (CRR); this is done in conjunction with a member of the Corporate Governance team. Operational risks are reviewed on a monthly basis. The review is overseen by a member of the Corporate Governance team.

Operational risks scoring 15 and above are reported alongside the Board Assurance Framework (BAF) to the [NHS Devon Executive Committee](#).

- 4.1.5.4. **All strategic risks** (generally scoring 15 and above) are included on the Board Assurance Framework (BAF) and are reviewed regularly and reported alongside operational risks (scoring 15 and above) to the [NHS Devon Executive Committee](#), the NHS Devon Board, and where appropriate, its associated Assurance Committees.

Refer to [Appendix G](#) for a summary of risk action and reporting requirements.

- 4.1.6. **Monitor / review the risk:** Monitor the risk impact and review the effectiveness of action / actions taken. It is important to consider whether the risk score / risk priority has changed as a result.

- 4.1.7. **Communicate with and consult those impacted by the risk:** It is important to identify who is affected by the risk and who needs to know about it e.g. internally and / or externally.

5. Strategic and Operational Risks

5.1. Risk related activity within NHS Devon is derived from two directions

- **Bottom up:** Individuals, teams, directorates, Chief Officers, the [NHS Devon Executive Committee](#), and Board Assurance Committees can identify a risk and this risk would then be recorded and managed accordingly in accordance with the details laid out in this policy document. These risks are operational risks. Those risks scoring 10 or below are included on team / directorate risk registers and those scoring 12 or above form the NHS Devon Corporate Risk Register (CRR).
- **Top down:** The NHS Devon Board discusses and agrees those strategic risks that it considers the organisation faces in the achievement of its statutory or regulatory duties, agreed corporate objectives or other statutory functions. These form the strategic risks of NHS Devon and are recorded in its Board Assurance Framework (BAF).

5.2. Both operational and strategic risks should be aligned to NHS Devon's statutory or regulatory duties and objectives (as articulated in the Integrated Care Strategy and Joint Forward Plan (JFP)). In the absence of corporate objectives at any point, operational and strategic risks should be expressed and recorded against

either one of the four statutory purposes of Integrated Care Boards:

- Improve outcomes in population health and healthcare.
- Reduce health inequalities in outcomes, experience, and access.
- Enhance productivity and Value for Money (VfM).
- Support broader social and economic development.

or one of the six themes of the NHS Oversight Framework:

- Quality of care, access & outcomes.
- Preventing ill-health and reducing inequalities.
- Finance and use of resources.
- People.
- Leadership & capability.
- Local strategic priorities.

5.3. **Risk Scores** are calculated in accordance with the National Patient Safety Agency (NPSA) Model Risk Matrix and are the product of the impact / consequence and the likelihood of the risk arising (see **Appendix F**).

5.4. NHS Devon adheres to the Nolan Principles of openness and accountability, however occasionally there is the requirement to make a risk **confidential** which means that it is not reported within the public domain. A risk can be classified as confidential, with the approval of the Corporate Governance team and Chief Officer, if it contains clinically or commercially sensitive information. The classification of a risk as being confidential due to clinically sensitive

information also requires the approval of either the Chief Medical Officer (CMO) or the Chief Nursing Officer (CNO).

6. Corporate Risk Register (CRR)

- 6.1. **Risk escalation to the NHS Devon Corporate Risk Register (CRR)** - All teams / directorates should maintain their own risk registers. If a risk is deemed to be a risk to the achievement of NHS Devon's statutory or regulatory duties or corporate objectives, and not just those of the team or directorate, and score 12 or above, then it can be escalated for inclusion on the NHS Devon Corporate Risk Register (CRR). The Corporate Governance team reviews any such risk with the risk assessor and owner to establish whether this is appropriate, and the scoring is proportionate. If the risk is deemed appropriate for inclusion, it is added to the NHS Devon Corporate Risk Register (CRR).
- 6.2. **Risk Management System** – All managers have a responsibility to record identified corporate risks on NHS Devon's risk management system. This ensures risks at all levels are held in a central location which is fully auditable (please contact the Corporate Governance team for access to and training on how to use the risk management system if required). The use of the risk management system enables staff to add new risks or make updates to existing risks at any time. Corporate risks must be reviewed and updated every month by the named assessor. Following this review the update will be agreed by the risk owner and reported as appropriate.
- 6.3. Regular reviews are undertaken across NHS Devon to ensure that:
 - New risks are identified and assessed.
 - A careful watch is maintained on cumulative risk across NHS Devon to ensure that this is identified and properly escalated.
 - Existing risks and their mitigating actions are tracked and kept up to date.
 - A summary of all incidents within teams / directorates is reviewed and this information is disseminated to ensure that appropriate learning takes place to reduce future risks.
 - Risks that are no longer being faced by NHS Devon are closed.
- 6.4. The full process for the identification, scoring, management and reporting of risks is detailed within the Standard Operating Procedures (SOPs) that support this policy document.

7. Board Assurance Framework (BAF)

- 7.1. The Board Assurance Framework (BAF) provides a structure and process that enables NHS Devon to focus on the risks that might compromise achieving its most important goals and objectives, to map the controls that should be in place to manage those objectives, and to confirm that the Board has sufficient

assurance regarding the effectiveness of those controls. The Board Assurance Framework (BAF) also identifies any gaps in control and / or assurance and articulates action plans in place to address them.

- 7.2. In advance of each financial year, the NHS Devon Board should agree overarching corporate goals for that year. These goals have a number of underpinning corporate objectives. The Board Assurance Framework (BAF) captures these corporate goals and the strategic risks applicable to them. Each goal and the strategic risks associated with this goal will be assigned to a Board Assurance Committee for scrutiny, monitoring, and testing of whether evidence provided to substantiate the levels of control applied. In the absence of corporate objectives at any point, operational and strategic risks are expressed and recorded against

either one of the four Statutory Purposes for Integrated Care Boards, those being:

- Improve outcomes in population health and healthcare.
- Reduce health inequalities in outcomes, experience, and access.
- Enhance productivity and Value for Money (VfM).
- Support broader social and economic development.

or one of the six themes of the NHS Oversight Framework:

- Quality of care, access & outcomes.
- Preventing ill-health and reducing inequalities.
- Finance and use of resources.
- People.
- Leadership & capability.
- Local strategic priorities.

- 7.3. Any Board Assurance Committee responsible for scrutinising an area of risk can escalate a risk onto the Board Assurance Framework (BAF) when one or more of the following criteria are met:

- The current score is significantly in excess of the target score;
- It is a long-standing risk that shows little or no reduction in current risk score; or
- The Committee has not received sufficient assurance that the risk is being appropriately and effectively managed.

- 7.4. The Board Assurance Framework (BAF) is updated by Chief Officers in conjunction with the Corporate Governance team, on a bi-monthly basis, and reported to the [NHS Devon Executive Committee](#) for recommendation to the NHS Devon Board. The Board Assurance Framework (BAF) will set out the controls, assurances, gaps and associated mitigating actions relating to each gap. The details in relation to mitigating actions will also require an 'action owner', the 'action status' and 'planned implementation date' to be recorded; this is so that progress against plan can be monitored, and corrective action taken where there is deviation from plan.

- 7.5. The Board Assurance Framework (BAF) will be used as a tool for setting the agendas of Board meetings and development sessions (as well as Board Assurance Committee agendas). It will be presented at each formal meeting. To be an effective tool, it should be possible to map items identified in the Board Assurance Framework (BAF) to papers presented to the meeting which address those items. This may be through specific papers, or within standing agenda items such as finance, quality, or performance report.

8. Risk Appetite

- 8.1. NHS Devon's **Risk Appetite Statement** documents the delegation of risk taking from the Board to senior management. It specifies the overall risk levels that the Board is willing to accept whilst operating in full compliance with regulatory and legal requirements.
- 8.2. **Risk appetite** is defined as “the amount and type of risk that an organisation is prepared to pursue, retain or take in pursuit of its strategic aims and objectives” and is key to achieving effective risk management. It can be influenced by personal experience, political factors, and external events.
- 8.3. It represents a balance between the potential benefits of innovation and the threats that change, and improvement inevitably bring. It should be at the heart of the systems and processes in place to manage risk within NHS Devon, as well as how decisions are taken.
- 8.4. The NHS Devon Board should articulate, as part of the annual risk cycle, its appetite in relation to each of the statutory or regulatory duties or corporate objectives, expressed using the following Corporate Governance Institute (CGI) Framework:

Risk Appetite Level	Risk Appetite Level - Description
Avoid	The avoidance of risk and uncertainty is a key organisational objective
Minimal	(ALARP – As Little As Reasonably Possible): The preference for ultra-safe delivery options that have a low degree of inherent risk and only for limited reward potential
Cautious	The preference for safe delivery options that have a low degree of inherent risk and may only have limited potential for reward
Open	Willing to consider all potential delivery options and choose while also providing an acceptable level of reward and Value for Money (VfM)
Seek	Eager to be innovative and to choose options offering potentially

Risk Appetite Level	Risk Appetite Level - Description
	higher business rewards despite greater inherent risk
Mature	Confident in setting higher levels of risk appetite because controls, forward scanning and responsiveness systems are robust

- 8.5. Based on risk appetite, a 'target' risk score is set for individual risks, this is the level to which the risk is managed to. The benefits of this approach include:
- Management focus on risks that can be managed / reduced;
 - Identification of targeted actions to reduce risks to 'target';
 - Timely reduction of risks;
 - Identification of static risks / ineffective actions; and
 - Management focus on risks that are not reducing.
- 8.6. The process for setting and reviewing risk appetite (including 'target' risk scores) is detailed in **Appendix H** together with the current risk appetite statement agreed by the NHS Devon Board.

9. Accountabilities, Duties and Responsibilities

- 9.1. The **NHS Devon Board** is ultimately responsible for the organisation's systems of internal control (financial, organisational, clinical, and non-clinical) and risk management arrangements, and for demonstrating leadership, active involvement, and support for risk management across the organisation. It is supported in the discharge of its responsibilities by the Audit [and](#) Risk Committee (ARC), other Assurance Committees, and the [NHS Devon Executive Committee](#).

The Board receives assurance as to whether operational and strategic risks are being effectively managed. It reviews and approves the Board Assurance Framework (BAF) on a regular basis to monitor the actions and assurances against the strategic risks and assesses the overall impact on delivery of the NHS Devon statutory/regulatory duties or corporate objectives.

In addition to the above, it is also responsible for determining the risk appetite of NHS Devon and for approving the organisation's Risk Management Policy.

- 9.2. The **Audit [and](#) Risk Committee** (ARC) provides an objective view on internal control and risk management systems to the NHS Devon Board that is independent of the executive. The Audit [and](#) Risk Committee (ARC) also:
- Reviews the adequacy and effectiveness of the system of integrated governance and risk management and internal control across the whole of the NHS Devon activities that support the achievement of its objectives, and to highlight any areas of weakness to the NHS Devon Board.

- Reviews the adequacy and effectiveness of the assurance processes that indicate the degree of achievement of NHS Devon's statutory/regulatory duties or objectives, the effectiveness of the management of principal risks.
- Maintains oversight of organisational and system risks where they relate to the achievement of NHS Devon's statutory or regulatory duties or objectives; the Board maintains overall responsibility for risk management.
- Seeks reports and assurance from directors and managers as appropriate, concentrating on the systems of integrated governance, risk management and internal control, together with indicators of their effectiveness.
- Reviews the outcome of the annual internal audit of governance and risk management arrangements which, along with other assurances received, will enable the committee to recommend the Annual Governance Statement is signed off by the Chief Executive Officer (CEO) at the end of each financial year.
- Identifies opportunities to improve governance, risk management and internal control processes across NHS Devon.

The Chair of the Audit [and](#) Risk Committee (ARC) will provide a summary to the NHS Devon Board of its assurances and where necessary, request deep dives to be undertaken in areas of risk where further assurances are required.

- 9.3. The **Head of Internal Audit** (HoIA) is responsible for implementing a programme of verification to ensure that the risk management systems and controls NHS Devon has in place are sufficient and will enable the provision of an audit assurance opinion to the Chief Executive Officer (CEO) and the Audit [and](#) Risk Committee (ARC).
- 9.4. The **NHS Devon Board Assurance Committees** have specific roles in relation to the statutory / regulatory duties or strategic risks assigned to them and as set out in their Terms of Reference.
- 9.5. The **NHS Devon Executive Committee** provides oversight and delivery of risk management arrangements. It regularly has oversight of the NHS Devon Corporate Risk Register (CRR) to review whether individual operational risks are being effectively managed and whether the action plans are sufficient and having the desired effect within the agreed timescales. In addition, it regularly has oversight of the Board Assurance Framework (BAF) to monitor the actions and assurance against the strategic risks and to assess the overall impact on delivery of NHS Devon's statutory / regulatory duties or corporate objectives, and approves its submission to the NHS Devon Board.
- 9.6. The **Chief Executive Officer** (CEO) has overall responsibility for ensuring that an effective risk management system is in place. They are also responsible for ensuring that there is an adequate system of internal control in place. The work of ensuring that this system is in place is delegated to the [Company Secretary](#) ~~Director of Governance~~ in practice, who is also responsible for overseeing the management and maintenance of the Board Assurance Framework (BAF) and ensuring the Board follows due process

with regards to the overall management of risk. The [Director of Governance](#) ~~Company Secretary~~ is accountable to the Chief Communications and Partnerships Officer and is responsible for ensuring (and reporting to the Board and to the Audit and Risk Committee (ARC)) that systems and structures are in place for the effective management of financial risk and organisational controls.

The Chief Executive Officer (CEO) is responsible for the preparation of an Annual Governance Statement setting out how these responsibilities have been discharged.

- 9.7. The **Chief Nursing Officer** (CNO) is accountable to the Chief Executive Officer (CEO) and is responsible for ensuring (and reporting to the Board or appropriately established committees) that systems and structures are in place for the effective management of clinical quality and safety. As the **Caldicott Guardian** they ensure that the Caldicott principles for managing information and ensuring its security and integrity are adhered to by staff within NHS Devon.
- 9.8. The **Chief Medical Officer** (CMO) provides Clinical Leadership for NHS Devon and is accountable to the Chief Executive Officer (CEO) and is responsible for providing strategic and operational leadership and management of the clinical risk within NHS Devon and organisational assurance on all matters of clinical risk and clinical outcomes to the NHS Devon Board.
- 9.9. The **Corporate Governance team** is responsible for overseeing the day-to-day management and co-ordination of the risk management system.
- 9.10. The **Risk Manager** is responsible for providing support and advice on risk management issues across NHS Devon. In addition, they will work closely with specialist advisers within NHS Devon who provide advice on specific areas of risk management, for example, Health and Safety; Fire; Infection Control; Manual Handling; Security; Fraud and Information Governance. The Risk Manager will provide information about corporate and strategic risks for the [NHS Devon Executive Committee](#), Board Assurance Committees, and the NHS Devon Board. This forms the basis of 'bottom up' population of the risk register and will be used to inform the Corporate Risk Register (CRR) and the Board Assurance Framework (BAF). They are responsible for the ongoing development, implementation, and evaluation of risk management systems. These systems will align with the requirements of related regulatory bodies such as NHS England and the Care Quality Commission (CQC).
- 9.11. The **Senior Information Risk Owner** (SIRO) is accountable to the Chief Executive Officer (CEO) and is responsible for managing information assets and risks across the organisations. The role of the Senior Information Officer (SIRO) for NHS Devon is undertaken by the Chief Communications and Partnerships Officer.

9.12. The **Director of Governance** ~~Company Secretary~~ reports to the Chief Communications and Partnerships Officer and is responsible for ensuring the development and implementation of Risk Management Policy across NHS Devon, ensuring that risk management processes are effectively coordinated, implemented, and monitored. This responsibility includes:

- Maintenance of the Board Assurance Framework (BAF) and the NHS Devon Corporate Risk Register (CRR) as active documents with clear monitoring of mitigation and action plans.
- Supporting the implementation of NHS Devon's Risk Management Policy (including the provision of advice and training).
- Overseeing and reporting on risk management compliance requirements.

9.13. All **Chief Officers***, **Senior Leadership Team** members and **Managers** are responsible for:

- Implementing the Risk Management Policy and procedures within their scope of responsibility.
- Ensuring that NHS Devon's risk management processes, including risk assessments, monitoring and escalation of cumulative risks and regular reviews are embedded in their team / programme management functions, included as a standing item on the monthly team meeting agenda and ensuring risk discussions are minuted or included in an action log.
- Ensuring that NHS Devon's risk management processes, including risk assessments, are in place within their scope of responsibility.
- Ensuring that relevant risks are identified, assessed, reviewed, and appropriately managed.
- Ensuring that they discuss risks with relevant senior managers and directors as appropriate.
- Implementing and monitoring any risk management actions within their designated area. Where local actions are considered to be inadequate, senior managers are responsible for escalating these risks through the agreed committee or management structure if local resolution has not been satisfactorily achieved.
- Reviewing a summary of all incidents within their teams or their scope of responsibility on a regular basis and disseminating this information to ensure that appropriate learning takes place in order to reduce risks.
- Ensuring that all staff are given the necessary information and training to enable them to be aware of the risks to their local objectives, those in their work environment and of their personal responsibilities and responsibilities towards working safely.
- Ensuring that staff undertake all relevant mandatory training.
- Ensuring staff compliance with this document.

** It should be noted that a Chief Officer can delegate any of the responsibilities outlined above to their deputy but delegation below this level is not permitted. Where delegation is granted, this should be communicated by the Chief Officer in writing to the Corporate Governance team (and specifically the Risk Manager).*

9.14. All **Staff** have a responsibility to co-operate with managers and they are encouraged to identify risks and advise their line managers accordingly. Risk management is the responsibility of all employees. Key responsibilities include:

- Being familiar, and complying with, the Risk Management Policy and supporting procedures and with all other relevant policies and procedures.
- Reporting incidents, accidents and “near misses” following procedures set out in the Incident Reporting Policy and supporting procedures.
- Being aware of their duty under legislation to take reasonable care for personal safety and the safety of all others who may be affected by the business of NHS Devon.
- Complying with NHS Devon rules, regulations, and instructions to protect the health, safety, and welfare of anyone affected by the business of NHS Devon.

10. Monitoring Compliance and Effectiveness

Training

10.1. Knowledge of how to manage risk is essential in embedding and maintaining an efficient risk management system. To this end, the Corporate Governance team will work in conjunction with Human Resources (HR) to conduct a Training Needs Analysis (TNA) to ensure that the necessary training and education needs, and methods needed to implement this policy and any supporting procedure(s) are identified and resourced as required. This may include identification of external training providers and / or development of an internal training process. Once the TNA has been undertaken, the Risk Management Training Schedule will be appended to this policy document at **Appendix I**.

10.2. The TNA and Risk Management Training Schedule will be reviewed and updated periodically so that it reflects the changing needs of the organisation and / or when there are significant changes in risk management arrangements (including changes to this policy or any of its related processes).

Implementation

10.3. NHS Devon Managers, or their designated representatives, will implement this policy by:

- Notifying all staff of its existence. New staff will be informed of this policy as part of their induction.

- Destroying all superseded paper-based versions of the policy and electronic versions retained in their area.
- Having adequate knowledge of, and / or access to, all relevant legislation in order to ensure that compliance with such legislation is maintained.
- Discussing with staff as part of their regular one-to-ones how they seek to achieve their individual objectives around policy review and maintenance.

Review

- 10.4. NHS Devon will review its performance on risk management through a specific annual internal audit on Risk and Assurance Processes. This annual audit is submitted to the Audit [and](#) Risk Committee (ARC) and is reflected in the Head of Internal Audit Opinion (HIAO) on the organisational arrangements for risk management and internal control.
- 10.5. The Chief Executive Officer (CEO) will review compliance with, and effectiveness of, the risk management system of internal control annually in preparing the Annual Governance Statement.
- 10.6. The Audit [and](#) Risk Committee (ARC) will review risk through information submitted to it throughout the year. In addition to this, risk reports will be submitted to the NHS Devon Board Assurance Committees as appropriate. These Committees can request information on specific risks to seek further assurance and details of actions being taken to address the risk.
- 10.7. The NHS Devon Risk Appetite will be reviewed annually by the NHS Devon Board.
- 10.8. Any trends resulting from possible policy non-compliance will be raised with staff through appropriate management routes.
- 10.9. Delivery and records of attendance at risk management awareness training will be reviewed annually by the Corporate Governance team.

11. References

Other related policy documents

- 11.1 Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy
- 11.2 Internal Incident Policy
- 11.3 Serious Incidents Policy

Legislation and statutory requirements

- 11.4 Equality Act 2010:
www.legislation.gov.uk/ukpga/2010/15/contents
- 11.5 Freedom of Information Act 2000:
www.legislation.gov.uk/ukpga/2000/36/contents
ico.org.uk/for-organisations/guide-to-freedom-of-information/what-is-the-foi-act/
- 11.6 Health and Safety at Work Act 1974:

- www.hse.gov.uk/legislation/hswa.htm
- 11.7 Human Rights Act 1998:
www.legislation.gov.uk/ukpga/1998/42/contents
- 11.8 Management of Health and Safety at Work Regulations 1999:
www.legislation.gov.uk/uksi/1999/3242/contents/made
www.hse.gov.uk/pubns/hsc13.pdf
- Best practice recommendations and other key guidance**
- 11.9 Caldicott Principles:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942217/Eight_Caldicott_Principles_08.12.20.pdf
- 11.10 Department of Health and Social Care Group Accounting Manual 2021/2022:
www.gov.uk/government/publications/dhsc-group-accounting-manual-2020-to-2021
- 11.11 Good Governance Institute 'The New Good Governance Handbook 2016':
www.good-governance.org.uk/wp-content/uploads/2017/04/The-new-Integrated-Governance-Handbook-2016.pdf
- 11.12 Federation of European Risk Management Associations (FERMA):
www.ferma.eu/about/about-ferma
- 11.13 Financial Reporting Council 'UK Corporate Governance Code 2018':
www.frc.org.uk/directors/corporate-governance-and-stewardship/uk-corporate-governance-code
- 11.14 Health and Safety Executive 'Managing for Health and Safety 2013':
www.hse.gov.uk/pubns/books/hsg65.htm
- 11.15 The Institute of Risk Management 'A Risk Management Standard 2002':
www.theirm.org/media/4709/arms_2002_irm.pdf
- 11.16 International Organisation for Standardisation (ISO) Guide '73:2009 Risk Management' (Revised 2016):
www.iso.org/standard/44651.html
- 11.17 NHS England - Learning from patient safety events:
<https://www.england.nhs.uk/patient-safety/patient-safety-insight/learning-from-patient-safety-events/>
- 11.18 NHS Resolution:
resolution.nhs.uk/
- 11.19 NHS Leadership Academy – The Healthy NHS Board 2013:
www.leadershipacademy.nhs.uk/wp-content/uploads/2013/06/NHSLeadership-HealthyNHSBoard-2013.pdf
- 11.20 HM Government: The Orange Book – Management of Risk – Principles and Concepts:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1154709/HMT_Orange_Book_May_2023.pdf

APPENDIX A: Glossary of Terms

Terms	Definition
Acceptance	Informed decision to take a particular risk.
Avoidance	Informed decision not to be involved in, or to withdraw from, an activity in order not to be exposed to a particular risk.
Consequence	Outcome of an event affecting objectives.
Control	Measure that is modifying risk. Control include any process, policy, device, practice, or other actions which may modify risk.
Governance	Is a system by which organisations are directed and controlled. It defines accountabilities, relationships and the distribution of rights and responsibilities among those who work with and in the organisation, determines the rules and procedures through which the organisation's objectives are set, and provides the means of attaining those objectives and monitoring performance. This includes the establishing, supporting, and overseeing the risk management framework.
Likelihood	Chance of something happening.
Monitoring	Continual checking, supervising, critically observing, or determining the status in order to identify change from the performance level or expected. Monitoring can be applied to a risk management framework, risk management process, risk, or control.
Residual Risk	Risk remaining after risk treatment.
Resilience	Capacity of an organisation to adapt in a complex and changing environment.
Risk	Is the effect of uncertainty on objectives. Risk is usually expressed in terms of causes, potential events, and their consequences.
Risk Appetite	Amount and type of risk that an organisation is willing to pursue or retain.
Risk Assessment	Overall process of risk identification, risk analysis and risk evaluation.
Risk Management	Is the co-ordinated activities designed and operated to manage risk and exercise internal control within an organisation.
Risk Management Process	Systematic application of management policies, procedures, and practices to the activities of communicating, consulting, establishing context, and identifying, analysing, evaluating, treating, monitoring, and reviewing risk.

Terms	Definition
Risk Matrix	Tool for ranking and displaying risks by defining ranges for likelihood and impact.
Risk Owner	Person with the accountability and to make a decision regarding the management of a risk.
Risk Profile	Description of any set of risks.
Risk Register	Record of information about identified risks. The term 'risk log' is sometimes used instead of 'risk register'.
Risk Reporting	Form of communication intended to inform particular internal or external stakeholders by providing information regarding the current state of risk and its management.
Risk Source	Element(s) which alone or in combination has the intrinsic potential to give rise to risk.
Stakeholder	Person or organisation that can affect, be affected by, or perceive themselves to be affected by a decision or activity.
Treatment	Process to modify risk. Risk treatment can involve: ▪ Avoiding the risk by deciding not to start or continue with the activity that gives rise to the risk; ▪ Taking or increasing the risk in order to pursue an opportunity; ▪ Removing the risk source; ▪ Changing the likelihood; ▪ Changing the impact; ▪ Sharing the risk with another party or parties (including contracts); and ▪ Retaining the risk by informed decision. Risk treatments that deal with negative consequences are sometimes referred to as "risk mitigation", "risk elimination", "risk prevention" and "risk reduction".

APPENDIX B: Inherent and Residual Risk

NB: This is a procedural document separate to the Risk Management Policy and may be amended without requiring the amendment of the policy.

Event	Inherent Risk
Event: Getting into the driving seat of a car, turning on the engine and moving off	Inherent Risk: Damage to vehicles and injury to driver, other road users and pedestrians
Risk Management Action	Residual Risk
Instructions to check mirrors and use indicators appropriately before moving off and to wear a seat belt	Reduced possibility of damage to vehicles and injury to driver, other road users and pedestrians
Further Risk Management Action	Residual Risk
Driver must obtain permission to move off from passenger who will ensure that mirrors are checked, indicator used appropriately, and seat belt is properly worn	Further reduced of the possibility of damage to vehicles and injury to driver, other road users and pedestrians
Further Risk Management Action	Residual Risk
In addition to the two measures above the car is immobilised, that is mechanically unable to move, until such a time as the passenger is satisfied that all safety precautions have been undertaken. The passenger will then flick a switch which will disengage the immobiliser	Even less possibility of damage to vehicles and injury to driver, other road users and pedestrians

APPENDIX C: Risks and Issues

NB: This is a procedural document separate to the Risk Management Policy and may be amended without requiring the amendment of the policy.

The table below summarises the key differences between ‘risks’ and ‘issues’:

RISK	ISSUE
An event that may occur	An event that is currently happening or has happened
Described in the future tense	Described in the present tense
Has a material impact on objectives ¹	Has a material impact on objectives ¹
Can be beneficial or harmful / positive or negative	Issue itself is always negative <i>(however, the outcome of solving an issue may still be beneficial, albeit it may take more time and effort)</i>
Can be mitigated against to prevent the risk from becoming an issue	Prevention is not possible ; action is needed to mitigate its impact or to resolve the issue
<u>Management Techniques:</u> Reduce risk; transfer the risk; manage the risk; contingency plan; accept risk or terminate risk	<u>Management Techniques:</u> Problem solving; decision-making

¹ Material Impact on Objectives – this can be in terms of programme / project objectives, team objectives, directorate objectives, corporate objectives, or strategic objectives.

APPENDIX D: Risk Management Principles

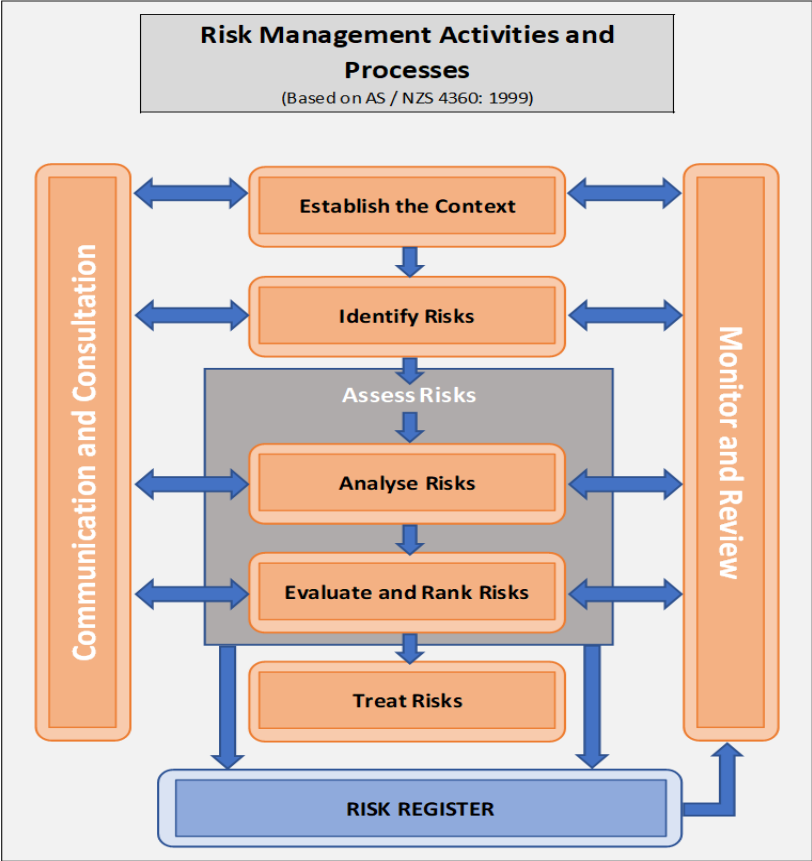
NB: This is a procedural document separate to the Risk Management Policy and may be amended without requiring the amendment of the policy.

Principle	Principle Description
Proactive	Risk management will be used proactively to manage key risks and used as an active management tool. This helps to ensure that risks are considered, and future actions planned in a visible, consistent, and controlled manner. Risk management will form part of plans with work on risk management being front loaded.
Aligns with Objectives	Risk management will be focused on the key uncertainties which may impact on the achievement of one or more objectives. Risks will be identified and given the appropriate priority for action.
Fits the Context	The risk management approach will be designed to fit the internal and external environment in which NHS Devon operates and so that time, effort, resources, and energy will be used in the appropriate way.
Engages Partners and Stakeholders	Risk management will engage with the right partners and stakeholders in the Integrated Care System (ICS) and deal with different perceptions of risk. Appropriate risks will be identified early and dealt with at the right level.
Promotes, Guides and Supports a Clear and Consistent Approach	Risk management will provide clear and coherent guidance to staff and key stakeholders so everyone can see how NHS Devon identifies, assesses, and controls key risks, and is consistent across the organisation. This enables people to compare results with plans and enable better decision making about how resources will be deployed. It also provides clear guidance on roles within risk management and explains responsibilities and accountabilities.
Informs Decision Making	Risk management will be linked to and inform decision making across the organisation. This enables important decisions to be made with explicit consideration of the impact of risks and the status of risk management. This also helps to safeguard the decision making process to allow for good decision making.
Facilitates Continual Improvement	Risk management will be used to help NHS Devon to improve by proactively managing risks and increasing organisational risk maturity. The organisation will use its experience of risk management to continually improve through 'lessons learned' and best use of the resources available.
Creates a Supportive Culture	NHS Devon will create a culture that recognises uncertainty and supports considered risk taking. The organisation recognises that zero risk taking is neither possible nor desirable.
Achieves Measurable Value	Risk management will help to achieve measurable value through the effective identification and management of key risks. In general, it costs less to anticipate and manage a risk than it does to recover from an issue.

APPENDIX E: Risk Activities and Processes

NB: This is a procedural document separate to the Risk Management Policy and may be amended without requiring the amendment of the policy.

The following diagram sets out NHS Devon's approach to risk management:



APPENDIX F – Model Risk Matrix

NB: This is a procedural document separate to the Risk Management Policy and may be amended without requiring the amendment of the policy.

Instructions for use:

1. Define the risk(s) explicitly in terms of the adverse impact(s) that might arise from the risk.
2. Use **Table 1** to determine the impact score (I) for the potential adverse outcome(s) relevant to the risk being evaluated. Choose the most appropriate domain for the identified risk from the left hand side of the table then work along the columns in same row to assess the severity of the risk on the scale of 1 to 5 to determine the consequence score, which is the number given at the top of the column.
3. Use **Table 2** to determine the likelihood score (L) for those adverse outcomes. If possible, score the likelihood by assigning a predicted frequency of occurrence of the adverse outcome. If this is not possible, assign a probability to the adverse outcome occurring within a given time frame, such as the lifetime of a project or a patient care episode. If it is not possible to determine a numerical probability, then use the probability descriptions to determine the most appropriate score.
4. Calculate the risk score by multiplying the impact by the likelihood: $I \text{ (impact)} \times L \text{ (Likelihood)} = R \text{ (risk score)}$ - **See Table 3.**
5. Identify the level at which the risk will be managed in the organisation, assign priorities for remedial action, and determine whether risks are to be accepted on the basis of the colour bandings, the risk ratings and the organisations' risk management system. Include the risk in the organisations' risk register at the appropriate level.

Table 1 – Impact (Consequences) - Scores

Impact (Consequence) Score (Severity Levels) and Examples of Descriptors					
	1	2	3	4	5
Domains	Negligible	Minor	Moderate	Major	Catastrophic
Impact on the Safety of Patients, Staff or Public (Physical / Psychological Harm)	Minimal injury requiring no / minimal intervention or treatment. No time off work	Minor injury or illness, requiring minor intervention Requiring time off work for >3 days Increase in length of hospital stay by 1-3 days	Moderate injury requiring professional intervention Requiring time off work for 4-14 days Increase in length of hospital stay by 4-15 days RIDDOR / agency reportable incident An event which impacts on a small number of patients	Major injury leading to long-term incapacity / disability Requiring time off work for >14 days Increase in length of hospital stay by >15 days Mismanagement of patient care with long-term effects	Incident leading to death Multiple permanent injuries or irreversible health effects An event which impacts on a large number of patients

Impact (Consequence) Score (Severity Levels) and Examples of Descriptors					
	1	2	3	4	5
Domains	Negligible	Minor	Moderate	Major	Catastrophic
Quality of Service	Peripheral element of treatment or service suboptimal Informal complaint	Overall treatment or service suboptimal Formal complaint (stage 1) Local resolution Single failure to meet internal standards Minor implications for patient safety if unresolved Reduced performance rating if unresolved	Treatment or service has significantly reduced effectiveness Formal complaint (stage 2) complaint Local resolution (with potential to go to independent review) Repeated failure to meet internal standards Major patient safety implications if findings are not acted on	Non-compliance with national standards with significant risk to patients if unresolved Multiple complaints / independent review Low performance rating Critical report	Totally unacceptable level or quality of treatment / service Gross failure of patient safety if findings not acted on Inquest / ombudsman inquiry Gross failure to meet national standards
Human Resources / Organisational Development / Staffing / Competence	Short-term low staffing level that temporarily reduces service quality (< 1 day)	Low staffing level that reduces the service quality	Late delivery of key objective / service due to lack of staff Unsafe staffing level or competence (>1 day) Low staff morale Poor staff attendance for mandatory / key training	Uncertain delivery of key objective / service due to lack of staff. Unsafe staffing level or competence (>5 days). Loss of key staff. Very low staff morale. No staff attending mandatory / key training	Non-delivery of key objective / service due to lack of staff Ongoing unsafe staffing levels or competence Loss of several key staff No staff attending mandatory training / key training on an ongoing basis

Impact (Consequence) Score (Severity Levels) and Examples of Descriptors					
	1	2	3	4	5
Domains	Negligible	Minor	Moderate	Major	Catastrophic
Statutory Duty / Inspections	No or minimal impact or breach of guidance / statutory duty	Breach of statutory legislation Reduced performance rating if unresolved	Single breach in statutory duty Challenging external recommendations / improvement notice	Enforcement action. Multiple breaches in statutory duty. Improvement notices Low performance rating Critical report	Multiple breaches in statutory duty. Prosecution Complete systems change required. Zero performance rating. Severely critical report
Adverse Publicity / Reputation	Rumours Potential for public concern	Local media coverage – short- term reduction in public confidence	Local media coverage –long-term reduction in public confidence	National media coverage with service well below reasonable public expectation <3 days	National media coverage with service well below reasonable public expectation >3 days MPs concerned (questions in the House).
Business Objectives / Projects	Insignificant cost increase / schedule slippage	Elements of public expectation not being met. <5 per cent over project budget Schedule slippage <5 per cent	5–10 per cent over project budget Schedule slippage 5–10 per cent over	11–25 per cent over project budget Schedule slippage 11–25 per cent over Key objectives not met	Incident leading to >25 per cent over project budget Schedule slippage >25 per cent over Key objectives not met

Impact (Consequence) Score (Severity Levels) and Examples of Descriptors					
	1	2	3	4	5
Domains	Negligible	Minor	Moderate	Major	Catastrophic
Finance, Including Claims Service / Business Interruption Environmental Impact	Small loss Risk of claim remote Business loss / interruption of >1 hour Minimal or no impact on the environment	Loss of 0.1 – 0.25 per cent of budget Claim less than £10,000 Business loss / interruption of >8 hours Minor impact on environment	Loss of 0.26 – 0.5 per cent of budget Claim(s) between £10,000 and £100,000 Business loss / interruption of >1 day Moderate impact on environment	Uncertain delivery of key objective / Loss of 0.6 – 1.0 per cent of budget Claim(s) between £100,001 and £1 million Purchasers failing to pay on time Business loss / interruption of >1 week Major impact on environment	Non-delivery of key objective Loss of >1 per cent of Budget. Failure to meet specification / slippage. Payment by results Claim(s) >£1 million Permanent loss of service or facility Catastrophic impact on environment

Table 2 - Likelihood Scores (L)

What is the likelihood of the risk occurring?

The frequency-based score is appropriate in most circumstances and is easier to identify. It should be used whenever it is possible to identify a frequency.

Likelihood Score	1	2	3	4	5
Description	Rare	Unlikely	Possible	Likely	Almost Certain
Frequency How often might it / does it happen	This will probably never happen / recur	Do not expect it to happen / recur but it is possible it may do so	Might happen / recur occasionally	Will probably happen / recur but it is not a persisting issue	Will undoubtedly happen / recur, possibly frequently

Table 3 - Risk Scoring = Impact x Likelihood (I x L)

Impact / Consequence	Likelihood				
	1	2	3	4	5
	Rare	Unlikely	Possible	Likely	Almost certain
5 - Catastrophic	5	10	15	20	25
4 - Major	4	8	12	16	20
3 - Moderate	3	6	9	12	15
2 - Minor	2	4	6	8	10
1 - Negligible	1	2	3	4	5

For grading risk, the scores obtained from the risk matrix are assigned as follows:

	1 to 6	Low Risk
	8 to 10	Moderate Risk
	12	High Risk
	15 to 25	Extreme Risk

APPENDIX G: Risk Action and Reporting Requirements

NB: This is a procedural document separate to the Risk Management Policy and may be amended without requiring the amendment of the policy.

Score	Risk	Action	Reporting Requirements
1 to 6	Low	Tolerate / Managed Through Normal Control Measures	- Report to Line Manager. - Enter onto the local Team / Directorate Risk Register (TRR / DRR).
8 to 10	Moderate	Consider Treat / Review Control Measures	Managed by Local Manager and escalated to relevant Chief Officer (or delegated Deputy) as required.
12	High	Treatment Plans to be Developed, Implemented, and Monitored	- Entered onto the Corporate Risk Register (CRR) in liaison with Corporate Governance team. - Included in Corporate Governance team's bi-monthly report to the NHS Devon Executive Committee. - Oversight by the NHS Devon Executive Committee through bi-monthly report from Corporate Governance team.
15 to 25	Extreme	Immediate Action Required. Treatment Plans to be Developed, Implemented, and Monitored	- Report immediately to Corporate Governance team. - Entered on to the Risk Register in liaison with the Corporate Governance team. - Included in the Corporate Governance team's Board Assurance Framework (BAF) reporting bi-monthly to the NHS Devon Executive Committee. - Reported in Corporate Governance team's Board Assurance Framework (BAF) reporting to each meeting of the NHS Devon Board and Committee-specific risks reported via Board Assurance Committees where appropriate.

In addition the NHS Devon Board receives the Board Assurance Framework (BAF) at each meeting with:

- Details of all of the strategic risks, their control measures, and assurances.
- Changes to the strategic risks since the previous report, including scoring.
- Current review narratives for each of the strategic risks.
- The level of assurance on each of the NHS Devon corporate objectives or Statutory Purposes in light of the risks which may impact on those objectives.
- Changes in the totality of risk facing NHS Devon (the total of the strategic level risks) and how this may have changed in the previous twelve months.

This process, its robustness and its deployment is scrutinised by the NHS Devon Audit [and](#) Risk Committee (ARC). The Risk Management System is subject to annual review by the Internal Auditors and a report is received by the Audit [and](#) Risk Committee (ARC).

APPENDIX H – Risk Appetite

NB: This is a procedural document separate to the Risk Management Policy and may be amended without requiring the amendment of the policy.

Risk appetite specifies the overall risk levels NHS Devon is willing to accept while operating in full compliance with regulatory and legal requirements. In addition, it establishes principles for risk taking to ensure that the totality of risk remains within the defined risk appetite boundaries.

The ‘Risk Appetite’ will be reviewed and agreed at least annually by the NHS Devon Board.

The ‘Risk Appetite’ is framed around the priorities set out in the Risk Management Policy and the statement was agreed by the NHS Devon Board at its meeting on 26 March 2024. The statement is based on the premise that the lower the risk appetite, the less NHS Devon is willing to accept in terms of risk and consequently the higher levels of controls that must be in place to manage the risk.

NHS Oversight Framework Theme	Risk Appetite	Tolerance Level for Residual Risk
Quality of care, access and outcomes	AVOID	8-12
Preventing ill-health and reducing inequalities	AVOID	8-12
Finance and use of resources	OPEN	15
People	SEEK	20-25
Leadership & capability	SEEK	20-25
Local strategic priorities	OPEN	15

APPENDIX I:
Risk Management Training Schedule

NB: This is a procedural document separate to the Risk Management Policy and may be amended without requiring the amendment of the policy.

To be included once the Risk Management Training Needs Analysis (TNA) has been completed.



Receipt, Acceptance and Management of Petitions Policy

NHS Devon



Version	2.0
Policy Sponsor	Chief Communications and Corporate Affairs Officer
Policy Lead	Director of Governance
Approved by	NHS Devon Board
Approved on	27/03/2025
To be reviewed by	31/03/2026

Document change history (to add rows, copy and paste)			
Date	Change	Version number of policy	Comments
22/01/2024	New Policy	1.0	N/A
27/03/2025	Policy Amendment	<u>2.0</u>	<u>Updates to job titles; inclusion of paragraph numbers and re-wording of Chief Executive and Chair responsibilities at Section 5.</u>

Equality, diversity and inclusion statement

Section 14Z35 of the National Health Service 2006 Act imposes the general inequality duty on Integrated Care Boards that they must have regard to the need reduce inequalities between those accessing health care services and in respect of the outcomes achieved for those who access health care services.

NHS Devon is committed to reducing health inequalities. These are unfair and avoidable differences in health across the population, and between different groups within society. These include how long people are likely to live, the health conditions they may experience and the care that is available to them. The conditions in which we are born, grow, live, work and age can impact our health and wellbeing. These are sometimes referred to as wider determinants of health.

We will ensure that we reduce inequalities by considering them as a key part of all our policies plans and monitoring process and by using an Equality and Quality Impact Assessment whenever we make changes to services

We are also~~NHS Devon is~~ committed to the promotion of equal opportunities, ~~addressing health inequalities~~ and fostering of good relations between people protected under the terms of the Equality Act 2010, the Health and Social Care Act 2012 and Human Rights legislation. We are equally committed to the elimination of unlawful discrimination, harassment and victimisation. To demonstrate this commitment, we develop, promote and maintain policies, strategies and operating procedures. Every effort is made to ensure that patients, employees, contractors or visitors do not experience discrimination; either directly or indirectly, because of their

vulnerability; disadvantage; age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex (gender) or sexual orientation.

All staff must comply with this policy. Compliance must reflect our organisational commitment to and policy on, equality, diversity and inclusion. In addition, each manager and member of staff involved in implementing this policy must give due regard to the needs of those protected under law.

If you, or any other groups, believe you are discriminated against under the terms of the Equality Act, the Health and Social Care Act 2012 or Human Rights legislation by anything contained in this document; or you need this document in an alternative format, for example, large print, Braille, Easy read or other languages; please contact our Patient Advice and Complaints Team (PACT):

Tel: 0300 123 1672

Email: pals.devon@nhs.net

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1. Introduction

- 1.1 A petition represents the expression of the views of the people who sign it. For the NHS Devon Integrated Care Board (NHS Devon) petitions are an important mechanism for local people to have a voice on local health matters.
- 1.2 Petitions can be raised as a discrete statement by the signatories or as a response to a public consultation or proposal being made by NHS Devon. To ensure that voices are heard appropriately and to avoid only listening to active lobby groups, NHS Devon will not view petitions in isolation, but as one piece of evidence and information which contributes to an overall picture of public opinion.

2. Purpose and objectives

- 2.1 The aim of this policy is to outline how NHS Devon will handle any petitions received from the local community.

3. Scope

3.12.2 This policy applies to the receipt, acceptance and management of all petitions received by NHS Devon, whether a hard copy or an e-petition. It does not apply to petitions received in response to a formal consultation on a proposal to change an existing service. These petitions will be managed instead through that formal consultation process.

4.3. Context

- 4.3.1 Petitions may be proactive, e.g., unsolicited where there is public opinion that a new service may be required to fill a perceived gap in service provision; or reactive, e.g., in response to an NHS initiated proposal to change an existing service or clinical policy.
- 4.3.2 There is currently no legally binding guidance to the NHS on handling petitions.
- 4.3.3 When considering the receipt and management of petitions, NHS Devon wishes to ensure that it follows best practice and has drawn on published terms and conditions for submitting e-petitions, utilised by HM Government.

Criteria for the consideration of petitions

- 4.3.4 In order to be received by NHS Devon for consideration, petitions should meet the criteria outlined below:
 - Petitions will relate directly to:

- services provided and decisions made by NHS Devon or one of its partner organisations (where the service has been commissioned by NHS Devon); or
 - where there is a perceived gap in service provision or clinical policy.
- Petitions may be received in paper or electronic (e.g., email, web based or social media) format.
 - Petitions should include a statement of petition which should include:
 - the organisation to which the petition is being addressed
 - the proposition which is being promoted by the petition
 - the timeframe over which the petition has been collected
 - the number of signatures collected.
 - The following information about each petitioner should be included:
 - Name
 - Postcode
 - Signature (in the case of a written petition)
 - Email address (in the case of an electronic petition). If this data is not collected due to the data controller not sharing the data e.g., a social media (e.g., Facebook) or 38 degrees petition, the petition will only be acknowledged as an indicator of public sentiment.
 - The name and address of the petition organiser, who must be resident within the area to which the petition relates, should be provided on the first page of the petition.

43.5 A petition amounting to any number of signatures will be considered by NHS Devon. Only those with more than 1000 signatures will be presented to the NHS Devon Board. For those petitions with fewer than 1000 signatures, the petition will be forwarded to the most appropriate NHS Devon Chief Officer for consideration and response.

43.6 Where a petition, with significant support (with a minimum of 1000 signatures) has been received by NHS Devon and meets the criteria above, the Chief Executive shall consult with the Chair as to how best to address the receipt of the petition at the next meeting of the NHS Devon Board. This could be as a specific item for the agenda, as a reference in either the Chair or Chief Executive's Report to the Board. The purpose of the presentation of the petition is to enable the Board to be aware of the issues raised and proposed actions to be taken in response.

Acceptance of Petitions

43.7 An acknowledgement of receipt of the petition will be provided to the lead petitioner within 5 working days of receipt with a clear explanation about what will happen next.

43.8 Petitions will not be considered if they are repeated, focus on individual grievances, are in respect of a subject of persistent contact with NHS Devon,

6 – NHS Devon Receipt, Acceptance and Management of Petitions Policy

or if they concern issues which are outside NHS Devon's remit such as health issues of national concern. Petitions will also not be considered if the information contained is confidential, libellous, false, defamatory or offensive.

- 43.9 A petition will be considered as a repeat petition if:
 - a) it covers the same or substantially similar subject matter to another petition received within the previous six months;
 - b) it is presented by the same or similar individuals or groups as another petition received within the previous six months.
- 43.10 A petition will be considered as the subject of persistent contact if:
 - a) it focuses on individual grievances
 - b) it focuses on the actions or decisions of an individual and not the organisation
 - c) the subject matter or individual submitting the petitions meets any of the definitions contained within NHS Devon's "Dealing with Persistent and Unreasonable Members of the Public Policy".
- 43.11 A petition will be considered as outside NHS Devon's remit if:
 - a) it focuses on a matter relevant to another organisation
 - b) it focuses on a matter of national rather than local concern
 - c) it requests information available via Freedom of Information legislation
 - d) its aim is to correspond on personal issue(s) with an individual(s)
 - e) signatories are not based in the UK.
- 43.12 A petition will be considered as confidential, libellous, false or defamatory if:
 - a) it contains information which may be protected by an injunction or court order
 - b) it contains material which is potentially confidential, commercially sensitive, or which may cause personal distress or loss.
- 43.13 A petition will be considered as offensive if:
 - a) it contains language that may cause offence, is provocative or extreme in its views
- 43.14 The petition's concerns will be assessed in relation to the aims being put forward, and the rationale and constraints behind it. For example, a petition that proposes a realistic alternative option will normally be given greater weight than a petition that simply opposes an option that has been put forward for valid reasons.
- 43.15 The petition's concerns will also be assessed in relation to the impact on other populations if these demands were accepted. This assessment could take into account views expressed in other petitions (which may conflict) or in more direct responses to the consultation.
- 43.16 Where a petition does not meet the requirements set out in the criteria above then NHS Devon will respond in writing within ten working days to confirm this and the reason for rejection will be given clearly and explicitly. Should a petition be related to an individual grievance or treatment received by an

individual then it will be referred to the Patient Experience Team for review and, if required, action.

Management of Petitions

- 43.17 A register of petitions received will be maintained by the Corporate Governance Team and reported to annually to the Audit and Risk Committee.
- 43.18 Hard copy and electronic petitions will be stored in a secure place for 3 years and will then be destroyed as confidential waste (in the case of hard copies) or deleted (e-petitions)

Submission of Petitions

- 43.19 Hard copy petitions should be addressed to:

The Chief Executive
NHS Devon Integrated Care Board
Aperture
Pynes Hill
Exeter
EX2 5AZ

If you wish to make an appointment in advance to have your petition formally received, you should contact the ICB's Chief Executive's office at d-icb.corporateservices@nhs.net.

Electronic petitions can be brought to the attention of the [Chief](#) Executive by sending a link to d-icb.corporateservices@nhs.net.

5.4. Accountabilities, Duties and Responsibilities

Chief Executive Officer	The Chief Executive has ultimate accountability for the strategic direction and operational management of NHS Devon, including compliance with all legal, statutory and policy requirements. The Chief Executive is responsible for receiving petitions submitted to NHS Devon. Where petitions include over 1000 signatures, the Chief Executive has the responsibility of consulting with the Chair as to how best to address the receipt of the petition at the next meeting of the NHS Devon Board., together with the Chair, for consideration to discuss at a meeting of the NHS Devon Board to agree any appropriate actions. The Chief Executive is responsible for ensuring that appropriate correspondence is sent informing petitioners of any rejected petitions providing clear and explicit reasons for the rejection.
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Chair	The Chair is responsible for <u>considering, together with the Chief Executive, as to reviewing how best to address the receipt of petitions with over 1000 signatures at the next meeting of the NHS Devon Board.</u> together with the Chief Executive for consideration to discuss at a meeting of the NHS Devon Board to agree any appropriate actions.
Corporate Governance Team	The Corporate Governance Team is responsible for maintaining a register of petitions received and reporting on this annually to the Audit and Risk Committee. The Corporate Governance Team is responsible for the management of responses to petitions.
Policy Sponsor	The Policy Sponsor is responsible for: • ensuring that policy is appropriate for consideration for approval; • endorsing this policy ahead of submission for approval; • with the Policy Lead, maintaining and updating procedures/protocols and other supporting documents for this policy
Policy Lead / Author	It is the responsibility of the Policy Lead / author to: • ensure as far as possible that the policy is in line with Department of Health and Social Care guidance, legal requirements and advice from clinical bodies; • to complete a QEIA and Implementation Plan where required • undertake a fair and proportionate consultation period with the relevant stakeholders as part of the document's development • to ensure that the policy is in alignment with NHS Devon's strategy and values • ensure that the policy is developed, approved, disseminated and monitored as set out in the document; • with Policy Sponsors, maintaining and updating procedures / protocols and other supporting documents for this policy.
All Staff	Employed or engaged staff have a duty to ensure that any petitions received are shared with the Corporate Governance Team within an appropriate timeframe to allow a response within the timescales set out within this policy.

5. Impact assessments

5.1 A EQIA has been completed in respect of this policy and has highlighted no areas of concern.

6. Implementation

- 6.1 All staff will be informed of the approval of this Policy via the Staff Bulletin which will provide a link to the document on the NHS Devon Intranet.
- 6.2 NHS Devon Senior Managers, or their designated representatives, will implement this policy by:
- Notifying all staff of its existence. New staff will be informed of this policy as part of their induction.
 - Destroying all superseded paper-based versions of the policy and electronic versions retained in their area.
 - Having adequate knowledge of, and / or access to, all relevant legislation in order to ensure that compliance with such legislation is maintained.
 - Discussing with staff as part of their regular one-to-ones how they seek to achieve their individual objectives around policy review and maintenance.

~~7. Approval and Review~~

~~7.16.3~~ The approval route for this policy will be via the NHS Devon Board.

~~7.26.4~~ This policy will be reviewed annually, or sooner if required, in order to ensure that it is current, relevant and reflects the strategic aims, objectives, organisational structures and responsibilities of NHS Devon.

8.7. Monitoring compliance and effectiveness

~~8.7.1~~ The log of petitions received along with any breaches in relation to this policy will be reported to the Audit and Risk Committee on an annual basis.

~~8. Quality & Equality Impact Assessment (QEIA)~~

~~9.1~~ A QEIA has been completed in respect of this policy and has highlighted no areas of concern.

9.8. References

Legislation and statutory requirements

~~10.8.1~~ There is currently no clear, legally binding guidance to the NHS on handling petitions. NHS Devon has drawn upon published terms and conditions for submitting e-petitions, utilised by HM Government.

NHS Devon Population Health Improvement Committee

Terms of Reference

1. Constitutional Obligations

- 1.1. The Population Health Improvement Committee (the Committee) is established by the Integrated Care Board for Devon (known and referred to as NHS Devon) as a Committee of the Board in accordance with its Constitution, Standing Orders and Scheme of Reservation and Delegation.
- 1.2. These Terms of Reference (ToR) set out the membership, remit, responsibilities and reporting arrangements of the Committee and may only be changed with the approval of the NHS Devon Board.
- 1.3. The Committee is an Assurance Committee of the NHS Devon Board and its members, including any who are not members of the NHS Devon Board, are bound by the Constitution, Standing Orders and Scheme of Reservation and Delegation of NHS Devon.
- 1.4. The Committee is authorised by the NHS Devon Board to:
 - a) Investigate any activity within its ToR;
 - b) Seek any information it requires within its remit, from any employee or member of NHS Devon (who are directed to co-operate with any request made by the Committee) within its remit as outlined in these ToR;
 - c) Obtain legal or other independent professional advice and secure the attendance of advisors with relevant expertise if it considers this is necessary to fulfil its functions. In doing so the Committee must follow any procedures put in place by NHS Devon for obtaining legal or professional advice;
 - d) Create task and finish sub-groups in order to take forward specific programmes of work as considered necessary by the Committee's members. The Committee shall determine the membership and ToR of any such task and finish sub-groups in accordance with NHS Devon's Constitution, Standing Orders and Scheme of Reservation and Delegation, but may /not delegate any decisions to such groups.

- 1.5. For the avoidance of doubt, in the event of any conflict, NHS Devon's Standing Orders, Standing Financial Instructions and Scheme of Reservation and Delegation will prevail over these ToR.

2. Purpose and Responsibilities

Purpose

- 2.1 The purpose of the Committee is to provide oversight and seek assurance that NHS Devon and partner NHS organisations in the One Devon Integrated Care System are delivering on strategic commitments to:
- a) deliver better health outcomes, including by preventing ill health
 - b) reduce inequality and inequity in health outcomes and access in line with the Core20plus5 framework
 - c) positively impact on social and economic growth
- 2.2 The Committee will also make recommendations on those services or places where there is the biggest opportunity for improvements in outcomes for our population.

Responsibilities

- 2.3 The responsibilities of the Committee are as follows:

NHS Oversight Framework:

- 2.4 Provide assurance to the NHS Devon Board around the arrangements for discharging, and implications of, the NHS Devon responsibilities in respect of the following themes under the NHS Oversight Framework:

- Preventing ill health and reducing inequalities

Delivering better health outcomes, including by preventing ill health

- 2.5 Provide oversight and assure the NHS Devon Board of the delivery of the population health outcomes elements of the One Devon Integrated Care Strategy and Joint Five-Year Plan, including using benchmarking against other systems.

Reducing inequality and inequity in health outcomes

- 2.6 Provide assurance to the NHS Devon Board that it is meeting its equality statutory duties with regard to health outcomes, and with a particular focus on NHS Devon's impact on health inequalities.
- 2.7 Ensure that NHS Devon is working with partner NHS organisations in the One Devon Integrated Care System address the wider determinants of health including employment, housing, and poverty.

- 2.8 Ensuring that the plans of NHS Devon and partner NHS organisations in the One Devon Integrated Care System identify and meaningfully and inclusively engage the most marginalised communities in setting, delivery, and monitoring health inequality priorities.
- 2.9 Provide assurance, alongside QPEC, that patient and public engagement activities are being carried out effectively and meet the statutory duties placed on NHS Devon and the 10 principles set out in the NHS Devon constitution through oversight of a quarterly public engagement report.
- 2.10 Provide assurance with regard to the quality and content of the annual submission to NHS England for the Public Involvement Improvement and Assessment Framework.

Leveraging our impact on social and economic growth

- 2.11 Consider strategies and plans to improve and report on social and economic growth particularly where this clearly leads to mental and physical health improvement, including in employment, housing, and education and skills.
- 2.12 Seek assurance that, as a group of the largest employers in Devon, NHS Devon and partner NHS organisations in the One Devon Integrated Care System partners promote and increase social and economic growth, including as leaders of 'anchor institutions', and in activities as regards procurement and environmental footprint.

3. Membership

- 3.1 Members of the Committee shall be appointed by the NHS Devon Board in accordance with the NHS Devon Constitution.

Chair & Vice Chair

- 3.2 In accordance with the constitution, the Committee will be chaired by an Independent Non-Executive Member of NHS Devon, appointed on account of their specific knowledge skills and experience making them suitable to chair the Committee.
- 3.3 Committee members may appoint a Vice Chair from amongst the membership of the Committee, who must be an Independent Non-Executive Member of the NHS Devon Board who has the requisite skills and experience to act in that capacity.
- 3.4 The Chair of the Committee will be responsible for agreeing the agenda and ensuring matters discussed meet the objectives as set out in these ToR.

Membership

- 3.5 The membership of the Committee shall be constituted as follows:

- Independent Non-Executive Member (Chair)
- Independent Non-Executive Member
- ~~Either NHS Devon Chair or Independent Non-Executive Member~~
~~Independent Non-Executive Member~~
- Partner Member – Providers of Primary Medical Services
- Partner Member – Director of Public Health
- Chief Medical Officer (Lead Executive)
- Chief Operating Officer

Other Attendees

- 3.6 Only members of the Committee have the right to attend and vote at Committee meetings; however, meetings of the Committee will also be attended by the following individuals who are not members:
- Director of Population Health Management and Improvement
- 3.7 Other attendees may be invited to attend all or part of any meeting as and when the Chair of the Committee considers they have expertise that would be relevant to the responsibilities of the Committee.
- 3.8 The Chair of the Committee may ask any or all of those who normally attend, but who are not members, to withdraw to facilitate open and frank discussion of particular matters.

Attendance

- 3.9 Members of the Committee may participate in meetings by telephone, video or by other electronic means where they are available and with the prior agreement of the Chair of the Committee. Participation by any of these means shall be deemed to constitute presence in person at the meeting. Members are normally expected to attend at least 75% of meetings during the year.

4. Quorum, Decisions and Voting

Quorum

- 4.1 For a meeting of the Committee to be quorate a minimum of 50% members (i.e., 3 members) is required, including the Chair or Vice Chair of the Committee (unless they are disqualified from participating on that item in the agenda, by reason of a declaration of conflicts of interest) and another Independent Non-Executive Member of the NHS Devon Board.
- 4.2 If any member of the Committee is unable to participate in an item on the agenda, by reason of a declaration of conflicts of interest, then that individual shall no longer count towards the quorum.

- 4.3 If the quorum has not been reached, then the meeting may proceed informally if those attending agree, but no decisions may be taken.

Decision Making and Voting

- 4.4 In line with NHS Devon's Standing Orders, it is expected that decisions will be reached by consensus. Should this not be possible, each member of the Committee will have one vote, the process for which is set out below:
- a) All members of the Committee who are present at the meeting will be eligible to cast one vote each. (For the sake of clarity, members of the Committee are set out at paragraph 3.5; attendees and observers do not have voting rights).
 - b) Absent members may not vote by proxy. Absence is defined as not being present at the time of the vote but this does not preclude anyone attending by teleconference or other virtual mechanism from exercising their right to vote if eligible to do so.
 - c) A resolution will be passed if more votes are cast for the resolution than against it.
 - d) If an equal number of votes are cast for and against a resolution, then the Chair of the Committee (or in their absence, the Vice Chair) will have a second and casting vote.
 - e) Should a vote be taken, the outcome of the vote, and any dissenting views, must be recorded in the minutes of the meeting.
- 4.5 For urgent issues, the Chair of the Committee may call a meeting at a notice of 2 days, setting out the reason for the urgency and the issue to be addressed.

5. Ways of Working

- 5.1 All members of the Committee will have due regard to and operate within the Constitution of NHS Devon, its Standing Orders, Standing Financial Instructions and other financial procedures.
- 5.2 Members of the Committee will abide by the 'Principles of Public Life' (The Nolan Principles) and the NHS Code of Conduct.
- 5.3 Members of the Committee must demonstrably consider the equality and diversity implications of decisions they make and consider whether any new resource allocation achieves positive change around inclusion, equality and diversity.
- 5.4 A Register of Interests will be reviewed at each Committee meeting. Those in attendance will be asked by the Chair of the Committee to declare any

interests at the beginning of each meeting. If a member of the Committee feels compromised by any agenda item, they should declare a conflict of interest and agreement reached as the action to be taken as set out in the NHS Devon Conflicts of Interest Policy.

6. Reporting Arrangements

- 6.1 The Committee is accountable to the NHS Devon Board and shall report to the Board on how it discharges its responsibilities.
- 6.2 The Chair of the Committee will provide an assurance report on behalf of the Committee to the NHS Devon Board at each meeting on how it has discharged its responsibilities. The report shall be presented to the public meeting of the NHS Devon Board.
- 6.3 The Committee shall undertake an annual self-assessment of its own performance against its annual programme of business, membership and ToR. The outcome of this self-assessment will be included within the Review of Corporate Governance reported to the NHS Devon Board on an annual basis.

7. Meetings and Administration

Frequency of Meetings

- 7.1 The Committee will meet in private in six times a year. Additional meetings may take place as required.
- 7.2 The NHS Devon Board, Chair or Chief Executive Officer may ask the Committee to convene further meetings to discuss particular issues on which they want the Committee's advice.
- 7.3 Arrangements and notice for calling meetings are set out in the NHS Devon Standing Orders.

Administration

- 7.4 The Committee shall be supported by an administrator from within the NHS Devon Corporate Governance Team. Their duties in this respect will include:
 - a) Agreement of agendas with the Chair and attendees.
 - b) Preparation, collation and circulation of papers in good time.
 - c) Ensuring that those invited to each meeting attend, highlighting any concerns to Chair (including interests of members that may conflict with an agenda item).
 - d) Taking the minutes and helping the Chair to prepare reports to the NHS Devon Board.
 - e) Keeping a record of matters arising and issues to be carried forward.

- f) Maintaining records of members' appointments and renewal dates.
- g) Ensuring that action points are taken forward between meetings.
- h) Ensuring that members receive the development and training they need.
- i) Providing appropriate support to the Chair and members.

7.5 Following each meeting of the Committee, the administrator will:

- a) Maintain an attendance log and follow up as appropriate after each meeting to ensure the Committee adheres to the required frequency of attendance by members.
- b) Maintain a decisions log of reporting arrangements into each formal meeting of the Committee.
- c) Maintain a log of summary written reports provided to the NHS Devon Board from formal meetings of the Committee.

8. Review of Terms of Reference

- 8.1 These ToR will be reviewed at least annually and earlier if required. Any proposed amendments to the ToR will be submitted to the NHS Devon Board for approval.

Document Control

Document Reference	PHIC ToR
Version	v1.3
Senior Responsible Officer	Philippa Harding, Director of Governance
Approval by	NHS Devon Board
Date last reviewed/ approved	30 January 2025 <u>27 March 2025</u>
Next review date	Before 31 March 2026

Change Record

Date	Change	Comments
28.11.2024	Membership updated	Updated to include Partner Member – Providers of Primary Medical Services
30.01.2025	Patient and public engagement	Amended to clarify the role of the Committee in respect of the receipt of assurance relating to the discharge of NHS Devon's legal duties for involving public and patients.
<u>27.03.2025</u>	<u>Membership updated</u>	<u>Considered as part of review of Committee effectiveness in 2024/25. Membership updated to include possible membership of NHS Devon Chair.</u>

Quality and Patient Experience Committee

Terms of Reference

1. Constitutional Obligations

- 1.1. The Quality and Patient Experience Committee (the Committee) is established by the Integrated Care Board for Devon (known and referred to as NHS Devon) as a Committee of the Board in accordance with its Constitution, Standing Orders and Scheme of Reservation and Delegation.
- 1.2. These Terms of Reference (ToR) set out the membership, remit, responsibilities and reporting arrangements of the Committee and may only be changed with the approval of the NHS Devon Board.
- 1.3. The Committee is an Assurance Committee of the NHS Devon Board and its members, including any who are not members of the NHS Devon Board, are bound by the Constitution, Standing Orders and Scheme of Reservation and Delegation of NHS Devon.
- 1.4. The Committee is authorised by the NHS Devon Board to:
 - a) Investigate any activity within its ToR;
 - b) Seek any information it requires within its remit, from any employee or member of NHS Devon (who are directed to co-operate with any request made by the Committee) within its remit as outlined in these ToR;
 - c) Obtain legal or other independent professional advice and secure the attendance of advisors with relevant expertise if it considers this is necessary to fulfil its functions. In doing so the Committee must follow any procedures put in place by NHS Devon for obtaining legal or professional advice;
 - d) Create task and finish sub-groups in order to take forward specific programmes of work as considered necessary by the Committee's members. The Committee shall determine the membership and ToR of any such task and finish sub-groups in accordance with NHS Devon's Constitution, Standing Orders and Scheme of Reservation and Delegation, but may /not delegate any decisions to such groups.
- 1.5. For the avoidance of doubt, in the event of any conflict, NHS Devon's Standing Orders, Standing Financial Instructions and Scheme of Reservation

and Delegation will prevail over these ToR, other than the Committee being permitted to meet in private.

2. Purpose and Responsibilities

Purpose

- 2.1 The purpose of the Committee is to provide assurance that NHS Devon is delivering its functions in a way that secures continuous improvement in the quality of services, against each of the dimensions of quality set out in the Shared Commitment to Quality and enshrined in the Health and Care Act 2022.
- 2.2 The Committee will scrutinise the robustness of, and gain and provide assurance to the NHS Devon Board, that there is an effective system of quality governance and internal control that supports it to effectively deliver its strategic objectives and provide sustainable, high-quality care.
- 2.3 The Committee shall agree an annual programme of business with the NHS Devon Board; however, this programme of business will be flexible to new and emerging priorities and risks.

Responsibilities

- 2.4 The responsibilities of the Committee are as follows:

NHS Oversight Framework:

- 2.5 Provide assurance to the NHS Devon Board around the arrangements for discharging, and implications of, the NHS Devon responsibilities in respect of the following themes under the NHS Oversight Framework:

- Quality of care, access and outcomes

National Quality Board Framework

- 2.6 Provide assurance to the NHS Devon Board around the arrangements for discharging, and implications of, the NHS Devon responsibilities in respect of the following themes under NHS England's Quality Functions: Responsibilities of providers, Integrated Care Boards and NHS England:

2.6.1 Strategic management of quality

2.6.2 Operational management of quality

2.6.3 Patient safety

2.6.4 Experience

2.6.5 Effectiveness

2.6.6 Safeguarding

2.6.7 Mental health, learning disabilities and autism.

Public Involvement

[2.62.7](#) Provide assurance that there are mechanisms in place that enable inclusive patient feedback to influence NHS Devon planning and commissioning arrangements and subsequent provider arrangements.

[2.72.8](#) Review recommendations based on feedback and insight from patient experience and provide assurance that responsive action is being taken within the work of NHS Devon

Quality and Safety

[2.82.9](#) Provide assurance to the NHS Devon Board around the arrangements for discharging NHS Devon responsibilities in relation to securing continuous improvement in the quality of services.

[2.92.10](#) Scrutinise structures in place to support quality planning, control and improvement, to be assured that the structures operate effectively and timely action is taken to address areas of concern.

[2.102.11](#) Agree and put forward the key quality priorities that are included within the NHS Devon strategy/ annual plan, including priorities to address variation/ inequalities in care.

[2.112.12](#) Oversee and scrutinise the NHS Devon response to all relevant (as applicable to quality) Directives, Regulations, national standard, policies, reports, reviews and best practice as issued by the DHSC, NHSE and other regulatory bodies / external agencies (e.g. CQC, NICE) to gain assurance that they are appropriately reviewed and actions are being undertaken, embedded and sustained

[2.122.13](#) Oversee and seek assurance on the effective and sustained delivery of the NHS Devon Quality Improvement Programmes.

[2.132.14](#) Ensure that mechanisms are in place to review and monitor the effectiveness of the quality of care delivered by providers and place.

[2.142.15](#) Scrutinise the robustness of the arrangements for and assure compliance with NHS Devon's statutory responsibilities for medicines optimisation and safety.

Safeguarding

[2.152.16](#) Scrutinise the robustness of the arrangements for and assure compliance with NHS Devon's statutory responsibilities for safeguarding adults and children

Infection Prevention and Control

2.162.17 Scrutinise the robustness of the arrangements for and assure compliance with the NHS Devon's statutory responsibilities for infection prevention and control.

Patient Experience and Safety

2.172.18 Review and identify issues/themes resulting from PALS, complaints, social media and all forms of patient feedback and associated improvement actions.

2.182.19 Review results of all national patient surveys and ensure that appropriate action plans are developed and implemented to deliver effective outcomes.

2.192.20 Review information received from external sources such as Patient Opinion/NHS Choices, Healthwatch and ensure it is considered alongside other data to contribute to patient experience improvement activity.

2.202.21 Review information about serious incidents including all Never Events and Serious Case Reviews (SCRs), Safeguarding Practice Reviews (SPRs), Safeguarding Adult Reviews (SARs), Learning Practice Reviews and Domestic Homicide Reviews (DHRs), to identify themes/areas of risk and to ensure that actions are identified and completed to improve care delivery.

2.212.22 Receive assurance that NHS Devon has effective and transparent mechanisms in place to monitor mortality and that it learns from death (including coronial inquests and PFD report).

2.222.23 Receive assurance that people drawing on services are systematically and effectively involved as equal partners in quality activities.

2.232.24 Scrutinise the robustness of the arrangements for and assure compliance with NHS Devon's statutory responsibilities for equality and diversity as it applies to people drawing on services.

Performance review

2.242.25 Oversee and monitor delivery of NHS Devon's key statutory requirements.

2.252.26 Review and monitor those risks on the BAF and Corporate Risk Register which relate to quality, and high-risk operational risks which could impact on care. Ensure the NHS Devon Board is kept informed of significant risks and mitigation plans, in a timely manner.

2.262.27 Maintain an overview of changes in the methodology employed by regulators and changes in legislation/regulation and assure the NHS Devon Board that these are disseminated and implemented across all sites.

~~2.27~~2.28 ~~_____~~ Oversee and seek assurance on the effective and sustained delivery of the NHS Devon Quality Improvement Programmes.

3. Membership

3.1 Members of the Committee shall be appointed by the NHS Devon Board in accordance with the NHS Devon Constitution.

Chair & Vice Chair

3.2 In accordance with the constitution, the Committee will be chaired by an Independent Non-Executive Member of NHS Devon, appointed on account of their specific knowledge skills and experience making them suitable to chair the Committee.

3.3 Committee members may appoint a Vice Chair from amongst the membership of the Committee, who must be an Independent Non-Executive Member of the NHS Devon Board who has the requisite skills and experience to act in that capacity.

3.4 The Chair of the Committee will be responsible for agreeing the agenda and ensuring matters discussed meet the objectives as set out in these ToR.

Membership

3.5 The membership of the Committee shall be constituted as follows:

- Independent Non-Executive Member (Chair)
- Independent Non-Executive Member
- Either NHS Devon Chair or Independent Non-Executive Member
- Partner Member – Providers of Primary Medical Services
- Chief Nursing Officer (Lead Executive)
- Chief Medical Officer

Other Attendees

3.6 Only members of the Committee have the right to attend and vote at Committee meetings; however, meetings of the Committee will also be attended by the following individuals who are not members:

- Deputy Chief Nursing Officer

3.7 Other attendees may be invited to attend all or part of any meeting as and when the Chair of the Committee considers they have expertise that would be relevant to the responsibilities of the Committee.

- 3.8 The Chair of the Committee may ask any or all of those who normally attend, but who are not members, to withdraw to facilitate open and frank discussion of particular matters.

Attendance

- 3.9 Members of the Committee may participate in meetings by telephone, video or by other electronic means where they are available and with the prior agreement of the Chair of the Committee. Participation by any of these means shall be deemed to constitute presence in person at the meeting. Members are normally expected to attend at least 75% of meetings during the year.

4. Quorum, Decisions and Voting

Quorum

- 4.1 For a meeting of the Committee to be quorate a minimum of 50% members (i.e., 3 members) is required, including the Chair or Vice Chair of the Committee (unless they are disqualified from participating on that item in the agenda, by reason of a declaration of conflicts of interest) and either the Chair of the NHS Devon Board or another Independent Non-Executive Member of the NHS Devon Board.
- 4.2 If any member of the Committee is unable to participate in an item on the agenda, by reason of a declaration of conflicts of interest, then that individual shall no longer count towards the quorum.
- 4.3 If the quorum has not been reached, then the meeting may proceed informally if those attending agree, but no decisions may be taken.

Decision Making and Voting

- 4.4 In line with NHS Devon's Standing Orders, it is expected that decisions will be reached by consensus. Should this not be possible, each member of the Committee will have one vote, the process for which is set out below:
- a) All members of the Committee who are present at the meeting will be eligible to cast one vote each. (For the sake of clarity, members of the Committee are set out at paragraph 3.5; attendees and observers do not have voting rights).
 - b) Absent members may not vote by proxy. Absence is defined as not being present at the time of the vote but this does not preclude anyone attending by teleconference or other virtual mechanism from exercising their right to vote if eligible to do so.
 - c) A resolution will be passed if more votes are cast for the resolution than

against it.

- d) If an equal number of votes are cast for and against a resolution, then the Chair of the Committee (or in their absence, the Vice Chair) will have a second and casting vote.
 - e) Should a vote be taken, the outcome of the vote, and any dissenting views, must be recorded in the minutes of the meeting.
- 4.5 For urgent issues, the Chair of the Committee may call a meeting at a notice of 2 days, setting out the reason for the urgency and the issue to be addressed.

5. Ways of Working

- 5.1 All members of the Committee will have due regard to and operate within the Constitution of NHS Devon, its Standing Orders, Standing Financial Instructions and other financial procedures.
- 5.2 Members of the Committee will abide by the 'Principles of Public Life' (The Nolan Principles) and the NHS Code of Conduct.
- 5.3 Members of the Committee must demonstrably consider the equality and diversity implications of decisions they make and consider whether any new resource allocation achieves positive change around inclusion, equality and diversity.
- 5.4 A Register of Interests will be reviewed at each Committee meeting. Those in attendance will be asked by the Chair of the Committee to declare any interests at the beginning of each meeting. If a member of the Committee feels compromised by any agenda item, they should declare a conflict of interest and agreement reached as the action to be taken as set out in the NHS Devon Conflicts of Interest Policy.

6. Reporting Arrangements

- 6.1 The Committee is accountable to the NHS Devon Board and shall report to the Board on how it discharges its responsibilities.
- 6.2 The Chair of the Committee will provide an assurance report on behalf of the Committee to the NHS Devon Board at each meeting on how it has discharged its responsibilities. The report shall be presented to the public meeting of the NHS Devon Board.
- 6.3 The Committee shall undertake an annual self-assessment of its own performance against its annual programme of business, membership and ToR. The outcome of this self-assessment will be included within the Review of Corporate Governance reported to the NHS Devon Board on an annual basis.

7. Meetings and Administration

Frequency of Meetings

- 7.1 The Committee will meet in private each month. Additional meetings may take place as required.
- 7.2 The NHS Devon Board, Chair or Chief Executive Officer may ask the Committee to convene further meetings to discuss particular issues on which they want the Committee's advice.
- 7.3 Arrangements and notice for calling meetings are set out in the NHS Devon Standing Orders.

Administration

- 7.4 The Committee shall be supported by an administrator from within the NHS Devon Corporate Governance Team. Their duties in this respect will include:
 - a) Agreement of agendas with the Chair and attendees.
 - b) Preparation, collation and circulation of papers in good time.
 - c) Ensuring that those invited to each meeting attend, highlighting any concerns to Chair (including interests of members that may conflict with an agenda item).
 - d) Taking the minutes and helping the Chair to prepare reports to the NHS Devon Board.
 - e) Keeping a record of matters arising and issues to be carried forward.
 - f) Maintaining records of members' appointments and renewal dates.
 - g) Ensuring that action points are taken forward between meetings.
 - h) Ensuring that members receive the development and training they need.
 - i) Providing appropriate support to the Chair and members.
- 7.5 Following each meeting of the Committee, the administrator will:
 - a) Maintain an attendance log and follow up as appropriate after each meeting to ensure the Committee adheres to the required frequency of attendance by members.
 - b) Maintain a decisions log of reporting arrangements into each formal meeting of the Committee.
 - c) Maintain a log of summary written reports provided to the NHS Devon Board from formal meetings of the Committee.

8. Review of Terms of Reference

- 8.1 These ToR will be reviewed at least annually and earlier if required. Any proposed amendments to the ToR will be submitted to the NHS Devon Board for approval.

Document Control

Document Reference	QPEC ToR
Version	v1. 3 <u>2</u>
Senior Responsible Officer	Philippa Harding, Director of Governance
Approval by	NHS Devon Board
Date last reviewed/ approved	30 January 2025 <u>27 March 2025</u>
Next review date	Before 31 March 2026

Change Record

Date	Change	Comments
28.11.2024	Update to membership and quoracy requirements	- Membership updated to include "either NHS Devon Chair or" Independent Non-Executive Member - Chief Communications and Corporate Affairs Officer replaced by Chief Medical Officer - Quoracy updated to clarify "either the Chair of the NHS Devon Board or" another Independent Non-Executive Member of the NHS Devon Board.
30.01.2025	Patient and public engagement	Amended to clarify the role of the Committee in respect of the receipt of assurance relating to the discharge of NHS Devon's legal duties for involving public and patients.
<u>27.03.2025</u>	<u>NQB Guidance</u>	<u>Amended to make explicit reference to themes under NHS England's Quality Functions: Responsibilities of providers, Integrated Care Boards and NHS England</u>

Finance and Performance Committee

Terms of Reference

1. Constitutional Obligations

- 1.1. The Finance and Performance Committee (the Committee) is established by the Integrated Care Board for Devon (known and referred to as NHS Devon) as a Committee of the Board in accordance with its Constitution, Standing Orders and Scheme of Reservation and Delegation.
- 1.2. These Terms of Reference (ToR) set out the membership, remit, responsibilities and reporting arrangements of the Committee and may only be changed with the approval of the NHS Devon Board.
- 1.3. The Committee is an Assurance Committee of the NHS Devon Board and its members, including any who are not members of the NHS Devon Board, are bound by the Constitution, Standing Orders and Scheme of Reservation and Delegation of NHS Devon.
- 1.4. The Committee is authorised by the NHS Devon Board to:
 - a) Investigate any activity within its ToR;
 - b) Seek any information it requires within its remit, from any employee or member of NHS Devon (who are directed to co-operate with any request made by the Committee) within its remit as outlined in these ToR;
 - c) Obtain legal or other independent professional advice and secure the attendance of advisors with relevant expertise if it considers this is necessary to fulfil its functions. In doing so the Committee must follow any procedures put in place by NHS Devon for obtaining legal or professional advice;
 - d) Create task and finish sub-groups in order to take forward specific programmes of work as considered necessary by the Committee's members. The Committee shall determine the membership and ToR of any such task and finish sub-groups in accordance with NHS Devon's Constitution, Standing Orders and Scheme of Reservation and Delegation, but may /not delegate any decisions to such groups.

- 1.5. For the avoidance of doubt, in the event of any conflict, NHS Devon's Standing Orders, Standing Financial Instructions and Scheme of Reservation and Delegation will prevail over these ToR.

2. Purpose and Responsibilities

Purpose

- 2.1 The purpose of the Committee is to provide oversight and seek assurance that NHS Devon is maximising value for money from the use of its public funding and delivering its performance targets set out in the NHS Devon Operational Plan for the year. The Committee will identify performance risks and concerns to ensure that mitigating actions are being taken in a timely manner to deliver NHS Devon's financial and operational commitments across the One Devon Integrated Care System.
- 2.2 The Committee shall agree an annual programme of business with the NHS Devon Board; however, this programme of business will be flexible to new and emerging priorities and risks.

Responsibilities

- 2.3 The responsibilities of the Committee are as follows:

NHS Oversight Framework

- 2.4 Provide assurance to the NHS Devon Board around the arrangements for discharging, and implications of, NHS Devon's responsibilities in respect of the following themes under the NHS Oversight Framework:

- Finance and use of resources

Strategic Financial Framework

- 2.5 Recommend for approval the strategic financial framework of NHS Devon and the One Devon Integrated Care System, and monitor performance against it.
- 2.6 Recommend for approval the System Collaboration and Financial Management Agreement (or similar document/arrangement as may be required by NHS England) to both the NHS Devon Board and NHS provider organisations.
- 2.7 Ensure that health and social inequalities are taken into account in financial decision-making.

Resource Allocation (Revenue)

- 2.8 Ensure that an appropriate approach is developed for distributing NHS Devon resources to drive agreed change in line with the One Devon integrated Care Strategy.
- 2.9 Ensure appropriate work is undertaken with One Devon Integrated Care System partners to identify and allocate resources where appropriate to address finance and performance related issues that may arise within the context of the approved NHS Devon and One Devon Integrated Care System financial framework.
- 2.10 Advise the NHS Devon Board on any changes to NHS and non-NHS funding regimes and consider how the funding available to NHS Devon can be best used within the One Devon Integrated Care System to achieve the best outcomes for its population.

Financial Planning

- 2.11 Recommend the NHS Devon Integrated Care Board non-programme budgets (running costs) to the NHS Devon Board.
- 2.12 Oversee the development of a medium and long-term NHS Devon Integrated Care Board and One Devon Integrated Care System financial plan which demonstrates ongoing value and sustainability.
- 2.13 Review the arrangements in place for the consideration of business cases for investments / disinvestments for material service change or efficiency schemes and make recommendations to the NHS Devon Board as appropriate.

Financial Performance

- 2.14 Oversee the management of NHS Devon Integrated Care Board and One Devon Integrated Care System financial targets.
- 2.15 Monitor and report NHS Devon Integrated Care Board and One Devon Integrated Care System financial performance to the NHS Devon Board, highlighting areas of concern.
- 2.16 Propose and monitor performance against any actions required to address financial performance issues.
- 2.17 Maintain oversight of the underlying NHS Devon run rate and advise on actions to improve.

System Efficiencies

- 2.18 Ensure NHS Devon financial resources are used in an efficient way to deliver organisational and system objectives.

- 2.19 Drive a system wide productivity and efficiency strategy and to ensure system efficiencies are identified and monitored across the One Devon Integrated Care System, particularly where opportunities for system partners working together across organisations can be leveraged.

Capital

- 2.20 Consider proposals regarding the prioritisation of operational capital requirements and make recommendations on the application of operational capital funding to the NHS Devon Board.
- 2.21 Gain assurance that the capital programme is aligned to the One Devon Integrated Care System financial plan.
- 2.22 Monitor and report system capital programme performance to the NHS Devon Board, highlighting areas of concern.

Performance

- 2.23 Review performance against the delivery of the NHS Devon Operational Plan and key performance metrics as set out in the NHS Oversight Framework.
- 2.24 Take an overview of performance and transformation at whole system, place and organisation levels in relation to One Devon Integrated Care System objectives and priorities.
- 2.25 Develop and maintain connections with other NHS Devon Committees which have a role in performance development and improvement, including the Quality and Patient Experience Committee and the Workforce and Organisational Development Committee.

3. Membership

- 3.1 Members of the Committee shall be appointed by the NHS Devon Board in accordance with the NHS Devon Constitution.

Chair & Vice Chair

- 3.2 In accordance with the NHS Devon Constitution, the Committee will be chaired by an Independent Non-Executive Member of the NHS Devon Board, appointed on account of their specific knowledge, skills and experience making them suitable to chair the Committee.
- 3.3 Committee members may appoint a Vice Chair from amongst the membership of the Committee, who must be an Independent Non-Executive Member of the NHS Devon Board who has the requisite skills and experience to act in that capacity.

- 3.4 The Chair of the Committee will be responsible for agreeing the agenda and ensuring matters discussed meet the objectives as set out in these ToR.

Membership

- 3.5 The membership of the Committee shall be constituted as follows:

- Independent Non-Executive Member (Chair)
- Independent Non-Executive Member
- Either NHS Devon Chair or Independent Non-Executive Member
- Chief Financial Officer (Lead Executive)
- Chief Nursing Officer
- Chief Operating Officer

Other Attendees

- 3.6 Only members of the Committee have the right to attend and vote at Committee meetings; however, meetings of the Committee will also be attended by the following individuals who are not members:

- Chair of Audit and Risk Committee
- Chief People Officer
- Deputy Chief Finance Officer
- Director of Planning and Performance

- 3.7 Other attendees may be invited to attend all or part of any meeting as and when the Chair of the Committee considers they have expertise that would be relevant to the responsibilities of the Committee.

- 3.8 The Chair of the Committee may ask any or all of those who normally attend, but who are not members, to withdraw to facilitate open and frank discussion of particular matters.

Attendance

- 3.9 Members of the Committee may participate in meetings by telephone, video or by other electronic means where they are available and with the prior agreement of the Chair of the Committee. Participation by any of these means shall be deemed to constitute presence in person at the meeting. Members are normally expected to attend at least 75% of meetings during the year.

4. Quorum, Decisions and Voting

Quorum

- 4.1 For a meeting of the Committee to be quorate a minimum of 50% members (i.e., 3 members) is required, including the Chair or Vice Chair of the Committee (unless they are disqualified from participating on that item in the

agenda, by reason of a declaration of conflicts of interest) and either the Chair of the NHS Devon Board or another Independent Non-Executive Member of the NHS Devon Board.

- 4.2 If any member of the Committee is unable to participate in an item on the agenda, by reason of a declaration of conflicts of interest, then that individual shall no longer count towards the quorum.
- 4.3 If the quorum has not been reached, then the meeting may proceed informally if those attending agree, but no decisions may be taken.

Decision Making and Voting

- 4.4 Decisions will be guided by national NHS policy and best practice to ensure that staff are fairly motivated and rewarded for their individual contribution to the organisation, whilst ensuring proper regard to wider influences such as national consistency.
- 4.5 In line with NHS Devon's Standing Orders, it is expected that decisions will be reached by consensus. Should this not be possible, each member of the Committee will have one vote, the process for which is set out below:
 - a) All members of the Committee who are present at the meeting will be eligible to cast one vote each. (For the sake of clarity, members of the Committee are set out at paragraphs 3.5-3.8; attendees and observers do not have voting rights).
 - b) Absent members may not vote by proxy. Absence is defined as not being present at the time of the vote but this does not preclude anyone attending by teleconference or other virtual mechanism from exercising their right to vote if eligible to do so.
 - c) A resolution will be passed if more votes are cast for the resolution than against it.
 - d) If an equal number of votes are cast for and against a resolution, then the Chair of the Committee (or in their absence, the Vice Chair) will have a second and casting vote.
 - e) Should a vote be taken, the outcome of the vote, and any dissenting views, must be recorded in the minutes of the meeting.
- 4.6 For urgent issues, the Chair of the Committee may call a meeting at a notice of 2 days, setting out the reason for the urgency and the issue to be addressed.

5. Ways of Working

- 5.1 All members of the Committee will have due regard to and operate within the Constitution of NHS Devon, its Standing Orders, Standing Financial Instructions and other financial procedures.
- 5.2 Members of the Committee will abide by the 'Principles of Public Life' (The Nolan Principles) and the NHS Code of Conduct.
- 5.3 Members of the Committee must demonstrably consider the equality and diversity implications of decisions they make and consider whether any new resource allocation achieves positive change around inclusion, equality and diversity.
- 5.4 A Register of Interests will be reviewed at each Committee meeting. Those in attendance will be asked by the Chair of the Committee to declare any interests at the beginning of each meeting. If a member of the Committee feels compromised by any agenda item, they should declare a conflict of interest and agreement reached as the action to be taken as set out in the NHS Devon Conflicts of Interest Policy.

6. Reporting Arrangements

- 6.1 The Committee is accountable to the NHS Devon Board and shall report to the Board on how it discharges its responsibilities.
- 6.2 The Chair of the Committee will provide an assurance report on behalf of the Committee to the NHS Devon Board at each meeting on how it has discharged its responsibilities. The report shall be presented to the public meeting of the NHS Devon Board.
- 6.3 The Committee shall undertake an annual self-assessment of its own performance against its annual programme of business, membership and ToR. The outcome of this self-assessment will be included within the Review of Corporate Governance reported to the NHS Devon Board on an annual basis.

7. Meetings and Administration

Frequency of Meetings

- 7.1 The Committee will meet in private each month. Additional meetings may take place as required.
- 7.2 The NHS Devon Board, Chair or Chief Executive Officer may ask the Committee to convene further meetings to discuss particular issues on which they want the Committee's advice.

- 7.3 Arrangements and notice for calling meetings are set out in the NHS Devon Standing Orders.

Administration

- 7.4 The Committee shall be supported by an administrator from within the NHS Devon Corporate Governance Team. Their duties in this respect will include:

- a) Agreement of agendas with the Chair and attendees.
- b) Preparation, collation and circulation of papers in good time.
- c) Ensuring that those invited to each meeting attend, highlighting any concerns to Chair (including interests of members that may conflict with an agenda item).
- d) Taking the minutes and helping the Chair to prepare reports to the NHS Devon Board.
- e) Keeping a record of matters arising and issues to be carried forward.
- f) Maintaining records of members' appointments and renewal dates.
- g) Ensuring that action points are taken forward between meetings.
- h) Ensuring that members receive the development and training they need.
- i) Providing appropriate support to the Chair and members.

- 7.5 Following each meeting of the Committee, the administrator will:

- a) Maintain an attendance log and follow up as appropriate after each meeting to ensure the Committee adheres to the required frequency of attendance by members.
- b) Maintain a decisions log of reporting arrangements into each formal meeting of the Committee.
- c) Maintain a log of summary written reports provided to the NHS Devon Board from formal meetings of the Committee.

8. Review of Terms of Reference

- 8.1 These ToR will be reviewed at least annually and earlier if required. Any proposed amendments to the ToR will be submitted to the NHS Devon Board for approval.

Document Control

Document Reference	FPC ToR
Version	v1.2
Senior Responsible Officer	Philippa Harding, Director of Governance
Approval by	NHS Devon Board
Date last reviewed/ approved	28 November 2024
Next review date	Before 31 March 2026

Change Record

Date	Change	Comments
28.11.2024	Update to membership and quoracy requirements	- Membership updated to include “either NHS Devon Chair or” Independent Non-Executive Member - Quoracy updated to “and either the Chair of the NHS Devon Board or” another Independent Non-Executive Member
27.03.25	No change	Considered as part of review of Committee effectiveness in 2024/25. No changes proposed.

People and Organisational Development Committee

Terms of Reference

1. Constitutional Obligations

- 1.1. The People and Organisational Development Committee (the Committee) is established by the Integrated Care Board for Devon (known and referred to as NHS Devon) as a Committee of the Board in accordance with its Constitution, Standing Orders and Scheme of Reservation and Delegation.
- 1.2. These Terms of Reference (ToR) set out the membership, remit, responsibilities and reporting arrangements of the Committee and may only be changed with the approval of the NHS Devon Board.
- 1.3. The Committee is an Assurance Committee of the NHS Devon Board and its members, including any who are not members of the NHS Devon Board, are bound by the Constitution, Standing Orders and Scheme of Reservation and Delegation of NHS Devon.
- 1.4. The Committee is authorised by the NHS Devon Board to:
 - a) Investigate any activity within its ToR;
 - b) Seek any information it requires within its remit, from any employee or member of NHS Devon (who are directed to co-operate with any request made by the Committee) within its remit as outlined in these ToR;
 - c) Obtain legal or other independent professional advice and secure the attendance of advisors with relevant expertise if it considers this is necessary to fulfil its functions. In doing so the Committee must follow any procedures put in place by NHS Devon for obtaining legal or professional advice;
 - d) Create task and finish sub-groups in order to take forward specific programmes of work as considered necessary by the Committee's members. The Committee shall determine the membership and ToR of any such task and finish sub-groups in accordance with NHS Devon's Constitution, Standing Orders and Scheme of Reservation and Delegation, but may /not delegate any decisions to such groups.
- 1.5. For the avoidance of doubt, in the event of any conflict, NHS Devon's Standing Orders, Standing Financial Instructions and Scheme of Reservation and Delegation will prevail over these ToR.

2. Purpose and Responsibilities

Purpose

- 2.1 The purpose of the Committee is to provide oversight and seek assurance on the recruitment, development, retention and wellbeing of the people employed by NHS Devon and across the One Devon Integrated Care System.
- 2.2 The Committee shall agree an annual programme of business with the NHS Devon Board; however, this programme of business will be flexible to new and emerging priorities and risks.

Responsibilities

- 2.3 The responsibilities of the Committee are as follows:

NHS Oversight Framework:

- 2.4 Provide assurance to the NHS Devon Board around the arrangements for discharging, and implications of, the NHS Devon responsibilities in respect of the following themes under the NHS Oversight Framework:

- People
- Leadership and improvement capability

Workforce:

- 2.5 Provide assurance on the workforce recruitment, development and retention and wellbeing plans across the One Devon Integrated Care System. This should include assurance about the delivery of the One Devon Workforce Strategy and associated 5 year workforce plan to develop and recruit the future workforce needed to positively impact population health and improve outcomes.
- 2.6 Identify and quantify the risks in the implementation of the Workforce Strategy and determining the approach to providing effective oversight of the mitigation of those risks.
- 2.7 Provide assurance on delivery within the One Devon Integrated Care System of the NHS People Promise and Long Term Plan for workforce, including assurance that the 10 regulatory requirements of an Integrated Care System People function are delivered.
- 2.8 Consider future national developments which could impact on NHS Devon strategic workforce objectives.

Equality and Diversity

- 2.9 Provide assurance to the NHS Devon Board that the equality objectives of NHS Devon are being effectively met, with a particular focus on the NHS Devon workforce and the broader One Devon integrated Care System workforce.
- 2.10 Maintain oversight of the NHS Devon equality and diversity strategy and action plans and scrutinise the approach taken to equality and diversity for NHS Devon priorities and for specific pieces of work.

3. Membership

- 3.1 Members of the Committee shall be appointed by the NHS Devon Board in accordance with the NHS Devon Constitution.

Chair & Vice Chair

- 3.2 In accordance with the constitution, the Committee will be chaired by an Independent Non-Executive Member of NHS Devon, appointed on account of their specific knowledge skills and experience making them suitable to chair the Committee.
- 3.3 Committee members may appoint a Vice Chair from amongst the membership of the Committee, who must be an Independent Non-Executive Member of the NHS Devon Board who has the requisite skills and experience to act in that capacity.
- 3.4 The Chair of the Committee will be responsible for agreeing the agenda and ensuring matters discussed meet the objectives as set out in these ToR.

Membership

- 3.5 The membership of the Committee shall be constituted as follows:
 - Independent Non-Executive Member (Chair)
 - Independent Non-Executive Member
 - Independent Non-Executive Member
 - Partner Member – Providers of Primary Medical Services
 - Partner Member – NHS Trusts and NHS Foundation Trusts
 - Chief People Officer (Lead Executive)
 - Chief Finance Officer
 - A Chief People Officer from one of the NHS Trusts / Foundation Trusts within the One Devon Integrated Care System

Other Attendees

- 3.6 Only members of the Committee have the right to attend and vote at Committee meetings; however, meetings of the Committee will also be attended by the following individuals who are not members:

- Chief Nursing Officer
- Director of System WorkforceTBC
- Head of Workforce – Professional Standards
- Assistant Director of HR
- Head of Organisational Development

- 3.7 Other attendees may be invited to attend all or part of any meeting as and when the Chair of the Committee considers they have expertise that would be relevant to the responsibilities of the Committee.
- 3.8 The Chair of the Committee may ask any or all of those who normally attend, but who are not members, to withdraw to facilitate open and frank discussion of particular matters.

Attendance

- 3.9 Members of the Committee may participate in meetings by telephone, video or by other electronic means where they are available and with the prior agreement of the Chair of the Committee. Participation by any of these means shall be deemed to constitute presence in person at the meeting. Members are normally expected to attend at least 75% of meetings during the year.

4. Quorum, Decisions and Voting

Quorum

- 4.1 For a meeting of the Committee to be quorate a minimum of 50% members (i.e., 4 members) is required, including the Chair or Vice Chair of the Committee (unless they are disqualified from participating on that item in the agenda, by reason of a declaration of conflicts of interest) and another Independent Non-Executive Member of the NHS Devon Board.
- 4.2 If any member of the Committee is unable to participate in an item on the agenda, by reason of a declaration of conflicts of interest, then that individual shall no longer count towards the quorum.
- 4.3 If the quorum has not been reached, then the meeting may proceed informally if those attending agree, but no decisions may be taken.

Decision Making and Voting

- 4.4 In line with NHS Devon's Standing Orders, it is expected that decisions will be reached by consensus. Should this not be possible, each member of the Committee will have one vote, the process for which is set out below:
- a) All members of the Committee who are present at the meeting will be eligible to cast one vote each. (For the sake of clarity, members of the Committee are set out at paragraph 3.5; attendees and observers do not have voting rights).
 - b) Absent members may not vote by proxy. Absence is defined as not being present at the time of the vote but this does not preclude anyone attending by teleconference or other virtual mechanism from exercising their right to vote if eligible to do so.
 - c) A resolution will be passed if more votes are cast for the resolution than against it.
 - d) If an equal number of votes are cast for and against a resolution, then the Chair of the Committee (or in their absence, the Vice Chair) will have a second and casting vote.
 - e) Should a vote be taken, the outcome of the vote, and any dissenting views, must be recorded in the minutes of the meeting.
- 4.5 For urgent issues, the Chair of the Committee may call a meeting at a notice of 2 days, setting out the reason for the urgency and the issue to be addressed.

5. Ways of Working

- 5.1 All members of the Committee will have due regard to and operate within the Constitution of NHS Devon, its Standing Orders, Standing Financial Instructions and other financial procedures.
- 5.2 Members of the Committee will abide by the 'Principles of Public Life' (The Nolan Principles) and the NHS Code of Conduct.
- 5.3 Members of the Committee must demonstrably consider the equality and diversity implications of decisions they make and consider whether any new resource allocation achieves positive change around inclusion, equality and diversity.
- 5.4 A Register of Interests will be reviewed at each Committee meeting. Those in attendance will be asked by the Chair of the Committee to declare any interests at the beginning of each meeting. If a member of the Committee feels compromised by any agenda item, they should declare a conflict of interest and agreement reached as the action to be taken as set out in the NHS Devon Conflicts of Interest Policy.

6. Reporting Arrangements

- 6.1 The Committee is accountable to the NHS Devon Board and shall report to the Board on how it discharges its responsibilities.
- 6.2 The Chair of the Committee will provide an assurance report on behalf of the Committee to the NHS Devon Board at each meeting on how it has discharged its responsibilities. The report shall be presented to the public meeting of the NHS Devon Board.
- 6.3 The Committee shall undertake an annual self-assessment of its own performance against its annual programme of business, membership and ToR. The outcome of this self-assessment will be included within the Review of Corporate Governance reported to the NHS Devon Board on an annual basis.

7. Meetings and Administration

Frequency of Meetings

- 7.1 The Committee will meet in private in six times a year. Additional meetings may take place as required.
- 7.2 The NHS Devon Board, Chair or Chief Executive Officer may ask the Committee to convene further meetings to discuss particular issues on which they want the Committee's advice.
- 7.3 Arrangements and notice for calling meetings are set out in the NHS Devon Standing Orders.

Administration

- 7.4 The Committee shall be supported by an administrator from within the NHS Devon Corporate Governance Team. Their duties in this respect will include:
 - a) Agreement of agendas with the Chair and attendees.
 - b) Preparation, collation and circulation of papers in good time.
 - c) Ensuring that those invited to each meeting attend, highlighting any concerns to Chair (including interests of members that may conflict with an agenda item).
 - d) Taking the minutes and helping the Chair to prepare reports to the NHS Devon Board.
 - e) Keeping a record of matters arising and issues to be carried forward.
 - f) Maintaining records of members' appointments and renewal dates.
 - g) Ensuring that action points are taken forward between meetings.
 - h) Ensuring that members receive the development and training they need.
 - i) Providing appropriate support to the Chair and members.

- 7.5 Following each meeting of the Committee, the administrator will:
- a) Maintain an attendance log and follow up as appropriate after each meeting to ensure the Committee adheres to the required frequency of attendance by members.
 - b) Maintain a decisions log of reporting arrangements into each formal meeting of the Committee.
 - c) Maintain a log of summary written reports provided to the NHS Devon Board from formal meetings of the Committee.

8. Review of Terms of Reference

- 8.1 These ToR will be reviewed at least annually and earlier if required. Any proposed amendments to the ToR will be submitted to the NHS Devon Board for approval.

Document Control

Document Reference	PODC ToR
Version	v1.2
Senior Responsible Officer	Philippa Harding, Director of Governance
Approval by	NHS Devon Board
Date last reviewed/ approved	28 November 2024
Next review date	Before 31 March 2026

Change Record

Date	Change	Comments
28.11.2024	Membership Update	To include the Partner Member – Providers of Primary Medical Services and a Chief People Officer from one of the NHS Trusts / Foundation Trusts within the One Devon Integrated Care System
<u>27.03.2025</u>	<u>Attendance Update</u>	<u>To include regular attendees identified in 2024/25 Committee Effectiveness Review</u>

Remuneration and Internal ICB Workforce Committee

Terms of Reference

1. Constitutional Obligations

- 1.1. The Remuneration Committee (the Committee) is established by the Integrated Care Board for Devon (known and referred to as NHS Devon) as a Committee of the Board in accordance with its Constitution, Standing Orders and Scheme of Reservation and Delegation.
- 1.2. These Terms of Reference (ToR) set out the membership, remit, responsibilities and reporting arrangements of the Committee and may only be changed with the approval of the NHS Devon Board.
- 1.3. The Committee is a Non-Executive Committee of the NHS Devon Board and its members, including any who are not members of the NHS Devon Board, are bound by the Constitution, Standing Orders and Scheme of Reservation and Delegation of NHS Devon.
- 1.4. The Committee is authorised by the NHS Devon Board to:
 - a) Investigate any activity within its ToR;
 - b) Seek any information it requires within its remit, from any employee or member of NHS Devon (who are directed to co-operate with any request made by the Committee) within its remit as outlined in these ToR;
 - c) Obtain legal or other independent professional advice and secure the attendance of advisors with relevant expertise if it considers this is necessary to fulfil its functions. In doing so the Committee must follow any procedures put in place by NHS Devon for obtaining legal or professional advice;
 - d) Create task and finish sub-groups in order to take forward specific programmes of work as considered necessary by the Committee's members. The Committee shall determine the membership and ToR of any such task and finish sub-groups in accordance with NHS Devon's Constitution, Standing Orders and Scheme of Reservation and Delegation, but may /not delegate any decisions to such groups.
- 1.5. For the avoidance of doubt, in the event of any conflict, NHS Devon's Standing Orders, Standing Financial Instructions and Scheme of Reservation

and Delegation will prevail over these ToR, other than the Committee being permitted to meet in private.

2. Purpose and Responsibilities

Purpose

- 2.1 The Committee will be responsible for approving the remuneration and pay frameworks for all NHS Devon employees and Board Members (excluding the NHS Devon Chair whose remuneration is determined by NHS England).
- 2.2 It will exercise the functions of NHS Devon relating to paragraphs 17 to 19 of Schedule 1B to the NHS Act 2006, by confirming NHS Devon Pay Policy, including adoption of any pay frameworks for all employees including senior managers/directors (including Executive and Independent Non-Executive Members of the NHS Devon Board, although excluding the NHS Devon Chair), as well as any arrangement relation to the termination of their employment (including redundancy and non-disclosure agreements).
- 2.3 The Committee shall agree an annual programme of business with the NHS Devon Board; however, this programme of business will be flexible to new and emerging priorities and risks.

Responsibilities

- 2.4 The responsibilities of the Committee are as follows:

Remuneration of the Chief Executive, Directors and other Very Senior Managers (VSMs):

- 2.5 Approve on behalf of the NHS Devon Board a framework and policy for the appropriate remuneration of Executive and Independent Non-Executive members of the NHS Devon Board and other NHS Devon VSMs, as well as individuals' remuneration packages, taking account of all factors which it deems necessary, including relevant legal and regulatory requirements, national guidance, and other best practice as appropriate.
- 2.6 Approve business cases relating to the fees to be applied to other individuals who provide specific services to NHS Devon at VSM level and above (defined as any who are proposed to be paid at a level that, if annualised, would equate to a VSM salary).
- 2.7 Approve business cases for the termination of employment and other contractual terms and non-contractual terms (including contractual payments such as redundancy or early retirement provisions as well as other payments) for NHS Devon Executive members and other NHS Devon VSMs.

Remuneration of all NHS Devon staff:

- 2.8 Approve the pay policy for NHS Devon staff (including the adoption of pay frameworks such as Agenda for Change).
- 2.9 Oversee staff contractual arrangements.
- 2.10 Approve proposals for termination payments and any special payments (including arrangements for dealing with legal cases relating to employment issues) following scrutiny of their proper calculation and taking account of such national guidance as appropriate.

Board appointments and performance:

- 2.11 Provide assurance that robust succession planning is in place for the NHS Devon Board.
- 2.12 Review the outcomes of the NHS Devon Board performance evaluation process, including thematic outcomes from appraisals, that relate to the performance and effectiveness of the NHS Devon Board
- 2.13 Provide assurance with regard to the policy and process for the appointment of Co-opted Members of NHS Devon Board Committees.
- 2.14 Provide assurance in relation to NHS Devon statutory duties relating to people such as compliance with employment legislation including such as Fit and Proper Person Regulation (FPPR) and conflicts of interest requirements.

3. Membership

- 3.1 Members of the Committee shall be appointed by the NHS Devon Board in accordance with the NHS Devon Constitution.

Chair & Vice Chair

- 3.2 In accordance with the NHS Devon Constitution, the Committee will be chaired by an Independent Non-Executive Member of the NHS Devon Board, appointed on account of their specific knowledge, skills and experience making them suitable to chair the Committee.
- 3.3 Committee members may appoint a Vice Chair from amongst the membership of the Committee, who must be an Independent Non-Executive Member of the NHS Devon who has the requisite skills and experience to act in that capacity.
- 3.4 The Chair of the Committee will be responsible for agreeing the agenda and ensuring matters discussed meet the objectives as set out in these ToR.

Membership

- 3.5 The membership of the Committee shall be constituted as follows:
- Independent Non-Executive Member (Chair)
 - Independent Non-Executive Member (Vice-Chair)
 - Independent Non-Executive Member
 - Independent Non-Executive Member
 - NHS Devon Chair
 - Partner Member - Providers of Primary Medical Services
 - Co-opted Member – Chair of the One Devon Integrated Care Partnership
- 3.6 The Chair of the Audit and Risk Committee may not be a member of the Committee.
- 3.7 The Chair of the NHS Devon Board may be a member of the Committee but may not be appointed as the Chair or Vice Chair of the Committee.
- 3.8 When determining the membership of the Committee, active consideration will be made to diversity and equality.

Other Attendees

- 3.9 Only members of the Committee have the right to attend and vote at Committee meetings; however, meetings of the Committee will also be attended by the following individuals who are not members:
- Chair of Audit and Risk Committee
 - Chief Executive Officer
 - Chief People Officer
 - Company Secretary/Director of Governance
- 3.10 Other attendees may be invited to attend all or part of any meeting as and when the Chair of the Committee considers they have expertise that would be relevant to the responsibilities of the Committee.
- 3.11 The Chair of the Committee may ask any or all of those who normally attend, but who are not members, to withdraw to facilitate open and frank discussion of particular matters.
- 3.12 No individual should be present during any discussion relating to:
- a) Any aspect of their own pay; or
 - b) Any aspect of the pay of others when it has an impact on them.

Attendance

- 3.13 Members of the Committee may participate in meetings by telephone, video or by other electronic means where they are available and with the prior

agreement of the Chair of the Committee. Participation by any of these means shall be deemed to constitute presence in person at the meeting. Members are normally expected to attend at least 75% of meetings during the year.

4. Quorum, Decisions and Voting

Quorum

- 4.1 For a meeting of the Committee to be quorate a minimum of 50% members (i.e., ~~3~~4 members) is required, including the Chair or Vice Chair of the Committee and either the Chair of the NHS Devon Board or another Independent Non-Executive Member of the NHS Devon Board (unless they are disqualified from participating on that item in the agenda, by reason of a declaration of conflicts of interest).
- 4.2 Where the Committee is considering the remuneration of any of its members, those members shall be disqualified from participating on that item in the agenda, by reason of a declaration of conflicts of interest. In that circumstance, for the Committee to be quorate a minimum of 50% members who have not been disqualified from participating on that agenda item (i.e., 2 members) is required.
- 4.3 If any member of the Committee is unable to participate in an item on the agenda, by reason of a declaration of conflicts of interest, then that individual shall no longer count towards the quorum.
- 4.4 If the quorum has not been reached, then the meeting may proceed informally if those attending agree, but no decisions may be taken.

Decision Making and Voting

- 4.5 Decisions will be guided by national NHS policy and best practice to ensure that staff are fairly motivated and rewarded for their individual contribution to the organisation, whilst ensuring proper regard to wider influences such as national consistency.
- 4.6 In line with NHS Devon's Standing Orders, it is expected that decisions will be reached by consensus. Should this not be possible, each member of the Committee will have one vote, the process for which is set out below:
 - a) All members of the Committee who are present at the meeting will be eligible to cast one vote each. (For the sake of clarity, members of the Committee are set out at paragraphs 3.5-3.8; attendees and observers do not have voting rights).
 - b) Absent members may not vote by proxy. Absence is defined as not being present at the time of the vote but this does not preclude anyone attending by teleconference or other virtual mechanism from exercising their right to vote if eligible to do so.

- c) A resolution will be passed if more votes are cast for the resolution than against it.
 - d) If an equal number of votes are cast for and against a resolution, then the Chair of the Committee (or in their absence, the Vice Chair) will have a second and casting vote.
 - e) Should a vote be taken, the outcome of the vote, and any dissenting views, must be recorded in the minutes of the meeting.
- 4.7 For urgent decisions, the Chair of the Committee may call a meeting at a notice of 2 days, setting out the reason for the urgency and the decision to be taken.
- 4.8 When there is an urgent matter where a decision is required outside of the meeting (which cannot wait for the next scheduled meeting), the Chair of the Committee may make a decision after conferring with at least two other members ("Chair's Action").
- 4.9 When Chair's Action has been taken then the next quorate meeting of the Committee must ratify it. Urgent decisions will only be taken when there is insufficient time available for the decision to be delayed until the next meeting.

5. Ways of Working

- 5.1 All members of the Committee will have due regard to and operate within the Constitution of NHS Devon, its Standing Orders, Standing Financial Instructions and other financial procedures.
- 5.2 Members of the Committee will abide by the 'Principles of Public Life' (The Nolan Principles) and the NHS Code of Conduct.
- 5.3 Members of the Committee must demonstrably consider the equality and diversity implications of decisions they make and consider whether any new resource allocation achieves positive change around inclusion, equality and diversity.
- 5.4 The Committee will take proper account of National Agreements and appropriate benchmarking, for example Agenda for Change and guidance issued by the Government, the Department of Health and Social Care, NHS England and the wider NHS in reaching their determinations.
- 5.5 A Register of Interests will be reviewed at each Committee meeting. Those in attendance will be asked by the Chair of the Committee to declare any interests at the beginning of each meeting. If a member of the Committee feels compromised by any agenda item, they should declare a conflict of interest and agreement reached as the action to be taken as set out in the NHS Devon Conflicts of Interest Policy.

6. Reporting Arrangements

- 6.1 The Committee is accountable to the NHS Devon Board and shall report to the Board on how it discharges its responsibilities.
- 6.2 The Chair of the Committee will provide an assurance report on behalf of the Committee to the NHS Devon Board at each meeting on how it has discharged its responsibilities. The report shall be presented to the public meeting of the NHS Devon Board. Where minutes and reports identify individuals, they will not be made public and will be presented at a private meeting of the NHS Devon Board. Public reports will be made as appropriate to satisfy any requirements in relation to disclosure of public sector executive pay.
- 6.3 The Committee shall undertake an annual self-assessment of its own performance against its annual programme of business, membership and ToR. The outcome of this self-assessment will be included within the Review of Corporate Governance reported to the NHS Devon Board on an annual basis.
- 6.4 The Committee will provide the Board with an Annual Report. The report will summarise its conclusions from the work it has done during the year.

7. Meetings and Administration

Frequency of Meetings

- 7.1 The Committee will meet in private at least four times a year. Additional meetings may take place as required.
- 7.2 The Board, Chair or Chief Executive Officer may ask the Committee to convene further meetings to discuss particular issues on which they want the Committee's advice.
- 7.3 Arrangements and notice for calling meetings are set out in the NHS Devon Standing Orders.

Administration

- 7.4 The Committee shall be supported by an administrator from within the NHS Devon Corporate Governance Team. Their duties in this respect will include:
 - a) Agreement of agendas with the Chair and attendees.
 - b) Preparation, collation and circulation of papers in good time.
 - c) Ensuring that those invited to each meeting attend, highlighting any concerns to Chair (including interests of members that may conflict with an agenda item).

- d) Taking the minutes and helping the Chair to prepare reports to the NHS Devon Board.
- e) Keeping a record of matters arising and issues to be carried forward.
- f) Maintaining records of members' appointments and renewal dates.
- g) Ensuring that action points are taken forward between meetings.
- h) Ensuring that members receive the development and training they need.
- i) Providing appropriate support to the Chair and members.

7.5 Following each meeting of the Committee, the administrator will:

- a) Maintain an attendance log and follow up as appropriate after each meeting to ensure the Committee adheres to the required frequency of attendance by members.
- b) Maintain a decisions log of reporting arrangements into each formal meeting of the Committee.
- c) Maintain a log of summary written reports provided to the NHS Devon Board from formal meetings of the Committee.

8. Review of Terms of Reference

- 8.1 These ToR will be reviewed at least annually and earlier if required. Any proposed amendments to the ToR will be submitted to the NHS Devon Board for approval.

Document Control

Document Reference	RemCo ToR
Version	v1. 2 <u>1</u>
Senior Responsible Officer	Philippa Harding, Company Secretary <u>Director of Governance</u>
Approval by	NHS Devon Board
Date last reviewed/ approved	28 November 2024 <u>27 March 2025</u>
Next review date	28 November 2025 <u>Before 31 March 2026</u>

Change Record

Date	Change	Comments
28.11.2024	Quoracy requirements	Updated to include quoracy includes the Chair of Vice Chair of the Committee and either the Chair of the NHS Devon Board or another Independent Non-Executive Member.
<u>27.03.2025</u>	<u>Membership and attendance</u>	<u>Updated to add additional Independent Non Executive Member and to add Chair of Audit and Risk Committee to regular attendees. Amendment of quorum.</u>

Audit and Risk Committee

Terms of Reference

1. Constitutional Obligations

- 1.1. The Audit and Risk Committee (the Committee) is established by the Integrated Care Board for Devon (known and referred to as NHS Devon) as a Committee of the Board in accordance with its Constitution, Standing Orders and Scheme of Reservation and Delegation.
- 1.2. These Terms of Reference (ToR) set out the membership, remit, responsibilities and reporting arrangements of the Committee and may only be changed with the approval of the NHS Devon Board.
- 1.3. The Committee is a Non-Executive Committee of the NHS Devon Board and its members, including any who are not members of the NHS Devon Board, are bound by the Constitution, Standing Orders and Scheme of Reservation and Delegation of NHS Devon.
- 1.4. The Committee is authorised by the NHS Devon Board to:
 - a) Investigate any activity within its ToR;
 - b) Seek any information it requires within its remit, from any employee or member of NHS Devon (who are directed to co-operate with any request made by the Committee) within its remit as outlined in these ToR;
 - c) Commission any reports it deems necessary to help fulfil its obligations;
 - d) Obtain legal or other independent professional advice and secure the attendance of advisors with relevant expertise if it considers this is necessary to fulfil its functions. In doing so the Committee must follow any procedures put in place by NHS Devon for obtaining legal or professional advice;
 - e) Create task and finish sub-groups in order to take forward specific programmes of work as considered necessary by the Committee's members. The Committee shall determine the membership and ToR of any such task and finish sub-groups in accordance with NHS Devon's Constitution, Standing Orders and Scheme of Reservation and Delegation, but may /not delegate any decisions to such groups.
- 1.5. For the avoidance of doubt, in the event of any conflict, NHS Devon's Standing Orders, Standing Financial Instructions and Scheme of Reservation and Delegation will prevail over these ToR.

2. Purpose and Responsibilities

Purpose

- 2.1 The purpose of the Committee is to contribute to the overall delivery of NHS Devon's objectives by providing oversight and assurance to the NHS Devon Board on the adequacy of governance, risk management and internal control processes within the organisation.
- 2.2 The duties of the Committee will be driven by NHS Devon's objectives and the associated risks. An annual programme of business will be agreed at the start of each financial year with the NHS Devon Board; however, this programme of business will be flexible to new and emerging priorities and risks.

Responsibilities

- 2.3 The responsibilities of the Committee are as follows:

Integrated governance, risk management and internal control

- 2.4 To review the adequacy and effectiveness of the system of integrated governance, risk management and internal control across the whole of NHS Devon's activities that support the achievement of its objectives, and to highlight any areas of weakness to the NHS Devon Board.
- 2.5 To ensure that financial systems and governance are established which facilitate compliance with Department of Health and Social Care's (DHSC's) Group Accounting Manual (GAM).
- 2.6 To review the adequacy and effectiveness of the assurance processes that indicate the degree of achievement of NHS Devon's objectives, the effectiveness of the management of principal risks.
- 2.7 To have oversight of system risks where they relate to the achievement of NHS Devon's objectives.
- 2.8 To ensure that NHS Devon acts consistently with the principles and guidance established in His Majesty's Treasury's (HMT's) Managing Public Money.
- 2.9 To seek reports and assurance from directors and managers as appropriate, concentrating on the systems of integrated governance, risk management and internal control, together with indicators of their effectiveness.
- 2.10 To identify opportunities to improve governance, risk management and internal control processes across NHS Devon.

Internal audit

- 2.11 To ensure that there is an effective internal audit function that meets the Public Sector Internal Audit Standards and provides appropriate independent assurance to the NHS Devon Board. This will be achieved by:
- a) Considering the provision of the internal audit service and the costs involved;
 - b) Reviewing and approving the annual internal audit plan and more detailed programme of work, ensuring that this is consistent with the audit needs of the organisation as identified in the assurance framework;
 - c) Considering the major findings of internal audit work, including the Head of Internal Audit Opinion, (and management's response), and ensure coordination between the internal and external auditors to optimise the use of audit resources;
 - d) Ensuring that the internal audit function is adequately resourced and has appropriate standing within the organisation; and
 - e) Monitoring the effectiveness of internal audit and carrying out an annual review.

External audit

- 2.12 To review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process. In particular, the Committee will review the work and findings of the external auditors and consider the implications and management's responses to their work. This will be achieved by:
- a) Considering the appointment and performance of the external auditors, as far as the rules governing the appointment permit;
 - b) Discussing and agreeing with the external auditors, before the audit commences, the nature and scope of the audit as set out in the annual plan;
 - c) Discussing with the external auditors their evaluation of audit risks and assessment of the organisation and the impact on the audit fee; and
 - d) Reviewing all external audit reports, including to those charged with governance (before its submission to the NHS Devon Board) and any work undertaken outside the annual audit plan, together with the appropriateness of management responses.

Other assurance functions

- 2.13 To review the findings of assurance functions in NHS Devon, and to consider the implications for the governance of NHS Devon.
- 2.14 To review the work of other committees in NHS Devon, whose work can provide relevant assurance to the Committee's own areas of responsibility.
- 2.15 To review the assurance processes in place in relation to financial performance across NHS Devon, including the completeness and accuracy of information provided.

- 2.16 To review the findings of external bodies and consider the implications for governance of NHS Devon. These will include, but will not be limited to:
- Reviews and reports issued by arm's length bodies or regulators and inspectors: e.g. National Audit Office, Select Committees, NHS Resolution, Care Quality Commission (CQC); and
 - Reviews and reports issued by professional bodies with responsibility for the performance of staff or functions (e.g. Royal Colleges and accreditation bodies).

Counter fraud

- 2.17 To assure itself that NHS Devon has adequate arrangements in place for counter fraud, bribery and corruption (including cyber security) that meet NHS Counter Fraud Authority's (NHSCFA) standards and shall review the outcomes of work in these areas.
- 2.18 To review, approve and monitor counter fraud work plans, receiving regular updates on counter fraud activity, monitor the implementation of action plans, provide direct access and liaison with those responsible for counter fraud, review annual reports on counter fraud, and discuss NHSCFA quality assessment reports.
- 2.19 To ensure that the counter fraud service provides appropriate progress reports and that these are scrutinised and challenged where appropriate.
- 2.20 To be responsible for ensuring that the counter fraud service submits an Annual Report and Self-Review Assessment, outlining key work undertaken during each financial year to meet the NHS Standards for Commissioners; Fraud, Bribery and Corruption.
- 2.21 To report concerns of suspected fraud, bribery and corruption to the NHSCFA.

Freedom to Speak Up

- 2.22 To review the adequacy and security of NHS Devon's arrangements for its employees, contractors and external parties to raise concerns, in confidence, in relation to financial, clinical management, or other matters. The Committee shall ensure that these arrangements allow proportionate and independent investigation of such matters and appropriate follow up action.

Information Governance (IG)

- 2.23 To receive regular updates on IG compliance (including uptake & completion of data security training), data breaches and any related issues and risks.

- 2.24 To review the annual Senior Information Risk Owner (SIRO) report, the submission for the Data Security & Protection Toolkit and relevant reports and action plans.
- 2.25 To receive reports on audits to assess information and IT security arrangements, including the annual Data Security & Protection Toolkit audit.
- 2.26 To provide assurance to the NHS Devon Board that there is an effective framework in place for the management of risks associated with IG.

Financial reporting

- 2.27 To monitor the integrity of the financial statements of NHS Devon and any formal announcements relating to its financial performance.
- 2.28 To ensure that the systems for financial reporting to the NHS Devon Board, including those of budgetary control, are subject to review as to the completeness and accuracy of the information provided.
- 2.29 To review the annual report and financial statements (including accounting policies) before submission to the NHS Devon Board focusing particularly on:
 - a) The wording in the Governance Statement and other disclosures relevant to the Terms of Reference of the Committee;
 - b) Changes in accounting policies, practices and estimation techniques;
 - c) Unadjusted mis-statements in the Financial Statements;
 - d) Significant judgements and estimates made in preparing of the Financial Statements;
 - e) Significant adjustments resulting from the audit;
 - f) Letter of representation; and
 - g) Qualitative aspects of financial reporting.

Conflicts of Interest

- 2.30 The Chair of the Audit Committee will be the nominated Conflicts of Interest Guardian.
- 2.31 The Committee shall satisfy itself that NHS Devon's policy, systems and processes for the management of conflicts, (including gifts and hospitality and bribery) are effective including receiving reports relating to non-compliance with the ICB policy and procedures relating to conflicts of interest.

Management

- 2.32 To request and review reports and assurances from directors and managers on the overall arrangements for governance, risk management and internal control.
- 2.33 The Committee may also request specific reports from individual functions within NHS Devon as they may be appropriate to the overall arrangements.

- 2.34 To receive reports of breaches of policy and normal procedure or proceedings, including such as suspensions of NHS Devon's standing orders, in order provide assurance in relation to the appropriateness of decisions and to derive future learning.

Communication

~~To co-ordinate and manage communications on governance, risk management and internal control with stakeholders internally and externally.~~

- ~~2.35 To develop an approach with other committees, including the Integrated Care Partnership, to ensure the relationship between them is understood.~~

3. Membership

- 3.1 Members of the Committee shall be appointed by the NHS Devon Board in accordance with the NHS Devon Constitution.

Chair & Vice Chair

- 3.2 In accordance with the NHS Devon Constitution, the Committee will be chaired by an Independent Non-Executive Member of the NHS Devon Board, appointed on account of their specific knowledge, skills and experience making them suitable to chair the Committee.
- 3.3 The Chair of the Committee shall be independent and therefore may not chair any other Committees of the NHS Devon Board. In so far as it is possible, they will not be a member of any other NHS Devon Board Assurance Committee.
- 3.4 Committee members may appoint a Vice Chair from amongst the membership of the Committee, who must be an Independent Non-Executive Member of the NHS Devon who has the requisite skills and experience to act in that capacity.
- 3.5 The Chair of the Committee will be responsible for agreeing the agenda and ensuring matters discussed meet the objectives as set out in these ToR.

Membership

- 3.6 The membership of the Committee shall be constituted as follows:

- Independent Non-Executive Member (Chair)
- Independent Non-Executive Member
- Independent Non-Executive Member
- ~~• Co-opted Member~~

- 3.7 Neither the Chair of the NHS Devon Board, nor employees of NHS Devon will be members of the Committee.
- 3.8 Members will possess between them knowledge, skills and experience in: accounting, risk management, internal, external audit; and technical or specialist issues pertinent to NHS Devon's business.

Other Attendees

- 3.9 Only members of the Committee have the right to attend and vote at Committee meetings; however, meetings of the Committee will also be attended by the following individuals who are not members:
- Chief Finance Officer
 - Chief Communications and Corporate Affairs Officer
 - ~~Company Secretary~~ Director of Governance
 - Representatives of both internal and external audit
 - Individuals who lead on counter fraud matters
- 3.10 Other attendees may be invited to attend all or part of any meeting as and when the Chair of the Committee considers they have expertise that would be relevant to the responsibilities of the Committee.
- 3.11 The Chief Executive Officer should be invited to attend the Committee at least annually.
- 3.12 The Chair of the NHS Devon Board may also be invited to attend one meeting each year in order to gain an understanding of the Committee's operations.
- 3.13 The Chair of the Committee may ask any or all of those who normally attend, but who are not members, to withdraw to facilitate open and frank discussion of particular matters.

Attendance

- 3.14 Members of the Committee may participate in meetings by telephone, video or by other electronic means where they are available and with the prior agreement of the Chair of the Committee. Participation by any of these means shall be deemed to constitute presence in person at the meeting. Members are normally expected to attend at least 75% of meetings during the year.

Access

- 3.15 Regardless of attendance, External Audit, Internal Audit, Local Counter Fraud and Security Management providers will have full and unrestricted rights of access to the Committee.

4. Quorum, Decisions and Voting

Quorum

- 4.1 For a meeting of the Committee to be quorate a minimum of 50% members (i.e., 2 members) is required, including the Chair or Vice Chair of the Committee (unless they are disqualified from participating on that item in the agenda, by reason of a declaration of conflicts of interest) and another Independent Non-Executive Member of the NHS Devon Board.
- 4.2 If any member of the Committee is unable to participate in an item on the agenda, by reason of a declaration of conflicts of interest, then that individual shall no longer count towards the quorum.
- 4.3 If the quorum has not been reached, then the meeting may proceed informally if those attending agree, but no decisions may be taken.

Decision Making and Voting

- 4.4 In line with NHS Devon's Standing Orders, it is expected that decisions will be reached by consensus. Should this not be possible, each member of the Committee will have one vote, the process for which is set out below:
 - a) All members of the Committee who are present at the meeting will be eligible to cast one vote each. (For the sake of clarity, members of the Committee are set out at paragraph 3.6; attendees and observers do not have voting rights).
 - b) Absent members may not vote by proxy. Absence is defined as not being present at the time of the vote but this does not preclude anyone attending by teleconference or other virtual mechanism from exercising their right to vote if eligible to do so.
 - c) A resolution will be passed if more votes are cast for the resolution than against it.
 - d) If an equal number of votes are cast for and against a resolution, then the Chair of the Committee (or in their absence, the Vice Chair) will have a second and casting vote.
 - e) Should a vote be taken, the outcome of the vote, and any dissenting views, must be recorded in the minutes of the meeting.
- 4.5 For urgent decisions, the Chair of the Committee may call a meeting at a notice of 2 days, setting out the reason for the urgency and the decision to be taken.

- 4.6 When there is an urgent matter where a decision is required outside of the meeting (which cannot wait for the next scheduled meeting), the Chair of the Committee may make a decision after conferring with at least two other members ("Chair's Action").
- 4.7 When Chair's Action has been taken then the next quorate meeting of the Committee must ratify it. Urgent decisions will only be taken when there is insufficient time available for the decision to be delayed until the next meeting.

5. Ways of Working

- 5.1 All members of the Committee will have due regard to and operate within the Constitution of NHS Devon, its Standing Orders, Standing Financial Instructions and other financial procedures.
- 5.2 Members of the Committee will abide by the 'Principles of Public Life' (The Nolan Principles) and the NHS Code of Conduct.
- 5.3 Members of the Committee must demonstrably consider the equality and diversity implications of decisions they make and consider whether any new resource allocation achieves positive change around inclusion, equality and diversity.
- 5.4 A Register of Interests will be reviewed at each Committee meeting. Those in attendance will be asked by the Chair of the Committee to declare any interests at the beginning of each meeting. If a member of the Committee feels compromised by any agenda item, they should declare a conflict of interest and agreement reached as the action to be taken as set out in the NHS Devon Conflicts of Interest Policy.

6. Reporting Arrangements

- 6.1 The Committee is accountable to the NHS Devon Board and shall report to the Board on how it discharges its responsibilities.
- 6.2 The Chair of the Committee will provide an assurance report on behalf of the Committee to the NHS Devon Board at each meeting on how it has discharged its responsibilities. The report shall be presented to the public meeting of the NHS Devon Board. Where minutes and reports identify confidential matters, they will not be made public and will be presented at a private meeting of the NHS Devon Board.
- 6.3 The Committee shall undertake an annual self-assessment of its own performance against its annual programme of business, membership and ToR. The outcome of this self-assessment will be included within the Review of Corporate Governance reported to the NHS Devon Board on an annual basis.

- 6.4 The Committee will provide the NHS Devon Board with an Annual Report, timed to support finalisation of the accounts and the Governance Statement. The report will summarise its conclusions from the work it has done during the year specifically commenting on:
- a) The fitness for purpose of the assurance framework;
 - b) The completeness and 'embeddedness' of risk management in the organisation;
 - c) The integration of governance arrangements;
 - d) The appropriateness of the evidence that shows the organisation is fulfilling its regulatory requirements; and
 - e) The robustness of the processes behind the quality accounts.

7. Meetings and Administration

Frequency of Meetings

- 7.1 The Committee will meet in private at least six times a year. Additional meetings may take place as required.
- 7.2 The NHS Devon Board, Chair or Chief Executive Officer may ask the Committee to convene further meetings to discuss particular issues on which they want the Committee's advice.
- 7.3 Arrangements and notice for calling meetings are set out in the NHS Devon Standing Orders.

Administration

- 7.4 The Committee shall be supported by an administrator from within the NHS Devon Corporate Governance Team. Their duties in this respect will include:
- a) Agreement of agendas with the Chair and attendees.
 - b) Preparation, collation and circulation of papers in good time.
 - c) Ensuring that those invited to each meeting attend, highlighting any concerns to Chair (including interests of members that may conflict with an agenda item).
 - d) Taking the minutes and helping the Chair to prepare reports to the NHS Devon Board.
 - e) Keeping a record of matters arising and issues to be carried forward.
 - f) Maintaining records of members' appointments and renewal dates.
 - g) Ensuring that action points are taken forward between meetings.
 - h) Ensuring that members receive the development and training they need.
 - i) Providing appropriate support to the Chair and members.
- 7.5 Following each meeting of the Committee, the administrator will:
- a) Maintain an attendance log and follow up as appropriate after each meeting to ensure the Committee adheres to the required frequency of attendance

- by members.
- b) Maintain a decisions log of reporting arrangements into each formal meeting of the Committee.
- c) Maintain a log of summary written reports provided to the NHS Devon Board from formal meetings of the Committee.

8. Review of Terms of Reference

8.1 These ToR will be reviewed at least annually and earlier if required. Any proposed amendments to the ToR will be submitted to the NHS Devon Board for approval.

Document Control

Document Reference	ARC ToR
Version	V1.1
Senior Responsible Officer	Philippa Harding, Director of Governance
Approval by	NHS Devon Board
Date last reviewed/ approved	30 May 2024
Next review date	Before 31 March 2026

Change Record

Date	Change	Comments
<u>27.03.205</u>	<u>Members and Attendees Update</u>	<u>Amendment of Company Secretary to Director of Governance. Removal of Co-opted member. Removal of responsibilities in respect of communication.</u>

NHS Devon Executive

Terms of Reference

1. Introduction and Authority

- 1.1. The NHS Devon Executive is established by the Integrated Care Board for Devon (known and referred to as NHS Devon) as a Committee of the Board in accordance with its Constitution, Standing Orders and Scheme of Reservation and Delegation.
- 1.2. These Terms of Reference (ToR) set out the membership, remit, responsibilities and reporting arrangements of the NHS Devon Executive and may only be changed with the approval of the NHS Devon Board.
- 1.3. The NHS Devon Executive is authorised by the NHS Devon Board to investigate and report on any activity within its ToR.

2. Purpose and Responsibilities

Purpose

- 2.1 The purpose of the NHS Devon Executive is to support the Chief Executive Officer (CEO) of NHS Devon in the discharge of their executive functions.

Responsibilities

- 2.2 The NHS Devon Executive's responsibilities will be driven by the objectives set out in the NHS Devon Annual Plan and the associated risks to their delivery.
- 2.3 An annual programme of business will be agreed at the start of the financial year in order to facilitate the delivery of the NHS Devon Annual Plan; however, this programme of business will be flexible to new and emerging priorities and risks.
- 2.4 The NHS Devon Executive's responsibilities can be categorised as follows:

Objectives and strategy



- 2.5 Recommend objectives and strategies for the NHS Devon Board in the development of its business, having regard to the interests of the population of Devon.

Performance and operations

- 2.6 Recommend high level budgets and financial plans to be agreed by the NHS Devon Board and, following their adoption, ensure the achievement of these budgets and plans.
- 2.7 Monitor performance against targets, objectives and key performance indicators agreed by the NHS Devon Board.
- 2.8 Agree and keep under review the budgets for the different teams within NHS Devon to ensure that they fall within agreed targets.
- 2.9 Optimise the allocation and adequacy of NHS Devon resources.

System leadership and oversight

- 2.10 Provide effective leadership within the Devon Health and Care System to ensure delivery of the NHS Devon Board's objectives.
- 2.11 Provide assurance to the NHS Devon Board around the arrangements for discharging, and implications of, NHS Devon responsibilities in respect of the NHS Oversight Framework.

Human resources

- 2.12 Ensure appropriate levels of authority are delegated to senior management throughout NHS Devon.
- 2.13 Ensure the provision of adequate management development and succession planning.

Organisational structure and risk management

- 2.14 Ensure the organisational structure of NHS Devon is fit for purpose.
- 2.15 Ensure the control, co-ordination and monitoring within NHS Devon of risk and internal controls.
- 2.16 Ensure compliance with relevant legislation and regulations.
- 2.17 Safeguard the integrity of management information and financial reporting systems.

3. Membership

- 3.1 Members of the NHS Devon Executive shall be appointed by the NHS Devon CEO.

Chair & Vice Chair

- 3.2 The NHS Devon Executive will be chaired by the NHS Devon CEO.

- 3.3 ~~There will be no Vice Chair of the NHS Devon Executive, instead, if the NHS Devon is unable to chair a meeting, they will ask the most appropriate member of the NHS Devon Executive to do this on their behalf. Deputy CEO will be the Vice Chair of the NHS Devon Executive.~~

- 3.4 The Chair of the NHS Devon Executive will be responsible for agreeing the agenda and ensuring matters discussed meet the objectives as set out in these ToR.

~~In the event of the Chair of the NHS Devon Executive being unable to attend all or part of the meeting, the Vice Chair shall chair the meeting.~~

Membership

~~3.6~~3.5 The membership of the NHS Devon Executive shall be constituted as follows:

- Chief Executive Officer (Chair)
- Chief Financial Officer ~~(& Deputy Chief Executive Officer)~~
- Chief Medical Officer
- Chief Nursing Officer
- Chief Operating Officer
- Chief People Officer
- Chief Communications and Corporate Affairs Officer

Other Attendees

~~3.7~~3.6 Only members of the NHS Devon Executive have the right to attend and vote at Executive meetings, however all meetings of the NHS Devon Executive will also be attended by the following individuals who are not members of the NHS Devon Executive and therefore do not have voting rights.

- ~~Company Secretary~~Director of Governance and
- ~~System Improvement Director, NHS England (Whilst NHS Devon continues to be in Segment 4 of the National Oversight Framework (NOF4)).~~

~~3.8~~3.7 Other attendees may be invited to attend all or part of any meeting as and when the NHS Devon Executive considers they have expertise that would be relevant to the responsibilities of the NHS Devon Executive.

~~3.9~~3.8 The Chair of the NHS Devon Executive may ask any or all of those who normally attend, but who are not members, to withdraw to facilitate open and frank discussion of particular matters.

Attendance

~~3.10~~3.9 Members of the NHS Devon Executive may participate in meetings by telephone, video or by other electronic means where they are available and with the prior agreement of the Chair. Participation by any of these means shall be deemed to constitute presence in person at the meeting. Members are normally expected to attend at least 75% of meetings during the year.

~~3.11~~3.10 When a member of the NHS Devon Executive is unable to attend, a nominated formal deputy with sufficient authority must attend in their place. Deputies will have the decision making and voting rights of the person they are representing.

4. Quorum, Decisions and Voting

Quorum

- 4.1 For meetings to be quorate, a minimum of 50% of members (i.e., 4 members) is required, including two members who are NHS Devon Executive Members of the NHS Devon Board, as well as the Chair or Vice Chair of the NHS Devon Executive.
- 4.2 For clarity:
 - a) No person can act in more than one capacity when determining the quorum.
 - b) An individual who has been disqualified from participating in a discussion on any matter and/or from voting on any motion by reason of a declaration of a conflict of interest, shall no longer count towards the quorum.
- 4.3 If the quorum has not been reached, then the meeting may proceed if those attending agree, but no decisions may be taken.

Decision Making and Voting

- 4.4 In line with NHS Devon's Standing Orders, it is expected that decisions will be reached by consensus. Should this not be possible, each member of the NHS Devon Executive will have one vote, the process for which is set out below:
 - a) All members of the NHS Devon Executive (or nominated deputies) who are present at the meeting will be eligible to cast one vote each. (For the sake of clarity, members of the Executive are set out at paragraph 3.6; attendees and observers do not have voting rights.)

- b) Absent members may not vote by proxy. Absence is defined as not being present at the time of the vote but this does not preclude anyone attending by teleconference or other virtual mechanism from exercising their right to vote if eligible to do so.
 - c) A resolution will be passed if more votes are cast for the resolution than against it.
 - d) If an equal number of votes are cast for and against a resolution, then the Chair (or in their absence, the Vice Chair) will have a second and casting vote.
 - e) Should a vote be taken, the outcome of the vote, and any dissenting views, must be recorded in the minutes of the meeting.
- 4.5 The NHS Devon Executive will usually meet on a monthly basis. For urgent decisions, the Chair may call a meeting at a notice of 2 days, setting out the reason for the urgency and the decision to be taken.
- 4.6 When there is an urgent matter where a decision is required outside of the meeting (which cannot wait for the next scheduled meeting), the Chair of the NHS Devon Executive may make a decision after conferring with at least two other members ("Chair's Action").
- 4.7 When Chair's Action has been taken then the next quorate meeting of the NHS Devon Executive must ratify it. Urgent decisions will only be taken when there is insufficient time available for the decision to be delayed until the next meeting.

5. Ways of Working

- 5.1 All members of the NHS Devon Executive will have due regard to and operate within the Constitution of NHS Devon, its Standing Orders, Standing Financial Instructions and other financial procedures.
- 5.2 Members of the NHS Devon Executive will abide by the 'Principles of Public Life' (The Nolan Principles) and the NHS Code of Conduct.
- 5.3 Members of the NHS Devon Executive must demonstrably consider the equality and diversity implications of decisions they make and consider whether any new resource allocation achieves positive change around inclusion, equality and diversity.
- 5.4 All members of the NHS Devon Executive are expected to comply with all relevant policies and procedures relating to confidentiality and information governance, noting the sensitivity of the information that will be considered by the NHS Devon Executive.

- 5.5 A Register of Interests will be reviewed at each NHS Devon Executive meeting. Those in attendance will be asked by the Chair of the Executive to declare any interests at the beginning of each meeting. If a member feels compromised by any agenda item, they should declare a conflict of interest and agreement reached as the action to be taken as set out in the NHS Devon Conflicts of Interest Policy.

6. Reporting Arrangements

- 6.1 The Chair of the NHS Devon Executive shall report formally to the NHS Devon Board on its proceedings after each meeting on all matters within its duties and responsibilities. The report shall be presented to the public meeting of the NHS Devon Board. The report will provide assurance to the NHS Devon Board on the work of the NHS Devon Executive and shall draw to the attention of the NHS Devon Board any issues that require disclosure to the NHS Devon Board or require further action. Matters for significant risk will be escalated through the Board Assurance Framework.
- 6.2 The NHS Devon Executive shall undertake an annual self-assessment of its own performance against its annual programme of business, membership and ToR. The outcome of this self-assessment will be included within the Review of Corporate Governance reported to the NHS Devon Board on an annual basis.

7. Meetings and Administration

Frequency of Meetings

- 7.1 The NHS Devon Executive will meet each month. Additional meetings may take place as required.
- 7.2 Arrangements and notice for calling meetings are set out in the NHS Devon Standing Orders.

Administration

- 7.3 The NHS Devon Executive shall be supported by an administrator from within the NHS Devon Corporate Office. Their duties in this respect will include:
- a) Agreement of agendas with the Chair and attendees.
 - b) Preparation, collation and circulation of papers in good time.
 - c) Ensuring that those invited to each meeting attend, highlighting any concerns to Chair (including interests of members that may conflict with an agenda item).
 - d) Taking the minutes and helping the Chair to prepare reports to the NHS Devon Board.
 - e) Keeping a record of matters arising and issues to be carried forward.
 - f) Maintaining records of members' appointments and renewal dates.

- g) Ensuring that action points are taken forward between meetings.
- h) Ensuring that members receive the development and training they need.
- i) Providing appropriate support to the Chair and members.

7.4 Following each meeting of the NHS Devon Executive, the administrator will:

- a) Maintain an attendance log and follow up as appropriate after each meeting to ensure the NHS Devon Executive adheres to the required frequency of attendance by members.
- b) Maintain a decisions log of reporting arrangements into each formal meeting of the NHS Devon Executive.
- c) Maintain a log of summary written reports provided to the NHS Devon Board from formal meetings of the NHS Devon Executive.

8. Review of Terms of Reference

- 8.1 These ToR will be reviewed at least annually and earlier if required. Any proposed amendments to the ToR will be submitted to the NHS Devon Board for approval.

Document Control

Document Reference	Exec ToR
Version	V.0 21
Senior Responsible Officer	Philippa Harding, Company Secretary <u>Director of Governance</u>
Approval by	NHS Devon Board
Date last reviewed/ approved	N/A <u>27 March 2025</u>
Next review date	Before 31/03/ 25 <u>26</u>

Change Record

Date	Change	Comments
<u>27 March 2025</u>	<u>Vice Chair and attendance amendments</u>	<u>Removal of requirement to have a Vice Chair, removal of reference to Deputy Chief Executive Officer, and amendment of regular attendees.</u>

KLOE	Actions to be taken	Timeframe	Progress												Comments
			End of Q2 24/25			End of Q3 24/25			End of Q4 24/25			End of Q1 25/26			
			July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	
Is there the leadership capacity and capability to deliver the statutory functions of an ICB?	Review Board and Executive members' skills and experience to identify strengths/weaknesses.	End Q3 2024/25													Completed by end October 2024. Recruitment of new INEMs launched beginning of November 2024.
	Plan in place to address Board and Executive membership vacancies	End Q3 2024/25													Completed by end October 2024. Recruitment of new INEMs launched beginning of November 2024.
	Review existing Board members' terms of appointment and ensure that plans are in place for when each of these come to an end	End Q3 2024/25													Completed by end October 2024. Recruitment of new INEMs launched beginning of November 2024.
	Establish Board and Executive development programme	End Q3 2024/25													Executive Development Programme in place reflecting the Patrick Lencioni Five Dysfunctions of a Team methodology. Board Development Programme to be put in place following Board Development Session in April 2025.
	Confirm Board position on organisational purpose	End Q3 2024/25													Completed by end December 2024. Role and purpose addressed at Board Development Session on 19 December 2024.
	WRES and WDES action plans to be considered by the Board	End Q3 2024/25													Workforce information to be collected at the end of March 2025. this will enable WRES and WDES action plans to be developed in 2025/26
	Succession planning and talent management approach to be considered and implemented.	End Q1 2025/26													Objective is part of 25/26 Annual Plan
Is there a culture of delivering high quality, sustainable outcomes?	Confirm organisational vision via Organisational Development programme.	End Q4 2024/25													Confirmed with Board in December 2024 and communicated to all staff in January 2025.
	Confirm Board position in respect of Peninsula Acute Provider Sustainability Programme	End Q2 2024/25													Board meet with Peninsula Acute Provider Collaborative at Development Session on 31 October 2024.
	Ensure early implementation of Annual Planning process for 2025/26	End Q2 2024/25													2025/26 Annual Planning process has been implemented and reported to the Board
	Undertake independently led cultural audit.	End Q3 2024/25													In light of amount of information available from a number of unmediated staff sources. It is proposed that this action should be stood down.
	Values and Behaviours Framework to be developed	End Q4 2024/25													This work has started but will not be complete by end of Q4. Objective is part of 25/26 Annual Plan
	Values-based recruitment approach to be adopted	End Q1 2025/26													Changes are being made to our recruitment processes (e.g. Exec recruitment process) but this cannot be fully implemented until we have a values and behaviours framework in place. Objective is part of 25/26 Annual Plan
	Induction programme to be devised for implementation of Phase 2 of organisational change programme.	End Q4 2024/25													Part of plan for 25/26 'Next Chapter' (relaunch) as well as Team development. Objective is part of 25/26 Annual Plan
	Reverse Mentoring scheme to be implemented for Board and Executive Members.	End Q2 2024/25													Objective is part of 25/26 Annual Plan
	Plan to be developed for improving Board and Executive visibility within the organisation	End Q2 2024/25													Plan has been developed for improving Board and Executive visibility within the organisation. In implementation as of December 2024.
	Review progress against EDI strategy and implementation of Nours report and develop action plan	End Q3 2024/25													Review outcome presented to People and Organisational Development Committee in November 2024. EDI Working Group first met in February 2025. Action plan to be developed by the end of 2024/25.
	Staff recognition scheme to be developed	End Q1 2025/26													Update required
	Implement more frequent staff survey/temperature checks	End Q4 2024/25													Update required
	Board Assurance Committee Workplans to be reviewed to ensure that there is clarity about where assurance on the delivery of Annual Plan priorities will be sought	End Q2 2024/25													Work undertaken and presented to Board Assurance Committees in November through BAF and Annual Plan Delivery Assurance Report.

Are there clear responsibilities, roles and systems of accountability to support good governance and management?	Scheme of Reservation and Delegation, Standing Financial Instructions and Operational Scheme of Delegation to be refreshed	End Q2 2024/25													Approved by NHS Devon Executive at meeting on 03 December 2024.
	NHS Devon Constitution to be revised to bring it closer to model ICB Constitution.	End Q3 2024/25													Proposed revisions presented to NHS Devon Executive and being taken forward through Corporate Governance Framework Review.
	Integrated Care Partnership Terms of Reference to be reviewed in conjunction with Local Authority partners	End Q3 2024/25													Initial review undertaken and ICP met in January 2025.
	Review of system oversight and assurance structure operation to be undertaken.	End Q3 2024/25													Informal review undertaken with CEOs in December 2024. Amendments approved by SLG in January 2025.
Are there clear and effective processes for managing risks, issues and performance?	Implement Risk Management System and roll out to organisation	End Q2 2024/25													4Risk System rolled out to organisation in December 2024.
	Risk Management training to be provided to all staff	End Q2 2024/25													Risk management training to be provided by the end of 2024/25
	Corporate performance dashboard reporting and management meetings to be implemented	End Q2 2024/25													Dashboard first reported in November cycle of meetings
	Co-produced risk registers to be developed with system partners in relation to the delivery of each of the NOF4 exit criteria	End Q2 2024/25													Initial discussion of principles took place with System Audit and Assurance Committee Chairs and System Governance leads in December. Work to take place alongside roll out of Transforming Devon Programme.
	System-level risk and performance reporting to be implemented	End Q2 2024/25													System level reporting exists through NOF4 assurance report, however more work is required to refine risk reporting. Work to take place alongside roll out of Transforming Devon Programme.
Is appropriate and accurate information being effective?	Develop an Information and Data Quality Strategy	End Q3 2024/25													Update required
	Review organisational capacity for strategic analysis	End Q3 2024/25													Update required
	Training package to be developed and rolled out to help improve analytical and writing skills at all levels in the organisation	End Q4 2024/25													Update required
Are the people who use services, the public, staff and system partners engaged and involved to support high quality sustainable services?	People and Communities Strategy to be developed	End Q3 2024/25													People and Communities framework due to be presented to the Board for approval in March 2025.
	Establish the One Devon Involvement Platform to enhance engagement and participation across the healthcare system	End Q3 2024/25													Platform being developed, but not yet implemented. Due before the end of Q4 2024/25
	Integrate Healthwatch and VCSE Assembly into NHS Devon governance to enhance public accountability and consumer insight.	End Q3 2024/25													Approach endorsed by Quality and Patient Experience Committee and Population Health Outcomes Improvement Committee. Approved by the Board in January 2025.
	Create a compact to formally articulate the shared vision of NHS partners within the One Devon ICS and establish a set of reciprocal behaviours for effective delivery, supporting the Devon single operating model.	End Q2 2024/25													Compact agreed in January 2025. Articulation of reciprocal behaviours to be delivered by Q1 2025/26.
	Demonstrate greater levels of alignment between system and locality level workplans	End Q4 2024/25													Objective is part of 25/26 Annual Plan
Are there robust systems and processes for learning, continuous improvement and innovation?	Develop a Continuous Improvement methodology	End Q4 2024/25													Update required
	Establish a plan for ensuring the work in respect of continuous improvement and innovation is widely shared and accessed	End Q4 2024/25													Update required

Governance Improvement Plan 2025/26



KLOE	Priority Rating	Explanation of rating	Supporting evidence	Actions to be taken	Timeframe
Is there the leadership capacity and capability to deliver the statutory functions of an ICB?	HIGH	There has been instability amongst senior leaders and across the organisation as a whole. Whilst this is beginning to be resolved, there are still a number of significant gaps and work is required to clarify the purpose of the organisation and its role in the system.	- Recent senior appointments confirmed; but still a high level of interim arrangements. - Appropriate FPPR processes in place. - Organisational Development programme approved. - Board Development programme not yet finalised. - Succession and talent management arrangements paused due to ongoing organisational change programme. - Staff surveys undertaken and responded to but have highlighted significant leadership challenges. - WRES & WDES actions plans required.	Review Board and Executive members' skills and experience to identify strengths/weaknesses.	End of Q3 2024/25
				Plan in place to address Board and Executive membership vacancies.	End of Q3 2024/25
				Review existing Board members' terms of appointment and ensure that plans are in place for when each of these come to an end.	End of Q3 2024/25
				Establish Board and Executive development programme.	End of Q3 2024/25
				Confirm Board position on organisational purpose.	End of Q3 2024/25
				WRES and WDES action plans to be considered by the Board.	End of Q3 2024/25
				Succession planning and talent management approach to be considered and implemented.	End of Q1 2025/26
Is there a clear vision and credible strategy to ensure that the people of the ICS	HIGH	It is not always clear how the vision, values and strategic goals of the organisation	- Integrated Care Strategy approved. - Joint Forward Plan approved. - Annual Plan in development and due to be approved in July.	Confirm organisational vision vi Organisational Development programme.	End of Q4 2024/25

KLOE	Priority Rating	Explanation of rating	Supporting evidence	Actions to be taken	Timeframe
receive high quality, sustainable care and that there are robust plans to ensure its delivery?		relate to the level of focus required in respect of system recovery activities relating to UEC, elective care and finance.	- Progress against delivery of the Integrated Care Strategy is not regularly monitored. - There are high levels of risk to the achievement of agreed Operational and Financial Plans.	- Confirm Board position in respect of Peninsula Acute Provider Sustainability Programme. - Ensure early implementation of Annual Planning process for 2025/26.	End of Q2 2024/25 End of Q2 2024/25
Is there a culture of delivering high quality, sustainable outcomes?	HIGH	Recent staff surveys responses and leadership changes have confirmed that the organisation does not have a culture to be proud of.	- Staff surveys undertaken and responded to but have highlighted significant leadership challenges. - Few of the recommendations from the report on experiences of health and care in Devon for BAME communities and staff have been implemented. - Impact of long-term organisational change programme. - Lack of visibility of Board members. - Performance management activities have not been uniformly implemented	- Undertake independently led cultural audit. - Values and Behaviours Framework to be developed. - Values-based recruitment approach to be adopted. - Induction programme to be devised for implementation of Phase 2 of organisational change programme. - Reverse Mentoring scheme to be implemented for Board and Executive Members. - Plan to be developed for improving Board and Executive visibility within the organisation. - Review progress against EDI strategy and implementation of Nous report and develop action plan. - Staff recognition scheme to be developed.	End of Q3 2024/25 End of Q4 2024/25 End of Q1 2025/26 End of Q4 2024/25 End of Q2 2024/25 End of Q2 2024/25 End of Q3 2024/25 End of Q1 2025/26

KLOE	Priority Rating	Explanation of rating	Supporting evidence	Actions to be taken	Timeframe
				Implement more frequent staff survey/temperature checks.	End of Q4 2024/25
Are there clear responsibilities, roles and systems of accountability to support good governance and management?	MEDIUM	There has been a lack of an agreed articulation of the structures, processes and systems of accountability both within NHS Devon and between NHS Devon and its partners in the ICS, but this is being addressed by recent amendments to oversight and assurance frameworks.	- NHS Devon Executive established as a formal decision-making body. - Terms of Reference for Board and Committee business have been reviewed and workplans are being aligned to Annual Plan priorities. - An appropriate “cadence” of meetings and reporting has now been established. - Board Development Sessions have taken place to consider improving the effectiveness of Board working. - New system oversight and assurance structures have been approved and are being implemented.	Board Assurance Committee Workplans to be reviewed to ensure that there is clarity about where assurance on the delivery of Annual Plan priorities will be sought.	End of Q2 2024/25
				Scheme of Reservation and Delegation, Standing Financial Instructions and Operational Scheme of Delegation to be refreshed.	End of Q2 2024/25
				NHS Devon Constitution to be revised to bring it closer to model ICB Constitution.	End of Q3 2024/25
				Integrated Care Partnership Terms of Reference to be reviewed in conjunction with Local Authority partners	End of Q3 2024/25
				Review of system oversight and assurance structure operation to be undertaken.	End of Q3 2024/25
Are there clear and effective processes for managing risks , issues and performance ?	HIGH	Whilst there are systems and processes in place for managing risks, there is not yet the right level of organisational engagement with these. Similarly, the organisation needs to do more in terms of	- Refreshed Board Assurance Framework in place. - Refreshed Risk Management Policy in place. Risk Management System software due to be in place by the end of July 2024. - Clear audit plans in place and delivered. - The number of risks identified and managed via corporate risk processes	Implement Risk Management System and roll out to organisation.	End of Q2 2024/25
				Risk Management training to be provided to all staff.	End of Q2 2024/25
				Corporate performance dashboard reporting and management meetings to be implemented.	End of Q2 2024/25

KLOE	Priority Rating	Explanation of rating	Supporting evidence	Actions to be taken	Timeframe
		performance management.	- does not align to the level of risk evident across the organisation. - More needs to be done in terms of thinking about system risk and performance management.	- Co-produced risk registers to be developed with system partners in relation to the delivery of each of the NOF4 exit criteria. - System-level risk and performance reporting to be implemented.	- End of Q2 2024/25 - End of Q2 2024/25
Is appropriate and accurate information being effectively processed, challenged and acted upon?	HIGH	Performance reports often share information with little analysis of its implications, or the action required to address identified issues.	- IQPR – ongoing development. - Quality Report recently developed. - DPST submission compliant. - Improved capacity for information collection, collation, analysis and interpretation is required. - Board reports are often not clear about the level of assurance that they can provide.	- Develop an Information and Data Quality Strategy - Review organisational capacity for strategic analysis. - Training package to be developed and rolled out to help improve analytical and writing skills at all levels in the organisation.	- End of Q3 2024/25 - End of Q3 2024/25 - End of Q4 2024/25
Are the people who use services, the public, staff and system partners engaged and involved to support high quality sustainable services?	MEDIUM	Progress has been made in terms of the engagement of Healthwatch, the VCSE Assembly and other key stakeholder organisations, but there is still work to do in respect of public and staff involvement.	- Citizens Involvement Panel - Support for VCSE Assembly, but greater alignment with NHS Devon and system priorities needed. - Engagement with Healthwatch, but need to enhance integrated to ensure public accountability and consumer insights feed into our system. - Staff members and public need to be engaged in strategy development work. - Better engagement with system partners required.	- People and Communities Strategy to be developed. - Establish the One Devon Involvement Platform to enhance engagement and participation across the healthcare system. - Integrate Healthwatch and VCSE Assembly into NHS Devon governance to enhance public accountability and consumer insight. - Create a compact to formally articulate the shared vision of NHS partners within the One Devon ICS and establish a set	- End of Q3 2024/25 - End of Q3 2024/25 - End of Q3 2024/25 - End of Q2 2024/25

KLOE	Priority Rating	Explanation of rating	Supporting evidence	Actions to be taken	Timeframe
				of reciprocal behaviours for effective delivery, supporting the Devon single operating model.	
				Demonstrate greater levels of alignment between system and locality level workplans.	End of Q4 2024/25
Are there robust systems and processes for learning , continuous improvement and innovation ?	MEDIUM	Progress has been made in terms of continuous improvement and innovation, but this is often not known about. An integrated improvement approach is required.	- Work of the System Quality Group. - Development of Quality Accounts and Quality priorities.	Develop a Continuous Improvement methodology.	End of Q4 2024/25
				Establish a plan for ensuring the work in respect of continuous improvement and innovation is widely shared and accessed	End of Q4 2024/25



Primary Care Commissioning Transition Committee

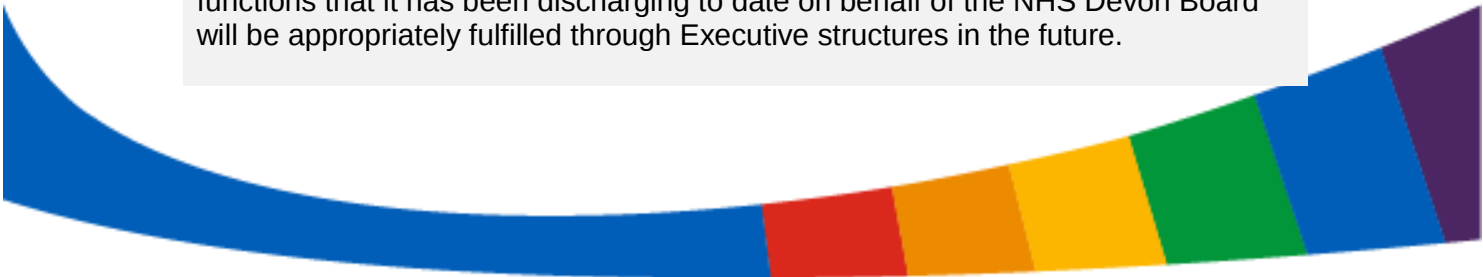
Commissioning Governance – next steps

Date of Meeting	Date Report Produced
21st November 2024	1st November 2024

Author(s)		Report Approved By	
Name and Title:	Philippa Harding, Director of Governance	Name and Title:	Judy Hargadon, Primary Care Commissioning Transition Committee Chair
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If this paper needs to be presented at a private meeting, please state why and mark as CONFIDENTIAL:
N/A

Executive Summary
This report sets out a proposed new approach to the governance supporting commissioning decisions in NHS Devon. The establishment of a new sub-group of the NHS Devon Executive is proposed (the Commissioning Group) which is designed to ensure a coherent and “joined-up” approach to the delivery of all commissioned services. In light of this new approach to decision-making in respect of commissioning it is proposed that the Primary Care Commissioning Transition Committee should be dis-established. This report aims to provide the Committee with assurance that the functions that it has been discharging to date on behalf of the NHS Devon Board will be appropriately fulfilled through Executive structures in the future.



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Committees that have previously discussed/agreed the report, and outcomes of that discussion

The NHS Devon Executive has informally discussed and agreed in principle the establishment of a Commissioning Group as a sub-group; the draft Terms of Reference for this Group will be presented for approval at the NHS Devon Executive meeting on 03 December 2024.

Key recommendations and actions requested

1. **NOTE** the proposed Terms of Reference for the NHS Devon Commissioning Group.
2. **TAKE ASSURANCE** from the information provided with regard to how the functions previously discharged by the Primary Care Commissioning Transition Committee will be fulfilled via Executive structures in the future.

Impact on NHS Devon Objectives

Objective	Impact
Improve Population Health	Impacts All Areas Listed
Improve Services and Reduce Unwarranted Variation	
Make More Efficient Use of Our Resources	
Develop Our Culture and How We Operate	

Does this report have implications in any of the areas highlighted below?

Area	Yes (summarise implications)
Quality of Services	Co-ordinated commissioning of services should ensure appropriate quality.
Health Inequalities	Co-ordinated commissioning of services can help to address health inequalities.
Workforce	Co-ordinated commissioning of services can ensure that the efforts of the NHS workforce are aligned to clear objectives.
Resources and Finance	Co-ordinated commissioning of services can ensure that NHS resources are used effectively and efficiently, reducing inappropriate costs.
Legal	N/A
Digital and Data	N/A
Engagement and Consultation	This is an internal control process, and no patient engagement has taken place with respect to it.

Commissioning Governance – next steps

Introduction and Background

1. This report sets out a proposed new approach to the governance supporting commissioning decisions in NHS Devon.
2. The establishment of a new sub-group of the NHS Devon Executive (the Commissioning Group) is being proposed to ensure a coherent and “joined-up” approach to the delivery of all commissioned services.
3. In light of this new approach to decision-making in respect of commissioning, it is proposed that the Primary Care Commissioning Transition Committee (PCCTC) should be dis-established.
4. This report will provide a summary of the work of the PCCTC since the establishment of NHS Devon Integrated Care Board. It will highlight the value that this Committee has added to the work of NHS Devon. It aims to provide the PCCTC with assurance that the functions that it has been discharging to date on behalf of the NHS Devon Board will be appropriately fulfilled through the proposed new Executive structures in the future.

NHS Devon Primary Care Commissioning Transition Committee

Primary Care Commissioning Committees - background

5. The Health and Social Care Act 2012 gave GP-led Clinical Commissioning Groups (CCGs) responsibility for commissioning the majority of healthcare services for their registered population. Whilst responsibility for commissioning primary care services was initially retained by NHS England (NHSE) to avoid conflicts of interest and because of a perceived need for a standardised and consistent approach to commissioning, in November 2014, NHSE took the view that primary care co-commissioning – or delegation to CCGs – was an essential step towards expanding and strengthening primary medical care. This was because, as GP-led organisations, CCGs had a better understanding of primary care and the needs of patients within their geographical footprint. However, at the same time, it was recognised that individual GPs would also be conflicted in specific decision about primary care commissioning. In light of this, as part of the arrangements for the delegation of this responsibility, CCGs were required to establish a Primary Care Commissioning Committee (PCCC) as a committee of their Governing Body (GB). Unlike other committees, which made recommendations to the GB, PCCCs had decision-making authority. To ensure transparency and avoid conflicts of interest, PCCCs were chaired by a lay member and had a lay/executive majority.

6. With the dis-establishment of CCGs and the creation of Integrated Care Boards (ICBs) in 2022, the continuation of a dedicated PCCC was no longer required to avoid conflicts of interest (unlike CCGs, ICBs are not GP membership bodies). However, many ICBs decided to continue with their PCCC, in order to avoid destabilising primary care decision-making. NHS Devon decided to retain a Primary Care Commissioning Transition Committee (PCCTC) in recognition of the fact that this was not a committee that was expected to continue in the longer run.

Work of the NHS Devon PCCTC since 2022

7. The PCCTC has supported NHS Devon in delivering its statutory functions and strategic objectives by providing oversight and assurance, and where appropriate take decisions, on the following:
 - ensuring a comprehensive primary medical care service is planned, commissioned, and delivered, based on needs assessment and in the context of the Joint Forward Plan.
 - undertaking reviews of primary care services in Devon including regular review of the challenges to effective delivery of primary care services to ensure a focus on the needs of Devon residents and to remove blocks to effective delivery.
 - overseeing, and decision making where needed, of commissioning of primary care medical services including oversight of the implementation of the primary care strategic framework and work plan.
 - overseeing and assurance of commissioning of primary pharmaceutical, optical, and dental services through the regionwide joint commissioning hub.
 - overseeing of the budget for commissioning of delegated primary care services in Devon.
 - assurance of a successful transition for the commissioning of primary dental, community pharmacy, and optical services from NHSEI.
 - assurance of a successful transition of all delegated primary care commissioning into overall NHS Devon commissioning activity.
8. In fulfilling these responsibilities, key business transacted by the PCCTC has been as follows:
 - Devon Primary Care Strategic Framework.
 - Contractual and resilience matters in relation to the provision of primary medical services within Devon.
 - Delegation of dental, optometry and community pharmacy services.
 - Strategic estates and IT matters.
9. The PCCTC has also provided a valuable forum for engaging with partners from the primary care services. It has enabled NHS Devon to have a forum for address strategic issues in respect of the primary care sector.

10. Further information is provided below in respect of how NHS Devon is seeking to ensure that the work of the PCCTC is embedded and continued through its operational activities.

Commissioning – decision-making within NHS Devon

Establishment of an NHS Devon sub-group - the Commissioning Group

11. The NHS Devon Executive has been giving consideration to how best to ensure better visibility of contracting and commissioning decision-making for some time. In light of recent changes to the organisational structure as part of the Organisational Change Programme, it now seems appropriate to formalise executive responsibilities in this space. Therefore, it is proposed that a sub-group of the NHS Devon Executive be established with the following responsibilities (detailed draft Terms of Reference can be found attached at Annex A to this report):

- i. Development of NHS Devon as an effective strategic commissioner and local leader and build effective relationships with One Devon Integrated Care System partners.
- ii. Articulation of NHS Devon's Commissioning Intentions and other Annual Plan priorities, in light of partnership working across the One Devon Integrated Care System, for recommendation to the NHS Devon Executive and Board.
- iii. Oversight of the operational commissioning of healthcare for the population of Devon in close liaison with other health and care commissioners within the One Devon Integrated Care System, by exercising NHS Devon's commissioning functions and decisions. This includes commissioning policies, contracts, and its procurement/contractual pipeline.
- iv. Review of new contractual models to deliver NHS Devon's ambitions as set out in the Integrated Care Strategy, for recommendation to the NHS Devon Executive and Board.
- v. Review of proposals, businesses cases, service change, funding requests and scoping of procurements where they are in line with NHS Devon's Annual Plan, Scheme of Reservation and Delegation and approved budgets, ensuring that they cover full clinical pathways of care.
- vi. Ensure the commissioning of NHS-funded services is undertaken in such a manner as to streamline the delivery of care. This will include decision-making in respect of:
 - Delegated regional specialist commissioning.
 - Delegated primary care commissioning.
 - Block contract agreements with local NHS Trusts.

- Sub-contracts from those Trusts (e.g. mental health out of area, Plymouth community services)
- Provider Collaborative proposals
- Services commissioned through Local Authorities.
- Private sector contracts (surgical, continuing care etc)
- VCSE contracts and funding agreements

12. It is proposed that this group should have the following membership:

- Chief Medical Officer (Chair)
- Chief Financial Officer (Vice Chair)
- Chief Operating Officer
- Director of Primary Care
- Director of Children and Young People
- Director of Mental Health Services
- Deputy Chief Operating Officer
- Chief Nursing Officer or deputy
- Chief People Officer or deputy

13. Only members of the NHS Devon Commissioning Group will have the right to attend and vote at Commissioning Group meetings, however it is proposed that all meetings of the Commissioning Group will also be attended by the following individuals who are not members of the NHS Devon Commissioning Group and therefore do not have voting rights.

- Independent Secondary Care Clinician
- Independent Primary Care Clinician
- Director of Governance
- Director of Planning and Performance
- Deputy Director of Contracting
- Deputy Director of Communications and Involvement
- Locality Directors

14. Other attendees may be invited to attend all or part of any meeting as and when the NHS Devon Commissioning Group considers they have expertise that would be relevant to the responsibilities of the NHS Devon Commissioning Group

Primary Care decision-making

15. Whilst not explicit in the ToR of the Commissioning Group, it is anticipated that this group will have the following responsibilities in respect of primary care services (including pharmacy, optometry, and dentistry):

- i. Ensuring that all types of primary care commissioning, including dental (and prescribed dental), ophthalmic and pharmaceutical (and local pharmaceutical) services are integrated with NHS Devon general commissioning systems and processes.
- ii. Co-ordination of a common approach to the commissioning and delivery of Primary Care Services, including dental (and prescribed dental),

ophthalmic and pharmaceutical (and local pharmaceutical) services, with other health and social care bodies

- iii. Decision-making in relation to the commissioning, procurement, management, planning (including carrying out needs assessments), and undertaking reviews, of Primary Care Services, including dental (and prescribed dental), ophthalmic and pharmaceutical (and local pharmaceutical) services, and other ancillary activities that are necessary to exercise the delegated functions.
 - iv. Design and commissioning of Enhanced Services, including re-commissioning of services (in line with NHS Devon Standing Financial Instructions).
 - v. Design and offer of Local Enhanced Incentive Schemes for Primary Care Services providers including those for dental (and prescribed dental), ophthalmic and pharmaceutical (and local pharmaceutical) services.
 - vi. Decision-making on discretionary payments or support in accordance with NHS Devon Standing Financial Instructions and Operational Scheme of Delegation.
 - vii. Approval of Primary Care Services provider mergers and closures.
 - viii. Decision-making in relation to the management of Poorly Performing Care Services Providers.
 - ix. Decision-making in relation to the Premises Costs Directions Function.
16. It is anticipated that the Commissioning Group will enable decision-making in respect of these issues to be undertaken in a manner that is coherent with its other commissioning decisions, resulting in fewer gaps in commissioned services.

Ongoing primary care engagement

17. In recognition of the fact that, in addition to its formal responsibilities, the PCCTC has provided a valuable mechanism for engagement with primary care services, it should be recognised that the following engagement mechanisms with primary care exist and will be continued/strengthened, providing assurance that appropriate engagement will not be lost with the disestablishment of the PCCTC

Local Medical Committee (LMC)

18. GP Advisory Group (GPAG) – it is proposed that NHS Devon engagement with these meetings should be routinely via the Chief Operating Officer and Director of Primary Care. This will ensure that the issues discussed at these meetings are at the appropriate operational level. Any issues that cannot be resolved at these meetings will be escalated to the NHS Devon Chief Executive Officer.

19. LMC Negotiations (required by statute) - it is proposed that these meetings which formally all items that will or might impact GP team income, workload, workforce etc should continue to be attended by the Director of Primary Care and the operational lead from his team.
20. LMC liaison – it is proposed that this monthly informal meeting should continue to be attended by the Director of Primary Care and his team, ensuring the maintenance of good relations.

Devon Collaborative Board (DCB)

21. The DCB is currently focussed on General Practice. At some point consideration will need to be given to the inclusion of pharmacy, optometry, and dental services (POD). It is proposed that these meetings should continue to be attended by the NHS Devon Board Partner member for Primary Care Services, the Director of Primary Care, and the Deputy Chief Medical Officer (Primary Care). The DCB provides an additional engagement opportunity, over and above the LMC. It is an important place to 'co-design' the approach to be taken to issues affecting primary care across the One Devon Integrated Care System before formal agreement is reached with the LMC.
22. The DCB is supported by four Collaborative Boards (CBs). The DCB agreed to retain fairly well empowered CBs and with local systems and Locality Care Partnerships. It is proposed that NHS Devon attendance should vary according to capacity and issues being discussed.

Other

23. GP Practice Manager Groups – it is proposed that these will be all be attended following the completion of Phase 2 of the NHS Devon Organisational Change Programme.
24. Primary Care Networks (PCNs) – it is proposed that NHS Devon participation in these groups should be revisited following the completion of Phase 2 of the Organisational Change Programme.
25. MPOD (brings together LMC and POD counterparts) – it is proposed that The Director of Primary care should continue to attend this forum, as it provides the benefit of being able to engage with both General Practice representatives and those from pharmacy, optometry, and dentistry,

Conclusion

26. The Primary Care Commissioning Transition Committee is asked to:
 - **NOTE** the proposed Terms of Reference for the NHS Devon Commissioning Group.

- **TAKE ASSURANCE** from the information provided with regard to how the functions previously discharged by the Primary Care Commissioning Transition Committee will be fulfilled via Executive structures in the future.

Dated _____ 202[]

(1) **NHS ENGLAND**

- and -

(2) **NHS [INSERT NAME] INTEGRATED CARE BOARD**

Delegation Agreement between NHS England and [Insert Name] ICB in relation to Specialised Commissioning Functions

DRAFT DOCUMENT FOR APPROVAL – NOT AVAILABLE FOR ACCEPTANCE & SIGNING

**ICB Boards are asked to authorise signing of a delegation agreement in the terms presented.
A version of this document for acceptance and signing will subsequently be issued by NHS
England.**

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DELEGATION AGREEMENT FOR SPECIFIED FUNCTIONS**1. PARTICULARS**

- 1.1 This Agreement records the particulars of the agreement made between NHS England and the Integrated Care Board (ICB) named below.

Integrated Care Board [Insert Name]

Area [Insert Area of the ICB as defined in its Constitution]

Date of Agreement [Date]

ICB Representative [Insert details of name of manager of this Agreement for the ICB]

ICB Email Address for Notices [Insert Address]

NHS England Representative [Insert details of name of manager of this Agreement for NHS England]

NHS England Email Address for Notices [Insert Address]

- 1.2 This Agreement comprises:

- 1.2.1 the Particulars (Clause 1);
- 1.2.2 the Terms and Conditions (Clauses 2 to 32);
- 1.2.3 the Schedules; and
- 1.2.4 the Mandated Guidance

Signed by **NHS England**
 [Name]
 [Title]
 (for and on behalf of NHS England)

Signed by [Insert name] Integrated Care Board
 [Insert name of Authorised Signatory]
 [Insert title of Authorised Signatory]
 (for and on behalf of [insert name] Integrated Care Board)

TERMS AND CONDITIONS

2. INTERPRETATION

- 2.1 This Agreement is to be interpreted in accordance with SCHEDULE 1 (*Definitions and Interpretation*).
- 2.2 If there is any conflict or inconsistency between the provisions of this Agreement, that conflict or inconsistency must be resolved according to the following order of priority:
 - 2.2.1 the Developmental Arrangements;
 - 2.2.2 the Particulars and Terms and Conditions (Clauses 1 to 32);
 - 2.2.3 Mandated Guidance;
 - 2.2.4 all Schedules excluding Developmental Arrangements and Local Terms; and
 - 2.2.5 Local Terms.
- 2.3 This Agreement constitutes the entire agreement and understanding between the Parties relating to the Delegation and supersedes all previous agreements, promises and understandings between them, whether written or oral, relating to its subject matter.
- 2.4 Where it is indicated that a provision in this Agreement is not used, that provision is not relevant and has no application in this Agreement.
- 2.5 Where a particular clause is included in this Agreement but is not relevant to the ICB because that clause relates to matters which do not apply the ICB (for example, if the clause only relates to functions that are not Delegated Functions in respect of the ICB), that clause is not relevant and has no application to this Agreement.

3. BACKGROUND

- 3.1 NHS England has statutory functions (duties and powers) conferred on it by legislation to make arrangements for the provision of prescribed services known as Specialised Services. These services support people with a range of rare and complex conditions. They are currently set out in the Prescribed Specialised Services Manual. The legislative basis for identifying these Specialised Services is Regulation 11 and Schedule 4 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012/2996.
- 3.2 The ICBs have statutory functions to make arrangements for the provision of services for the purposes of the NHS in their Areas, apart from those commissioned by NHS England.
- 3.3 Pursuant to section 65Z5 of the NHS Act, NHS England is able to delegate responsibility for carrying out its Commissioning Functions to an ICB. NHS England will remain accountable to Parliament for ensuring that statutory requirements to commission all Specialised Services, and duties set out in the mandate, are being met.
- 3.4 By this Agreement, NHS England delegates the functions of commissioning certain Specialised Services (the "Delegated Functions") to the ICB under section 65Z5 of the NHS Act.
- 3.5 This Agreement also sets out the elements of commissioning those Specialised Services for which NHS England will continue to have responsibility (the "Reserved Functions").

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3.6 Arrangements made under section 65Z5 may be made on such terms and conditions (including terms as to payment) as may be agreed between NHS England and the ICB.

3.7 This Agreement sets out the terms that apply to the exercise of the Delegated Functions by the ICB. It also sets out each Party's responsibilities and the measures required to ensure the effective and efficient exercise of the Delegated Functions and Reserved Functions.

4. TERM

4.1 This Agreement has effect from the Date of Agreement set out in the Particulars and will remain in force unless terminated in accordance with Clause 27 (*Termination*) below.

5. PRINCIPLES

5.1 In complying with the terms of this Agreement, NHS England and the ICB must:

5.1.1 at all times have regard to the Triple Aim;

5.1.2 at all times act in good faith and with integrity towards each other;

5.1.3 consider how they can meet their legal duties to involve patients and the public in shaping the provision of services, including by working with local communities, under-represented groups and those with protected characteristics for the purposes of the Equality Act 2010;

5.1.4 consider how in performing their obligations they can address health inequalities;

5.1.5 at all times exercise functions effectively, efficiently and economically;

5.1.6 act in a timely manner;

5.1.7 share information and Best Practice, and work collaboratively to identify solutions and enhance the evidence base for the commissioning and provision of health services, eliminate duplication of effort, mitigate risk and reduce cost; and

5.1.8 have regard to the needs and views of the other Party and as far as is lawful and reasonably practicable, take such needs and views into account.

6. DELEGATION

6.1 In accordance with its statutory powers under section 65Z5 of the NHS Act, NHS England hereby delegates the exercise of the Delegated Functions to the ICB to empower it to commission a range of services for its Population, as further described in this Agreement ("Delegation").

6.2 The Delegated Functions are the functions described as being delegated to the ICB as have been identified and included within Schedule 3 to this Agreement but excluding the Reserved Functions set out within Schedule 4.

6.3 The Delegation in respect of each Delegated Function has effect from the Effective Date of Delegation.

6.4 Decisions of the ICB in respect of the Delegated Functions and made in accordance with the terms of this Agreement shall be binding on NHS England and the ICB.

6.5 To the extent that this Agreement applies:

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- 6.5.1 The ICB must ensure that its officers or employees do not make statutory or financial decisions that allocate NHS England resources.
 - 6.5.2 NHS England must ensure that its officers or employees do not make statutory or financial decisions that allocate ICB resources, except as provided for in this Agreement.
 - 6.6 Unless expressly provided for in this Agreement, the ICB is not authorised to take any step or make any decision in respect of Reserved Functions. Any such purported decision of the ICB is invalid and not binding on NHS England unless ratified in writing by NHS England in accordance with the NHS England Scheme of Delegation and Standing Financial Instructions.
 - 6.7 NHS England may, acting reasonably and solely to the extent that the decision relates to the Delegated Functions, substitute its own decision for any decision which the ICB purports to make where NHS England reasonably considers that the impact of the ICB decision could cause the ICB to be acting unlawfully, in breach of this Agreement including Mandated Guidance, or in breach of any Contract. The ICB must provide any information, assistance and support as NHS England requires to enable it to determine whether to make any such decision.
 - 6.8 The terms of Clauses 6.5, 6.6 and 6.7 are without prejudice to the ability of NHS England to enforce the terms of this Agreement or otherwise take action in respect of any failure by the ICB to comply with this Agreement.
- 7. EXERCISE OF DELEGATED FUNCTIONS**
- 7.1 The ICB must establish effective, safe, efficient and economic arrangements for the discharge of the Delegated Functions.
 - 7.2 The ICB agrees that it will exercise the Delegated Functions in accordance with:
 - 7.2.1 the terms of this Agreement;
 - 7.2.2 Mandated Guidance;
 - 7.2.3 any Contractual Notices;
 - 7.2.4 the Local Terms;
 - 7.2.5 any Developmental Arrangements;
 - 7.2.6 all applicable Law and Guidance;
 - 7.2.7 the ICB's constitution;
 - 7.2.8 the requirements of any assurance arrangements made by NHS England; and
 - 7.2.9 Good Practice.
 - 7.3 The ICB must perform the Delegated Functions in such a manner:
 - 7.3.1 so as to ensure NHS England's compliance with NHS England's statutory duties in respect of the Reserved Functions and to enable NHS England to fulfil its Reserved Functions; and
 - 7.3.2 having regard to NHS England's accountability to the Secretary of State and Parliament in respect of both the Delegated Functions and Reserved Functions; and
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- 7.3.3 so as to ensure that the ICB complies with its statutory duties and requirements including those duties set out in Section 14Z32 to Section 14Z44 of the NHS Act and the NICE Regulations.
- 7.4 In exercising the Delegated Functions, the ICB must comply with all Mandated Guidance as set out in this Agreement or as otherwise may be issued by NHS England from time to time including, but not limited to, ensuring compliance with National Standards and following National Specifications.
- 7.5 Where Developmental Arrangements conflict with any other term of this Agreement, the Developmental Arrangements shall take precedence until such time as NHS England agrees to the removal or amendment of the relevant Developmental Arrangements in accordance with Clause 26 (*Variations*).
- 7.6 The ICB must develop an operational scheme(s) of delegation defining those individuals or groups of individuals, including committees, who may discharge aspects of the Delegated Functions. For the purposes of this clause, the ICB may include the operational scheme(s) of delegation within its general organisational scheme of delegation.
- 7.7 NHS England may by Contractual Notice allocate Contracts to the ICB such that they are included as part of the Delegation. The Delegated Functions must be exercised both in respect of the relevant Contract and any related matters concerning any Specialised Service Provider that is a party to a Contract. NHS England may add or remove Contracts where this is associated with an extension or reduction of the scope of the Delegated Functions.
- 7.8 Subsequent to the Effective Date of Delegation and for the duration of this Agreement, unless otherwise agreed any new Contract entered into in respect of the Delegated Functions shall be managed by the ICB in accordance with the provisions of this Agreement.
- 7.9 Subject to the provisions of this Agreement, the ICB may determine the arrangements for the exercise of the Delegated Functions.
- 8. REQUIREMENT FOR ICB COLLABORATION ARRANGEMENT**
- 8.1 Subject to the provisions of Clause 12 (*Further Arrangements*), the ICB must establish appropriate ICB Collaboration Arrangements with other ICBs in order to ensure that the commissioning of the Delegated Services can take place across an appropriate geographical footprint for the nature of each particular Delegated Service with consideration of population size, provider landscape and patient flow. Such ICB arrangements in respect of the Delegated Functions must be approved in advance by NHS England.
- 8.2 The ICB must establish, as part of or separate to the arrangements set out in Clause 8.1, an agreement that sets out the arrangements in respect of the Commissioning Team as required by Clause 13.
- 8.3 The ICB must participate in discussions, review evidence and provide objective expert input to the best of their knowledge and ability, and endeavour to reach a collective view with the other ICBs within the ICB Collaboration Arrangement. The members of the ICB Collaboration Arrangement shall have a collective responsibility for the operation of the ICB Collaboration Arrangement.
- 8.4 The ICB shall ensure that any ICB Collaboration Arrangement is documented and such documentation must include (but is not limited to) the following:
- 8.4.1 membership which is limited solely to ICBs unless otherwise approved by NHS England;

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- 8.4.2 clear governance arrangements including reporting lines to the ICBs' Boards;
 - 8.4.3 provisions for independent scrutiny of decision making;
 - 8.4.4 the Delegated Functions or elements thereof which are the subject of the arrangements;
 - 8.4.5 the Delegated Services which are subject to the arrangements;
 - 8.4.6 financial arrangements and any pooled fund arrangements;
 - 8.4.7 data sharing arrangements including evidence of a Data Protection Impact Assessment;
 - 8.4.8 terms of reference for decision making; and
 - 8.4.9 limits on onward delegation.
- 8.5 The ICB must not terminate an ICB Collaboration Arrangement in respect of the Delegated Functions without the prior written approval of NHS England.
9. **PERFORMANCE OF THE RESERVED FUNCTIONS AND COMMISSIONING SUPPORT ARRANGEMENTS**
- 9.1 NHS England will remain responsible for the performance of the Reserved Functions.
 - 9.2 For the avoidance of doubt, the Parties acknowledge that the Delegation may be amended, and additional functions may be delegated to the ICB, in which event consequential changes to this Agreement shall be agreed with the ICB pursuant to Clause 26 (*Variations*) of this Agreement.
 - 9.3 Where it considers appropriate NHS England will work collaboratively with the ICB when exercising the Reserved Functions.
 - 9.4 If there is any conflict or inconsistency between functions that are named as Delegated Functions and functions that are named as Reserved Functions, then such functions shall be interpreted as Reserved Functions unless and until NHS England confirms otherwise. If an ICB identifies such a conflict or inconsistency, it will inform NHS England as soon as is reasonably practicable.
 - 9.5 The Parties acknowledge that they may agree for the ICB to provide Administrative and Management Services to NHS England in relation to certain Reserved Functions and Retained Services in order to assist in the efficient and effective exercise of such functions. Any such Commissioning Team Arrangements shall be set out in writing.
 - 9.6 Notwithstanding any arrangement for or provision of Administrative and Management Services in respect of the Retained Services and Reserved Functions, NHS England shall retain statutory responsibility for, and be accountable for, the commissioning of the Retained Services.
 - 9.7 The Parties acknowledge that they may agree for NHS England to provide Administrative and Management Services to ICBs in relation to certain Delegated Functions and Delegated Services in order to assist in the efficient and effective exercise of such Delegated Functions. Any such Administrative and Management Services shall be set out in writing.
 - 9.8 Notwithstanding any arrangement for or provision of Administrative and Management Services in respect of the Delegated Services, the ICB shall retain delegated responsibility for the commissioning of the Delegated Services.
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- 9.9 Any arrangement made between the ICB and NHS England under Clauses 9.5 or 9.7 must be made in accordance with: Clause 6.5, Clause 10.14 and Paragraph 4.2 of Schedule 4.

10. FINANCE

- 10.1 Without prejudice to any other provision in this Agreement, the ICB must comply with the Finance Guidance and any such financial processes as required by NHS England for the management, reporting and accounting of funds used for the purposes of the Delegated Functions.
- 10.2 The ICB acknowledges that it will receive funds from NHS England in respect of the Delegated Functions (the "Delegated Funds") and that these are in addition to the funds allocated to it within its Annual Allocation.
- 10.3 Subject to Clause 10.4 and any provisions in the Schedules or Mandated Guidance, the ICB may use:
- 10.3.1 its Annual Allocation and the Delegated Funds in the exercise of the Delegated Functions; and
 - 10.3.2 the Delegated Funds and its Annual Allocation in the exercise of the ICB's Functions other than the Delegated Functions.
- 10.4 The ICB's expenditure on the Delegated Functions must be sufficient to:
- 10.4.1 ensure that NHS England is able to fulfil its functions, including without limitation the Reserved Functions, effectively and efficiently;
 - 10.4.2 meet all liabilities arising under or in connection with all Contracts in so far as they relate to the exercise of the Delegated Functions;
 - 10.4.3 appropriately commission the Delegated Services in accordance with Mandatory Guidance, National Specifications, National Standards and Guidance; and
 - 10.4.4 meet national commitments from time to time on expenditure on specific Delegated Functions.
- 10.5 NHS England may increase or reduce the Delegated Funds in any Financial Year, by sending a notice to the ICB of such increase or decrease:
- 10.5.1 in order to take into account any monthly adjustments or corrections to the Delegated Funds that NHS England considers appropriate, including without limitation, adjustments following any changes to the Delegated Functions, changes in allocations, changes in Contracts, to implement Mandated Guidance or otherwise;
 - 10.5.2 in order to comply with a change in the amount allocated to NHS England by the Secretary of State pursuant to section 223B of the NHS Act;
 - 10.5.3 to take into account any Losses of NHS England for which the ICB is required to indemnify NHS England under Clause 17 (*Claims and Litigation*);
 - 10.5.4 to take into account any adjustments that NHS England considers appropriate (including without limitation in order to make corrections or otherwise to reflect notional budgets) to reflect funds transferred (or that should have been transferred) to the ICB in respect of the Delegated Functions or funds transferred (or that should have been transferred) to the ICB in respect of Administrative and Management Services; and

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- 10.5.5 in order to ensure compliance by NHS England with its obligations under the NHS Act (including, Part 11 of the NHS Act) or any action taken or direction made by the Secretary of State in respect of NHS England under the NHS Act.
- 10.6 NHS England acknowledges that the intention of Clause 10.5 is to reflect genuine corrections and adjustments to the Delegated Funds and may not be used to change the allocation of the Delegated Funds unless there are significant or exceptional circumstances that would require such corrections or adjustments.
- 10.7 The ICB acknowledges that it must comply with its statutory financial duties, including those under Part 11 of the NHS Act to the extent that these sections apply in relation to the receipt of the Delegated Funds.
- 10.8 NHS England may in respect of the Delegated Funds:
- 10.8.1 notify the ICB regarding the required payment of sums by the ICB to NHS England in respect of charges referable to the valuation or disposal of assets and such conditions as to records, certificates or otherwise;
- 10.8.2 by notice, require the ICB to take such action or step in respect of the Delegated Funds, in order to ensure compliance by NHS England of its duties or functions under the NHS (including Part 11 of the NHS Act) or any action taken or direction made by the Secretary of State under the NHS Act.
- 10.9 The Schedules to this Agreement may identify further financial provisions in respect of the exercise of the Delegated Functions.
- 10.10 NHS England may issue Mandated Guidance in respect of the financial arrangements in respect of the Delegated Functions.
- 10.11 NHS England will pay the Delegated Funds to the ICB using the revenue transfer process as used for the Annual Allocation or such other process as notified to the ICB from time to time.
- 10.12 Without prejudice to any other obligation upon the ICB, for the purposes of the Delegated Functions the ICB agrees that it must use its resources in accordance with:
- 10.12.1 the terms and conditions of this Agreement including any Mandated Guidance issued by NHS England from time to time in relation to the use of resources for the purposes of the Delegated Functions (including in relation to the form or contents of any accounts);
- 10.12.2 any NHS payment scheme published by NHS England;
- 10.12.3 the business rules as set out in NHS England's planning guidance or such other documents issued by NHS England from time to time;
- 10.12.4 any Capital Investment Guidance;
- 10.12.5 the HM Treasury Guidance *Managing Public Money* (dated September 2022) as replaced or updated from time to time; and
- 10.12.6 any other Guidance published by NHS England with respect to the financial management of Delegated Functions.
- 10.13 Without prejudice to any other obligation upon the ICB, the ICB agrees that it must provide:

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- 10.13.1 all information, assistance and support to NHS England in relation to the audit and/or investigation (whether internal or external and whether under Law or otherwise) in relation to the use of or payment of resources for the purposes of the Delegated Functions and the discharge of those functions;
- 10.13.2 such reports in relation to the expenditure on the Delegated Functions as set out in Mandated Guidance, the Schedules to this Agreement or as otherwise required by NHS England.

Ledger access and use of financial data

- 10.14 NHS England and the ICB agree that they shall not access a financial ledger or other finance system that is operated by another organisation, or use data directly obtained from such a financial ledger or other finance system.
- 10.15 Clause 10.14 applies unless that access or use has been approved in advance by the organisation that operates that financial ledger or other finance system, or as is otherwise expressly provided for in this Agreement.

Pooled Funds

- 10.16 Subject to the provisions of this Agreement, the ICB may, for the purposes of exercising the Delegated Functions under this Agreement, establish and maintain a pooled fund(s) in respect of any part of the Delegated Funds with:
 - 10.16.1 NHS England in accordance with sections 13V or 65Z6 of the NHS Act;
 - 10.16.2 one or more ICBs in accordance with section 65Z6 of the NHS Act as part of a Further Arrangement; or
 - 10.16.3 NHS England and one or more ICBs in accordance with section 13V of the NHS Act; and
 - 10.16.4 NHS England and one or more ICBs in accordance with section 65Z6 of the NHS Act.
- 10.17 Where the ICB has decided to enter into arrangements under Clause 10.16 the agreement must be in writing and must specify:
 - 10.17.1 the agreed aims and outcomes of the arrangements;
 - 10.17.2 the payments to be made by each partner and how those payments may be varied;
 - 10.17.3 the specific Delegated Functions which are the subject of the arrangements;
 - 10.17.4 the Delegated Services which are subject to the arrangements;
 - 10.17.5 the duration of the arrangements and provision for the review or variation or termination of the arrangements;
 - 10.17.6 the arrangements in place for governance of the pooled fund; and
 - 10.17.7 the arrangements in place for assuring, oversight and monitoring of the ICB's exercise of the functions referred to in 10.17.3.
- 10.18 At the date of this Agreement, details of the pooled funds (including any terms as to the governance and payments out of such pooled fund) of NHS England and the ICB are set out in the Local Terms.

11. INFORMATION, PLANNING AND REPORTING

- 11.1 The ICB must provide to NHS England:
- 11.1.1 such information or explanations in relation to the exercise of the Delegated Functions as required by NHS England from time to time; and
 - 11.1.2 all such information (and in such form), that may be relevant to NHS England in relation to the exercise by NHS England of its other duties or functions including, without limitation, the Reserved Functions.
- 11.2 The provisions of this Clause 11 are without prejudice to the ability of NHS England to exercise its other powers and duties in obtaining information from and assessing the performance of the ICB.

Forward Plan and Annual Report

- 11.3 Before the start of each Financial Year, the ICB must describe in its joint forward plan prepared in accordance with section 14Z52 of the NHS Act how it intends to exercise the Delegated Functions.
- 11.4 The ICB must report on its exercise of the Delegated Functions in its annual report prepared in accordance with section 14Z58 of the NHS Act.

Risk Register

- 11.5 The ICB must maintain a risk register in respect of its exercise of the Delegated Functions and periodically review its content. The risk register must follow such format as may be notified by NHS England to the ICB from time to time.

12. FURTHER ARRANGEMENTS

- 12.1 In addition to any ICB Collaboration Arrangement agreed in accordance with Clause 8 (*ICB Collaboration Arrangements*) the ICB must give due consideration to whether any of the Delegated Functions should be exercised collaboratively with other NHS bodies or Local Authorities including, without limitation, by means of arrangements under section 65Z5 and section 75 of the NHS Act ("Further Arrangements").
- 12.2 The ICB may only make Further Arrangements with another person (a "Sub-Delegate") with the prior written approval of NHS England.
- 12.3 The approval of any Further Arrangements may:
- 12.3.1 include approval of the terms of the proposed Further Arrangements; and
 - 12.3.2 require conditions to be met by the ICB and the Sub-Delegate in respect of that arrangement.
- 12.4 All Further Arrangements must be made in writing.
- 12.5 The ICB must not terminate Further Arrangements without the prior written approval of NHS England.
- 12.6 If the ICB enters into a Further Arrangement it must ensure that the Sub-Delegate does not make onward arrangements for the exercise of any or all of the Delegated Functions without the prior written approval of NHS England.
- 12.7 The terms of this Clause 12 do not prevent the ICB from making arrangements for assistance and support in the exercise of the Delegated Functions with any person,

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where such arrangements reserve the consideration and making of any decision in respect of a Delegated Function to the ICB.

- 12.8 Where Further Arrangements are made, and unless NHS England has otherwise given specific prior written agreement, any obligations or duties on the part of the ICB under this Agreement that are relevant to those Further Arrangements shall also require the ICB to ensure that all Sub-Delegates comply with such obligations or duties and support the ICB in doing so.

13. STAFFING, WORKFORCE AND COMMISSIONING TEAMS

- 13.1 Where there is an arrangement for NHS England to provide Administrative and Management Services to the ICB, the ICB shall provide full co-operation with NHS England and enter into any necessary arrangements with NHS England and, where appropriate, other ICBs in respect of the Specialised Services Staff.
- 13.2 The ICB shall, if and where required by NHS England, enter into appropriate arrangements with NHS England in respect of the transfer of Specialised Services Staff.
- 13.3 The ICB shall, where appropriate, enter into an agreement with other ICBs, in order to establish arrangements in respect of the Commissioning Team. Where appropriate, this agreement may be included as part of the ICB Collaboration Arrangement entered into in accordance with Clause 8.

14. BREACH

- 14.1 If the ICB does not comply with the terms of this Agreement, then NHS England may:
- 14.1.1 exercise its rights under this Agreement; and
 - 14.1.2 take such steps as it considers appropriate in the exercise of its other functions concerning the ICB.
- 14.2 Without prejudice to Clause 14.1, if the ICB does not comply with the terms of this Agreement (including if the ICB exceeds its delegated authority under the Delegation), NHS England may (at its sole discretion):
- 14.2.1 waive its rights in relation to such non-compliance in accordance with Clause 14.3;
 - 14.2.2 ratify any decision in accordance with Clause 6.6;
 - 14.2.3 substitute a decision in accordance with Clause 6.7;
 - 14.2.4 amend Developmental Arrangements or impose new Developmental Arrangements;
 - 14.2.5 revoke the whole or part of the Delegation and terminate this Agreement in accordance with Clause 27 (*Termination*) below;
 - 14.2.6 exercise the Escalation Rights in accordance with Clause 155 (*Escalation Rights*); and/or
 - 14.2.7 exercise its rights under common law.
- 14.3 NHS England may waive any non-compliance by the ICB with the terms of this Agreement provided that the ICB provides a written report to NHS England as required by Clause 14.4 and, after considering the ICB's written report, NHS England is satisfied that the waiver is justified.

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14.4 If:

- 14.4.1 the ICB does not comply with this Agreement;
- 14.4.2 the ICB considers that it may not be able to comply with this Agreement;
- 14.4.3 NHS England notifies the ICB that it considers the ICB has not complied with this Agreement; or
- 14.4.4 NHS England notifies the ICB that it considers that the ICB may not be able to comply with this Agreement,

then the ICB must provide a written report to NHS England within ten (10) Operational Days of the non-compliance (or the date on which the ICB identifies that it may not be able to comply with this Agreement) setting out:

- 14.4.5 details of and reasons for the non-compliance (or likely non-compliance) with the Agreement and/or the Delegation; and
- 14.4.6 a plan for how the ICB proposes to remedy the non-compliance.

15. **ESCALATION RIGHTS**

15.1 If the ICB does not comply with this Agreement, NHS England may exercise the following Escalation Rights:

- 15.1.1 NHS England may require a suitably senior representative of the ICB to attend a review meeting within ten (10) Operational Days of NHS England becoming aware of the non-compliance; and
- 15.1.2 NHS England may require the ICB to prepare an action plan and report within twenty (20) Operational Days of the review meeting (to include details of the non-compliance and a plan for how the ICB proposes to remedy the non-compliance).

15.2 If NHS England does not comply with this Agreement, the ICB may require a suitably senior representative of NHS England to attend a review meeting within ten (10) Operational Days of the ICB making NHS England aware of the non-compliance.

15.3 Nothing in Clause 15 (*Escalation Rights*) will affect NHS England's right to substitute a decision in accordance with Clause 6.87, revoke the Delegation or terminate this Agreement in accordance with Clause 27 (*Termination*) below.

16. **LIABILITY AND INDEMNITY**

16.1 NHS England is liable in respect of any Losses arising in respect of NHS England's negligence, fraud, recklessness or deliberate breach in respect of the Delegated Functions and occurring after the Effective Date of Delegation and, if the ICB suffers any Losses in respect of such actions by NHS England, NHS England shall make such adjustments to the Annual Allocation (or other amounts payable to the ICB) in order to reflect any Losses suffered by the ICB (except to the extent that the ICB is liable for such Losses pursuant to Clause 16.3).

16.2 For the avoidance of doubt, NHS England remains liable for a Claim relating to facts, events or circumstances concerning the Delegated Functions before the Effective Date of Delegation.

16.3 The ICB is liable to (and shall pay) NHS England for any Losses suffered by NHS England that result from or arise out of the ICB's negligence, fraud, recklessness or breach of the Delegation (including any actions that are taken that exceed the authority

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conferred by the Delegation) or this Agreement. In respect of such Losses, NHS England may, at its discretion and without prejudice to any other rights, either require payment from the ICB or make such adjustments to the Delegated Funds pursuant to Clause 10.5. The ICB shall not be liable to the extent that the Losses arose prior to the Effective Date of Delegation.

- 16.4 Each Party acknowledges and agrees that any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by the ICB of any Delegated Function are enforceable by or against the ICB only, in accordance with section 65Z5(6) of the NHS Act.
- 16.5 Each Party will at all times take all reasonable steps to minimise and mitigate any Losses or other matters for which one Party is entitled to be indemnified by or to bring a claim against the other under this Agreement.

17. CLAIMS AND LITIGATION

- 17.1 Nothing in this Clause 17 (*Claims and Litigation*) shall be interpreted as affecting the reservation to NHS England of the Reserved Functions.
- 17.2 Except in the circumstances set out in Clause **Error! Reference source not found.**17.5 and subject always to compliance with this Clause 17 (*Claims and Litigation*), the ICB shall be responsible for and shall retain the conduct of any Claim.
- 17.3 The ICB must:
- 17.3.1 comply with any policy issued by NHS England from time to time in relation to the conduct of or avoidance of Claims and the pro-active management of Claims;
 - 17.3.2 if it receives any correspondence, issue of proceedings, claim document or other document concerning any Claim or potential Claim, immediately notify NHS England and send to NHS England all copies of such correspondence;
 - 17.3.3 co-operate fully with NHS England in relation to such Claim and the conduct of such Claim;
 - 17.3.4 provide, at its own cost, to NHS England all documentation and other correspondence that NHS England requires for the purposes of considering and/or resisting such Claim; and
 - 17.3.5 at the request of NHS England, take such actions or step or provide such assistance as may in NHS England's discretion be necessary or desirable having regard to the nature of the Claim and the existence of any time limit in relation to avoiding, disputing, defending, resisting, appealing, seeking a review or compromising such Claim or to comply with the requirements of the provider of an Indemnity Arrangement in relation to such Claim.
- 17.4 Subject to Clauses 17.3 and 17.5 the ICB is entitled to conduct the Claim in the manner it considers appropriate and is also entitled to pay or settle any Claim on such terms as it thinks fit.

NHS England Stepping into Claims

- 17.5 NHS England may, at any time following discussion with the ICB, send a notice to the ICB stating that NHS England will take over the conduct of the Claim and the ICB must immediately take all steps necessary to transfer the conduct of such Claim to NHS England unless and until NHS England transfers conduct back to the ICB. In such cases:

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- 17.5.1 NHS England shall be entitled to conduct the Claim in the manner it considers appropriate and is also entitled to pay or settle any Claim on such terms as it thinks fit, provided that if NHS England wishes to invoke Clause 17.5.3 it agrees to seek the ICB's views on any proposal to pay or settle that Claim prior to finalising such payment or settlement; and
- 17.5.2 the Delegation shall be treated as being revoked to the extent that and for so long as NHS England has assumed responsibility for exercising those of the Delegated Functions that are necessary for the purposes of having conduct of the Claim; and
- 17.5.3 NHS England may, at its discretion and without prejudice to any other rights, either require payment from the ICB for such Claim Losses or make an adjustment to the Delegated Funds pursuant to Clause 10.5.3 for the purposes of meeting any Claim Losses associated with that Claim.

Claim Losses

- 17.6 The ICB and NHS England shall notify each other as soon as reasonably practicable of becoming aware of any Claim Losses.
- 17.7 The ICB acknowledges that NHS England will pay to the ICB the funds that are attributable to the Delegated Functions. Accordingly, the ICB acknowledges that it must pay any Claim Losses out of either the Delegated Funds or its Annual Allocation. NHS England may, in respect of any Claim Losses, at its discretion and without prejudice to any other rights, either require payment from the ICB for such Claim Losses or pursuant to Clause 10.5.3 make such adjustments to the Delegated Funds to take into account the amount of any Claim Losses (other than any Claim Losses in respect of which NHS England has retained any funds, provisions or other resources to discharge such Claim Losses). For the avoidance of doubt, in circumstances where NHS England suffers any Claim Losses, then NHS England shall be entitled to recoup such Claim Losses pursuant to Clause 10.5.3. If and to the extent that NHS England has retained any funds, provisions or other resources to discharge such Claim Losses, then NHS England may either use such funds to discharge the Claim Loss or make an upward adjustment to the amounts paid to the ICB pursuant to Clause 10.5.3.

18. DATA PROTECTION, FREEDOM OF INFORMATION AND TRANSPARENCY

- 18.1 The Parties must ensure that all Personal Data processed by or on behalf of them while carrying out the Delegated Functions and Reserved Functions is processed in accordance with the relevant Party's obligations under Data Protection Legislation and Data Guidance and the Parties must assist each other as necessary to enable each other to comply with these obligations.
- 18.2 The ICB must respond to any information governance breach in accordance with Information Governance Guidance for Serious Incidents. If the ICB is required under Data Protection Legislation to notify the Information Commissioner's Office or a Data Subject of an information governance breach then as soon as reasonably practical and in any event on or before the first such notification is made the ICB must fully inform NHS England of the information governance breach. This clause does not require the ICB to provide NHS England with information which identifies any individual affected by the information governance breach where doing so would breach Data Protection Legislation.
- 18.3 Whether or not a Party is a Data Controller or Data Processor will be determined in accordance with Data Protection Legislation and any Data Guidance from a Regulatory or Supervisory Body. The Parties acknowledge that a Party may act as both a Data Controller and a Data Processor.

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- 18.4
- NHS England may, from time to time, issue a data sharing protocol or update a protocol previously issued relating to the data sharing in relation to the Delegated Functions and/or Reserved Functions. The ICB shall comply with such data sharing protocols.
- 18.5
- Each Party acknowledges that the other is a public authority for the purposes of the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 ("EIR").
- 18.6
- Each Party may be required by statute to disclose further information about the Agreement and the Relevant Information in response to a specific request under FOIA or EIR, in which case:
- 18.6.1
- each Party shall provide the other with all reasonable assistance and co-operation to enable them to comply with their obligations under FOIA or EIR;
- 18.6.2
- each Party shall consult the other regarding the possible application of exemptions in relation to the information requested; and
- 18.6.3
- subject only to Clause 17 (*Claims and Litigation*), each Party acknowledges that the final decision as to the form or content of the response to any request is a matter for the Party to whom the request is addressed.
- 18.7
- NHS England may, from time to time, issue a FOIA or EIR protocol or update a protocol previously issued relating to the handling and responding to of FOIA or EIR requests in relation to the Delegated Functions. The ICB shall comply with such FOIA or EIR protocols.
- 18.8
- Delegated Services**

NHS England delegates to the ICB the statutory function for commissioning the Specialised Services set out in this Schedule 2 (*Delegated Services*) subject to the reservations set out in Schedule 4 (*Reserved Functions*) and the provisions of any Developmental Arrangements set out in Schedule 9.

The list of Delegated Services set out in Schedule 2 of this Agreement contains two categories of service: the first is drawn from the Prescribed Specialised Services (PSS) Manual and aligns to Schedule 4 of the 2012 Standing Rules Regulations; the second is the sub-service line codes that NHS England has introduced over time to assist in the commissioning of Specialised Services. From time-to-time, NHS England will amend the list of sub-service line codes, either to repurpose, remove or add a code.

This is done to support in the management of finances, activity or for other administrative reasons; or to support transformational work that may be ongoing in the service area that requires a sub-service line code to track and manage funding and activity. The intention is that any changes will be supportive of ICBs' commissioning responsibilities, and that there will be a small number of changes in the Delegated Services sub-service line codes in any one year.

All future changes to sub-service line codes relating to Delegated Services will be developed with ICBs. ICBs will be engaged and have the opportunity to provide comment on the proposed change before it is made. Changes to the sub-service line codes will be discussed at and agreed by the Delegated Commissioning Group, hosted by NHS England and attended by ICB representatives. If changes are agreed, the latest lists will be made available on the NHS England website here [NHS England » NHS England service codes by year 2024/25] and a more detailed version on the Future NHS site here [Service Portfolio Analysis - Integrating specialised services within Integrated Care Systems - FutureNHS Collaboration Platform].

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The PSS Manual Lines in Schedule 2 of the Agreement, which derive from the 2012 Standing Rules Regulations, will not be altered unless there is a decision of the NHS England Board, which will necessitate wider engagement with ICBs and stakeholders.

The following Specialised Services will be delegated to the ICB on 1 April 2025:

PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
2	Adult congenital heart disease services	13X	Adult congenital heart disease services (non-surgical)
		13Y	Adult congenital heart disease services (surgical)
3	Adult specialist pain management services	31Z	Adult specialist pain management services
4	Adult specialist respiratory services	29M	Interstitial lung disease (adults)
		29S	Severe asthma (adults)
		29L	Lung volume reduction (adults)
		29V	Complex home ventilation (adults)
5	Adult specialist rheumatology services	26Z	Adult specialist rheumatology services
6	Adult secure mental health services	22S(a)	Secure and specialised mental health services (adult) (medium and low) – excluding LD/ASD/WEMS/ABI/DEAF
		22S(c)	Secure and specialised mental health services (adult) (Medium and low) – ASD MHLDA PC
		22S(d)	Secure and specialised mental health services (adult) (Medium and low) – LD MHLDA PC
7	Adult Specialist Cardiac Services	13A	Complex device therapy
		13B	Cardiac electrophysiology & ablation
		13C	Inherited cardiac conditions
		13E	Cardiac surgery (inpatient)
		13F	PPCI for ST- elevation myocardial infarction
		13H	Cardiac magnetic resonance imaging
		13T	Complex interventional cardiology
		13Z	Cardiac surgery (outpatient)
8	Adult specialist eating disorder services	22E	Adult specialist eating disorder services MHLDA PC
9	Adult specialist endocrinology services	27E	Adrenal Cancer (adults)
		27Z	Adult specialist endocrinology services
11	Adult specialist neurosciences services	08O	Neurology (adults)
		08P	Neurophysiology (adults)
		08R	Neuroradiology (adults)
		08S	Neurosurgery (adults)
		08T	Mechanical Thrombectomy
		58A	Neurosurgery LVHC national: surgical removal of clival chordoma and chondrosarcoma
		58B	Neurosurgery LVHC national: EC-IC bypass (complex/high flow)
		58C	Neurosurgery LVHC national: transoral excision of dens
		58D	Neurosurgery LVHC regional: anterior skull based tumours
		58E	Neurosurgery LVHC regional: lateral skull based tumours
		58F	Neurosurgery LVHC regional: surgical removal of brainstem lesions
		58G	Neurosurgery LVHC regional: deep brain stimulation
		58H	Neurosurgery LVHC regional: pineal tumour surgeries - resection
		58I	Neurosurgery LVHC regional: removal of arteriovenous malformations of the nervous system
		58J	Neurosurgery LVHC regional: epilepsy
		58K	Neurosurgery LVHC regional: insula glioma's/complex low grade glioma's

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PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
	Adult specialist neurosciences services (continued)	58L	Neurosurgery LVHC local: anterior lumbar fusion
		58M	Neurosurgery LVHC local: removal of intramedullary spinal tumours
		58N	Neurosurgery LVHC local: intraventricular tumours resection
		58O	Neurosurgery LVHC local: surgical repair of aneurysms (surgical clipping)
		58P	Neurosurgery LVHC local: thoracic discectomy
		58Q	Neurosurgery LVHC local: microvascular decompression for trigeminal neuralgia
		58R	Neurosurgery LVHC local: awake surgery for removal of brain tumours
		58S	Neurosurgery LVHC local: removal of pituitary tumours including for Cushing's and acromegaly
12	Adult specialist ophthalmology services	37C	Artificial Eye Service
		37Z	Adult specialist ophthalmology services
13	Adult specialist orthopaedic services	34A	Orthopaedic surgery (adults)
		34R	Orthopaedic revision (adults)
15	Adult specialist renal services	11B	Renal dialysis
		11C	Access for renal dialysis
		11T	Renal Transplantation
16	Adult specialist services for people living with HIV	14A	Adult specialised services for people living with HIV
17	Adult specialist vascular services	30Z	Adult specialist vascular services
18	Adult thoracic surgery services	29B	Complex thoracic surgery (adults)
		29Z	Adult thoracic surgery services: outpatients
29	Haematopoietic stem cell transplantation services (adults and children)	02Z	Haematopoietic stem cell transplantation services (adults and children)
		ECP	Extracorporeal photopheresis service (adults and children)
30	Bone conduction hearing implant services (adults and children)	32B	Bone anchored hearing aids service
		32D	Middle ear implantable hearing aids service
32	Children and young people's inpatient mental health service	23K	Tier 4 CAMHS (general adolescent inc eating disorders) MHLDA PC
		23L	Tier 4 CAMHS (low secure) MHLDA PC
		23O	Tier 4 CAMHS (PICU) MHLDA PC
		23U	Tier 4 CAMHS (LD) MHLDA PC
		23V	Tier 4 CAMHS (ASD) MHLDA PC
35	Cleft lip and palate services (adults and children)	15Z	Cleft lip and palate services (adults and children)
36	Cochlear implantation services (adults and children)	32A	Cochlear implantation services (adults and children)
40	Complex spinal surgery services (adults and children)	06Z	Complex spinal surgery services (adults and children)
		08Z	Complex neuro-spinal surgery services (adults and children)
45	Cystic fibrosis services (adults and children)	10Z	Cystic fibrosis services (adults and children)
54	Fetal medicine services (adults and adolescents)	04C	Fetal medicine services (adults and adolescents)
58	Specialist adult gynaecological surgery and urinary surgery services for females	04A	Severe Endometriosis
		04D	Complex urinary incontinence and genital prolapse

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PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
58A	Specialist adult urological surgery services for men	41P	Penile implants
		41S	Surgical sperm removal
		41U	Urethral reconstruction
59	Specialist allergy services (adults and children)	17Z	Specialist allergy services (adults and children)
61	Specialist dermatology services (adults and children)	24Z	Specialist dermatology services (adults and children)
62	Specialist metabolic disorder services (adults and children)	36Z	Specialist metabolic disorder services (adults and children)
63	Specialist pain management services for children	23Y	Specialist pain management services for children
64	Specialist palliative care services for children and young adults	E23	Specialist palliative care services for children and young adults
65	Specialist services for adults with infectious diseases	18A	Specialist services for adults with infectious diseases
		18E	Specialist Bone and Joint Infection (adults)
72	Major trauma services (adults and children)	34T	Major trauma services (adults and children)
78	Neuropsychiatry services (adults and children)	08Y	Neuropsychiatry services (adults and children)
83	Paediatric cardiac services	23B	Paediatric cardiac services
94	Radiotherapy services (adults and children)	01R	Radiotherapy services (Adults)
		51R	Radiotherapy services (Children)
		01S	Stereotactic Radiosurgery / radiotherapy
98	Specialist secure forensic mental health services for young people	24C	FCAMHS MHLDA PC
103A	Specialist adult haematology services	03C	Castleman disease
105	Specialist cancer services (adults)	01C	Chemotherapy
		01J	Anal cancer (adults)
		01K	Malignant mesothelioma (adults)
		01M	Head and neck cancer (adults)
		01N	Kidney, bladder and prostate cancer (adults)
		01Q	Rare brain and CNS cancer (adults)
		01U	Oesophageal and gastric cancer (adults)
		01V	Biliary tract cancer (adults)
		01W	Liver cancer (adults)
		01X	Penile cancer (adults)
		01Y	Cancer Outpatients (adults)
		01Z	Testicular cancer (adults)
		04F	Gynaecological cancer (adults)
		19V	Pancreatic cancer (adults)
		19C	Biliary tract cancer surgery (adults)
		19M	Liver cancer surgery (adults)
		19Q	Pancreatic cancer surgery (adults)
		24Y	Skin cancer (adults)
		29E	Management of central airway obstruction (adults)
		51A	Interventional oncology (adults)
		51B	Brachytherapy (adults)
		51C	Molecular oncology (adults)
		61M	Head and neck cancer surgery (adults)
		61Q	Ophthalmic cancer surgery (adults)
		61U	Oesophageal and gastric cancer surgery (adults)

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PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
		61Z	Testicular cancer surgery (adults)
		33C	Transanal endoscopic microsurgery (adults)
		33D	Distal sacrectomy for advanced and recurrent rectal cancer (adults)
106	Specialist cancer services for children and young adults	01T	Teenage and young adult cancer
		23A	Children's cancer
106A	Specialist colorectal surgery services (adults)	33A	Complex surgery for faecal incontinence (adults)
		33B	Complex inflammatory bowel disease (adults)
107	Specialist dentistry services for children	23P	Specialist dentistry services for children
108	Specialist ear, nose and throat services for children	23D	Specialist ear, nose and throat services for children
109	Specialist endocrinology services for children	23E	Specialist endocrinology and diabetes services for children
110	Specialist gastroenterology, hepatology and nutritional support services for children	23F	Specialist gastroenterology, hepatology and nutritional support services for children
112	Specialist gynaecology services for children	73X	Specialist paediatric surgery services - gynaecology
113	Specialist haematology services for children	23H	Specialist haematology services for children
114	Specialist haemoglobinopathy services (adults and children)	38S	Sickle cell anaemia (adults and children)
		38T	Thalassemia (adults and children)
115	Specialist immunology services for adults with deficient immune systems	16X	Specialist immunology services for adults with deficient immune systems
115A	Specialist immunology services for children with deficient immune systems	16Y	Specialist immunology services for children with deficient immune systems
115B	Specialist maternity care for adults diagnosed with abnormally invasive placenta	04G	Specialist maternity care for women diagnosed with abnormally invasive placenta
118	Neonatal critical care services	NIC	Specialist neonatal care services
119	Specialist neuroscience services for children	23M	Specialist neuroscience services for children
		07Y	Paediatric neurorehabilitation
		08J	Selective dorsal rhizotomy
120	Specialist ophthalmology services for children	23N	Specialist ophthalmology services for children
121	Specialist orthopaedic services for children	23Q	Specialist orthopaedic services for children
122	Paediatric critical care services	PIC	Specialist paediatric intensive care services
124	Specialist perinatal mental health services (adults and adolescents)	22P	Specialist perinatal mental health services (adults and adolescents) MHLDA PC
125	Specialist plastic surgery services for children	23R	Specialist plastic surgery services for children
126	Specialist rehabilitation services for patients with highly complex needs (adults and children)	07Z	Specialist rehabilitation services for patients with highly complex needs (adults and children)
127	Specialist renal services for children	23S	Specialist renal services for children
128	Specialist respiratory services for children	23T	Specialist respiratory services for children
129	Specialist rheumatology services for children	23W	Specialist rheumatology services for children
130	Specialist services for children with infectious diseases	18C	Specialist services for children with infectious diseases

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PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
131	Specialist services for complex liver, biliary and pancreatic diseases in adults	19L	Specialist services for complex liver diseases in adults
		19P	Specialist services for complex pancreatic diseases in adults
		19Z	Specialist services for complex liver, biliary and pancreatic diseases in adults
		19B	Specialist services for complex biliary diseases in adults
132	Specialist services for haemophilia and other related bleeding disorders (adults and children)	03X	Specialist services for haemophilia and other related bleeding disorders (Adults)
		03Y	Specialist services for haemophilia and other related bleeding disorders (Children)
134	Specialist services to support patients with complex physical disabilities (excluding wheelchair services) (adults and children)	05C	Specialist augmentative and alternative communication aids (adults and children)
		05E	Specialist environmental controls (adults and children)
		05P	Prosthetics (adults and children)
135	Specialist paediatric surgery services	23X	Specialist paediatric surgery services - general surgery
136	Specialist paediatric urology services	23Z	Specialist paediatric urology services
139A	Specialist morbid obesity services for children	35Z	Specialist morbid obesity services for children
139AA	Termination services for patients with medical complexity and or significant co-morbidities requiring treatment in a specialist hospital	04P	Termination services for patients with medical complexity and or significant co-morbidities requiring treatment in a specialist hospital
ACC	Adult Critical Care	ACC	Adult critical care

SCHEDULE 3: Delegated Functions

1 Introduction

- 1.1 Subject to the reservations set out in Schedule 4 (*Reserved Functions*) and the provisions of any Developmental Arrangements, NHS England delegates to the ICB the statutory function for commissioning the Delegated Services. This Schedule 3 sets out the key powers and duties that the ICB will be required to carry out in exercise of the Delegated Functions being, in summary:
- 1.1.1 decisions in relation to the commissioning and management of Delegated Services;
 - 1.1.2 planning Delegated Services for the Population, including carrying out needs assessments;
 - 1.1.3 undertaking reviews of Delegated Services in respect of the Population;
 - 1.1.4 supporting the management of the Specialised Commissioning Budget;
 - 1.1.5 co-ordinating a common approach to the commissioning and delivery of Delegated Services with other health and social care bodies in respect of the Population where appropriate; and
 - 1.1.6 such other ancillary activities that are necessary to exercise the Specialised Commissioning Functions.
- 1.2 When exercising the Delegated Functions, ICBs are not acting on behalf of NHS England but acquire rights and incur any liabilities in exercising the functions.

2 General Obligations

- 2.1 The ICB is responsible for planning the commissioning of the Delegated Services in accordance with this Agreement. This includes ensuring at all times that the Delegated Services are commissioned in accordance with the National Standards.
- 2.2 The ICB shall put in place arrangements for collaborative working with other ICBs in accordance with Clause 8 (*Requirement for ICB Collaboration Arrangement*).
- 2.3 The Developmental Arrangements set out in Schedule 9 shall apply.

Specific Obligations

3 Assurance and Oversight

- 3.1 The ICB must at all times operate in accordance with:
- 3.1.1 the Oversight Framework published by NHS England;
 - 3.1.2 any national oversight and/or assurance guidance in respect of Specialised Services and/or joint working arrangements; and
 - 3.1.3 any other relevant NHS oversight and assurance guidance;

collectively known as the "Assurance Processes".

3.2 The ICB must:

- 3.2.1 develop and operate in accordance with mutually agreed ways of working in line with the Assurance Processes;
- 3.2.2 oversee the provision of Delegated Services and the outcomes being delivered for its Population in accordance with the Assurance Processes;
- 3.2.3 assure that Specialised Service Providers are meeting, or have an improvement plan in place to meet, National Standards;
- 3.2.4 provide any information and comply with specific actions in relation to the Delegated Services, as required by NHS England, including metrics and detailed reporting.

4 Attendance at governance meetings

- 4.1 The ICB must ensure that there is appropriate representation at forums established through the ICB Collaboration Arrangement.
- 4.2 The ICB must ensure that an individual(s) has been nominated to represent the ICB at the Delegated Commissioning Group (DCG) and regularly attends that group. This could be a single representative on behalf of the members of an ICB Collaboration Arrangement. Where that representative is not an employee of the ICB, the ICB must have in place appropriate arrangements to enable the representative to feedback to the ICB.
- 4.3 The ICB should also ensure that they have a nominated representative with appropriate subject matter expertise to attend National Standards development forums as requested by NHS England. This could be a single representative on behalf of the members of an ICB Collaboration Arrangement. Where that representative is not an employee of the ICB, the ICB must have in place appropriate arrangements to enable the representative to feedback to the ICB.

5 Clinical Leadership and Clinical Reference Groups

- 5.1 The ICB shall support the development of clinical leadership and expertise at a local level in respect of Specialised Services.
- 5.2 The ICB shall support local and national groups including Relevant Clinical Networks and Clinical Reference Groups that are involved in developing Clinical Commissioning Policies, National Specifications, National Standards and knowledge around Specialised Services.

6 Clinical Networks

- 6.1 The ICB shall participate in the planning, governance and oversight of the Relevant Clinical Networks, including involvement in agreeing the annual plan for each Relevant Clinical Network. The ICB shall seek to align the network priorities with system priorities and to ensure that the annual plan for the Relevant Clinical Network reflects local needs and priorities.
- 6.2 The ICB will be involved in the development and agreement of a single annual plan for the Relevant Clinical Network.

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- 6.3 The ICB shall monitor the implementation of the annual plan and receive an annual report from the Relevant Clinical Network that considers delivery against the annual plan.
- 6.4 The ICB shall actively support and participate in dialogue with Relevant Clinical Networks and shall ensure that there is a clear and effective mechanism in place for giving and receiving information with the Relevant Clinical Networks including network reports.
- 6.5 The ICB shall support NHS England in the management of Relevant Clinical Networks.
- 6.6 The ICB shall actively engage and promote Specialised Service Provider engagement in appropriate Relevant Clinical Networks.
- 6.7 Where a Relevant Clinical Network identifies any concern, the ICB shall seek to consider and review that concern as soon as is reasonably practicable and take such action, if any, as it deems appropriate.
- 6.8 The ICB shall ensure that network reports are considered where relevant as part of exercising the Delegated Functions.

7 Complaints

- 7.1 This part (*Complaints*) applies from the Effective Date of Delegation or the date on which the Commissioning Team is transferred to the relevant Host ICB (whichever is the later) ("the Applicable Date").
- 7.2 The ICB will be responsible for all complaints in respect of the Delegated Services that are received from the Applicable Date, regardless of whether the circumstances to which the complaint relates occurred prior to the Applicable Date.
- 7.3 For the avoidance of doubt, NHS England will retain responsibility for all complaints in respect of the Delegated Services that were received prior to the Applicable Date.
- 7.4 At all times the ICB shall operate in accordance with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and shall co-operate with other ICBs to ensure that complaints are managed effectively.
- 7.5 Where NHS England has provided the ICB with a protocol for sharing complaints in respect of any or all Specialised Services then those provisions shall apply and are deemed to be part of this Agreement (the "Complaints Sharing Protocol").
- 7.6 The ICB shall:
 - 7.6.1 work with local organisations, including other ICBs that are party to the ICB Collaboration Arrangement or Commissioning Team, to ensure that arrangements are in place for the management of complaints in respect of the Delegated Services.
 - 7.6.2 consider, in the context of the ICB Collaboration Arrangement for the commissioning of the Delegated Services and employment arrangements for the Commissioning Team, whether it is best placed to manage the complaint, or whether it should be transferred to another ICB that is better placed to affect change.
 - 7.6.3 provide the relevant individuals at NHS England with appropriate access to complaints data held by the ICB that is necessary to carry out the complaints function as set out in the Complaints Sharing Protocol.

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- 7.6.4 Provide such information relating to key performance indicators ("KPIs") as is requested by NHS England.
- 7.6.5 co-operate with NHS England in respect of the review of complaints related to the Delegated Services and shall, on request, share any learning identified in carrying out the complaints function.
- 7.6.6 take part in any peer review process put in place in respect of the complaints function.

8 Commissioning and optimisation of High Cost Drugs

- 8.1 The ICB must support the effective and efficient commissioning of High Cost Drugs for Delegated Services.
- 8.2 The ICB must support NHS England in its responsibility for the financial management and reimbursement of High Cost Drugs for Specialised Services. The ICB and NHS England must agree the support to be provided. The support must be set out in writing and may include staffing, processes, reporting, prescribing analysis and oversight arrangements, but is not limited to these matters.
- 8.3 The ICB must ensure equitable access to High Cost Drugs used within the Delegated Services that may be impacted by health inequalities and develop a strategy for delivering equitable access.
- 8.4 The ICB must develop and implement Shared Care Arrangements across the Area of the ICB.
- 8.5 The ICB must provide clinical and commissioning leadership in the commissioning and management of High Cost Drugs.
- 8.6 The ICB must ensure:
 - 8.6.1 safe and effective use of High Cost Drugs in line with national Clinical Commissioning Policies, NICE technology appraisal or highly specialised technologies guidance;
 - 8.6.2 effective introduction of new medicines;
 - 8.6.3 compliance with all NHS England commercial processes and frameworks for High Cost Drugs;
 - 8.6.4 Specialised Services Providers adhere to all NHS England commercial processes and frameworks for High Cost Drugs;
 - 8.6.5 appropriate use of Shared Care Arrangements, ensuring that they are safe and well monitored; and
 - 8.6.6 consistency of prescribing and unwarranted prescribing variation are addressed.
- 8.7 The ICB must engage in the development, implementation and monitoring of initiatives that enable use of better value medicines. Such schemes include those at a local, regional or national level.
- 8.8 Where the relevant pharmacy teams have transferred to the ICB or Host ICB, the ICB must provide:

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- 8.8.1 support to prescribing networks and forums, including but not limited to, Immunoglobulin Assessment panels, prescribing networks and medicines optimisation networks;
- 8.8.2 expert medicines advice and input into the Individual Funding Request process for Delegated Services;
- 8.8.3 advice and input to national procurement and other commercial processes relating to medicines and High Cost Drugs (for example, arrangements for Homecare);
- 8.8.4 advice and input to NHS England policy development relating to medicines and High Cost Drugs.

9 Contracting

- 9.1 The ICB shall be responsible for ensuring appropriate arrangements are in place for the commissioning of the Delegated Services which for the avoidance of doubt includes:
 - 9.1.1 co-ordinating or collaborating in the award of appropriate Specialised Service Contracts;
 - 9.1.2 drafting of the contract schedules so that it reflects Mandatory Guidance, National Specifications and any specific instructions from NHS England; and
 - 9.1.3 management of Specialised Services Contracts.
- 9.2 The ICB must comply with the Contracting Standard Operating Procedure issued by NHS England.
- 9.3 In relation to the contracting for NHS England Retained Services where the ICB has agreed to act as the co-ordinating commissioner, to implement NHS England's instructions in relation to those Retained Services and, where appropriate, put in place a Collaborative Commissioning Agreement with NHS England as a party.

10 Data Management and Analytics

- 10.1 The ICB shall:
 - 10.1.1 lead on standardised collection, processing, and sharing of data for Delegated Services in line with broader NHS England, Department of Health and Social Care and government data strategies;
 - 10.1.2 lead on the provision of data and analytical services to support commissioning of Delegated Services;
 - 10.1.3 ensure collaborative working across partners on agreed programmes of work focusing on provision of pathway analytics;
 - 10.1.4 share expertise and existing reporting tools with partner ICBs in the ICB Collaboration Arrangement;
 - 10.1.5 ensure interpretation of data is made available to NHS England and other ICBs within the ICB Collaboration Arrangement;

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- 10.1.6 ensure data and analytics teams within ICBs and NHS England work collaboratively on jointly agreed programmes of work focusing on provision of pathway analytics;
- 10.2 The ICB must ensure that the data reporting and analytical frameworks, as set out in Mandated Guidance or as otherwise required by NHS England, are in place to support the commissioning of the Delegated Services.
- 11 Finance**
- 11.1 The provisions of Clause 10 (*Finance*) of this Agreement set out the financial requirements in respect of the Delegated Functions.
- 12 Freedom of Information and Parliamentary Requests**
- 12.1 The ICB shall lead on the handling, management and response to all Freedom of Information and parliamentary correspondence relating to Delegated Services.
- 13 Incident Response and Management**
- 13.1 The ICB shall:
- 13.1.1 lead on local incident management for Delegated Services as appropriate to the stated incident level;
- 13.1.2 support national and regional incident management relating to Specialised Services; and
- 13.1.3 ensure surge events and actions relating to Specialised Services are included in ICB escalation plans.
- 13.2 In the event that an incident is identified that has an impact on the Delegated Services (such as potential failure of a Specialised Services Provider), the ICB shall fully support the implementation of any requirements set by NHS England around the management of such incident and shall provide full co-operation to NHS England to enable a co-ordinated national approach to incident management. NHS England retains the right to take decisions at a national level where it determines this is necessary for the proper management and resolution of any such incident and the ICB shall be bound by any such decision.
- 14 Individual Funding Requests**
- 14.1 The ICB shall provide any support required by NHS England in respect of determining an Individual Funding Request and shall implement the decision of the Individual Funding Request panel.
- 15 Innovation and New Treatments**
- 15.1 The ICB shall support local implementation of innovative treatments for Delegated Services.
- 16 Mental Health, Learning Disability and Autism Specialised Services**
- 16.1 The ICB will oversee the lead provider contract(s) relating to mental health, learning disability and autism (MHLDA) Provider Collaboratives that are transferred to the ICB on 1 April 2025 by NHS England. This includes complying with all terms and conditions of the contract(s), including in respect of notice periods and extensions.
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- 16.2 If the ICB proposes to terminate a MHLDA lead provider contract before the end of its term, it must seek written approval from NHS England in advance.
- 16.3 In the performance of its commissioning responsibilities for MHLDA Specialised Services, the ICB shall:
- 16.3.1 Have regard to any commissioning guidance relating to MHLDA Specialised Services issued by NHS England;
 - 16.3.2 Comply with the requirements of the Mental Health Investment Standard and related guidance issued by NHS England;
 - 16.3.3 Generally have regard to the need to commission MHLDA Specialised Services for the ICB's Population in such a manner as to ensure safe, efficient and effective services, across appropriate geographies, and which may require partnership working across other ICB or other organisational boundaries.
 - 16.3.4 Ensure that its case management function will work collaboratively across Delegated Services and Retained Services to support the oversight and progression of individual patient care, including the movement across elements of the care pathway.
- 17 Provider Selection and Procurement**
- 17.1 The ICB shall:
- 17.1.1 run appropriate local provider selection and procurement processes for Delegated Services;
 - 17.1.2 align all procurement processes with any changes to national procurement policy (for example new legislation) for Delegated Services;
 - 17.1.3 support NHS England with national procurements where required with subject matter expertise on provider engagement and provider landscape; and
 - 17.1.4 monitor and provide advice, guidance and expertise to NHS England on the overall provider market and provider landscape.
- 17.2 In discharging these responsibilities, the ICB must comply at all times with Law and any relevant Guidance including but not limited to Mandated Guidance; any applicable procurement law and Guidance on the selection of, and award of contracts to, providers of healthcare services.
- 17.3 When the ICB makes decisions in connection with the awarding of Specialised Services Contracts, it should ensure that it can demonstrate compliance with requirements for the award of such Contracts, including that the decision was:
- 17.3.1 made in the best interest of patients, taxpayers and the Population;
 - 17.3.2 robust and defensible, with conflicts of interests appropriately managed;
 - 17.3.3 made transparently; and
 - 17.3.4 compliant with relevant Guidance and legislation.

18 Quality

- 18.1 The ICB must ensure that appropriate arrangements for quality oversight are in place. This must include:
- 18.1.1 clearly defined roles and responsibilities for ensuring governance and oversight of Delegated Services;
 - 18.1.2 defined roles and responsibilities for ensuring robust communication and appropriate feedback, particularly where Delegated Services are commissioned through an arrangement with one or more other ICBs;
 - 18.1.3 working with providers and partner organisations to address any issues relating to Delegated Services and escalate appropriately if such issues cannot be resolved;
 - 18.1.4 developing and standardising processes that align with regional systems to ensure oversight of the quality of Delegated Services, and participating in local System Quality Groups and Regional Quality Groups, or their equivalent;
 - 18.1.5 ensuring processes are robust and concerns are identified, mitigated and escalated as necessary;
 - 18.1.6 ensuring providers are held to account for delivery of safe, patient-focused and quality care for Delegated Services, including mechanisms for monitoring patient complaints, concerns and feedback; and
 - 18.1.7 the implementation of the Patient Safety Incident Response Framework for the management of incidents and serious events, appropriate reporting of any incidents, undertaking any appropriate patient safety incident investigation and obtaining support as required.
- 18.2 The ICB must establish a plan to ensure that the quality of the Delegated Services is measured consistently, using nationally and locally agreed metrics triangulated with professional insight and soft intelligence.
- 18.3 The ICB must ensure that the oversight of the quality of the Delegated Services is integrated with wider quality governance in the local system and aligns with the NHS England National Quality Board's recommended quality escalation processes.
- 18.4 The ICB must ensure that there is a System Quality Group (or equivalent) to identify and manage concerns across the local system.
- 18.5 The ICB must ensure that there is appropriate representation at any Regional Quality Groups or their equivalent.
- 18.6 The ICB must have in place all appropriate arrangements in respect of child and adult safeguarding and comply with all relevant Guidance.

19 Service Planning and Strategic Priorities

- 19.1 The ICB is responsible for setting local commissioning strategy, policy and priorities and planning for and carrying out needs assessments for the Delegated Services.
- 19.2 In planning, commissioning and managing the Delegated Services, the ICB must have processes in place to assess and monitor equitable patient access, in accordance with

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the access criteria set out in Clinical Commissioning Policies and National Specifications, taking action to address any apparent anomalies.

19.3 The ICB must ensure that it works with Specialised Service Providers and Provider Collaboratives to translate local strategic priorities into operational outputs for Delegated Services.

19.4 The ICB shall provide input into any consideration by NHS England as to whether the commissioning responsibility in respect of any of the Retained Services should be delegated.

20 National Standards, National Specifications and Clinical Commissioning Policies

20.1 The ICB shall provide input into national decisions on National Standards and national transformation regarding Delegated Services through attendance at governance meetings.

20.2 The ICB shall facilitate engagement with local communities on National Specification development.

20.3 The ICB must comply with the National Specifications and relevant Clinical Commissioning Policies and ensure that all clinical Specialised Services Contracts accurately reflect Clinical Commissioning Policies and include the relevant National Specification, where one exists in relation to the relevant Delegated Service.

20.4 The ICB must co-operate with any NHS England activities relating to the assessment of compliance against National Standards, including through the Assurance Processes.

20.5 The ICB must have appropriate mechanisms in place to ensure National Standards and National Specifications are being adhered to.

20.6 Where the ICB has identified that a Specialised Services Provider may not be complying with the National Standards set out in the relevant National Specification, the ICB shall consider the action to take to address this in line with the Assurance Processes.

21 Transformation

21.1 The ICB shall:

21.1.1 prioritise pathways and services for transformation according to the needs of its Population and opportunities for improvement in ICB commissioned services and for Delegated Services;

21.1.2 lead ICB and ICB Collaboration Arrangement driven transformation programmes across pathways for Delegated Services;

21.1.3 lead the delivery locally of transformation in areas of national priority (such as Cancer, Mental Health and Learning Disability and Autism), including supporting delivery of commitments in the NHS Long Term Plan;

21.1.4 support NHS England with agreed transformational programmes for Retained Services;

21.1.5 support NHS England with agreed transformational programmes and identify future transformation programmes for consideration and prioritisation for Delegated Services where national co-ordination and enablement may support transformation;

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- 21.1.6 work collaboratively with NHS England on the co-production and co-design of transformation and improvement interventions and solutions in those areas prioritised; and
- 21.1.7 ensure Relevant Clinical Networks and other clinical networks use levers to facilitate and embed transformation at a local level for Delegated Services.

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SCHEDULE 4: Reserved Functions

Introduction

1. Reserved Functions in Relation to the Delegated Services

- 1.1. In accordance with Clause 6.2 of this Agreement, all functions of NHS England other than those defined as Delegated Functions, are Reserved Functions.
- 1.2. This Schedule sets out further provision regarding the carrying out of the Reserved Functions as they relate to the Delegated Functions.
- 1.3. The ICB will work collaboratively with NHS England and will support and assist NHS England to carry out the Reserved Functions.
- 1.4. The following functions and related activities shall continue to be exercised by NHS England.

2. Retained Services

- 2.1. NHS England shall commission the Retained Services set out in Schedule 5.

3. Reserved Specialised Service Functions

- 3.1. NHS England shall carry out the functions set out in this Schedule 4 in respect of the Delegated Services.

Reserved Functions

4. Assurance and Oversight

- 4.1. NHS England shall:
 - 4.1.1. have oversight of what ICBs are delivering (inclusive of Delegated Services) for their Populations and all patients;
 - 4.1.2. design and implement appropriate assurance of ICBs' exercise of Delegated Functions including the Assurance Processes;
 - 4.1.3. help the ICB to coordinate and escalate improvement and resolution interventions where challenges are identified (as appropriate);
 - 4.1.4. ensure that the NHS England Board is assured that Delegated Functions are being discharged appropriately;
 - 4.1.5. ensure specialised commissioning considerations are appropriately included in NHS England frameworks that guide oversight and assurance of service delivery; and
 - 4.1.6. host a Delegated Commissioning Group ("DCG") that will undertake an assurance role in line with the Assurance Processes. This assurance role shall include assessing and monitoring the overall coherence, stability and sustainability of the commissioning model of Specialised Services at a

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national level, including identification, review and management of appropriate cross-ICB risks.

- 4.2. Where an officer or employee of NHS England is performing its Reserved Functions in respect of assurance and oversight, NHS England must ensure that those officers or employees do not hold responsibility for, or undertake any, decision making in respect of the ICB's Delegated Functions.

5. Attendance at governance meetings

- 5.1. NHS England shall ensure that there is appropriate representation in respect of Reserved Functions and Retained Services at local governance forums (for example, the Regional Leadership Team) and at the National Commissioning Group ("NCG").
- 5.2. NHS England shall:
- 5.2.1. ensure that there is appropriate representation by NHS England subject matter expert(s) at National Standards development forums;
 - 5.2.2. ensure there is appropriate attendance by NHS England representatives at nationally led clinical governance meetings; and
 - 5.2.3. co-ordinate, and support key national governance groups.

6. Clinical Leadership and Clinical Reference Groups

- 6.1. NHS England shall be responsible for the following:
- 6.1.1. developing local leadership and support for the ICB relating to Specialised Services;
 - 6.1.2. providing clinical leadership, advice and guidance to the ICB in relation to the Delegated Services;
 - 6.1.3. providing point-of-contact and ongoing engagement with key external bodies, such as interest groups, charities, NICE, DHSC, and Royal Colleges; and enabling access to clinical trials for new treatments and medicines.
- 6.2. NHS England will host Clinical Reference Groups, which will lead on the development and publication of the following for Specialised Services:
- 6.2.1. Clinical Commissioning Policies;
 - 6.2.2. National Specifications, including National Standards for each of the Specialised Services.

7. Clinical Networks

- 7.1. Unless otherwise agreed between the Parties, NHS England shall put in place contractual arrangements and funding mechanisms for the commissioning of the Relevant Clinical Networks.
- 7.2. NHS England shall ensure development of multi-ICB, and multi-region (where necessary) governance and oversight arrangements for Relevant Clinical Networks that give line of sight between all clinical networks and all ICBs whose Population they serve.
- 7.3. NHS England shall be responsible for:
- 7.3.1. developing national policy for the Relevant Clinical Networks;

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- 7.3.2. developing and approving the specifications for the Relevant Clinical Networks;
- 7.3.3. maintaining links with other NHS England national leads for clinical networks not focused on Specialised Services;
- 7.3.4. convening or supporting national networks of the Relevant Clinical Networks;
- 7.3.5. agreeing the annual plan for each Relevant Clinical Network with the involvement of the ICB and Relevant Clinical Network, ensuring these reflect national and regional priorities;
- 7.3.6. managing Relevant Clinical Networks jointly with the ICB; and
- 7.3.7. agreeing and commissioning the hosting arrangements of the Relevant Clinical Networks.

8. Complaints

- 8.1. NHS England shall manage all complaints in respect of the Delegated Services that are received prior to the Effective Date of Delegation or the date on which the Commissioning Team is transferred to the Host ICB (whichever is the later).
- 8.2. NHS England shall provide the relevant individuals at the ICB with appropriate access to complaints data held by NHS England that is necessary to carry out the complaints function as set out in the Complaints Sharing Protocol.
- 8.3. NHS England shall manage all complaints in respect of the Retained Services.
- 8.4. NHS England shall set out what information the ICB is required to provide when reporting on the key performance indicators. NHS England should notify the ICB in advance and provide sufficient time to allow compliance.

9. Commissioning and optimisation of High Cost Drugs

- 9.1. Unless otherwise agreed with the ICB, NHS England shall manage a central process for reimbursement of High Costs Drugs for Specialised Services. This may include making reimbursements directly to Specialised Services Providers.
- 9.2. In respect of pharmacy and optimisation of High Cost Drugs, NHS England shall:
 - 9.2.1. where appropriate, ensure that only validated drugs spend is reimbursed, there is timely drugs data and drugs data quality meets the standards set nationally;
 - 9.2.2. support the ICB on strategy for access to medicines used within Delegated Services, minimising barriers to health inequalities;
 - 9.2.3. provide support, as reasonably required, to the ICB to assist it in the commissioning of High Cost Drugs for Delegated Services including shared care agreements;
 - 9.2.4. seek to address consistency of prescribing in line with national commissioning policies, introduction of new medicines, and addressing unwarranted prescribing variation;
 - 9.2.5. develop medicines commissioning policies and criteria for access to medicines within Specialised Services;

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- 9.2.6. develop support tools, including prior approval criteria, and frameworks to support the delivery of cost-effective and high quality commissioning of High Cost Drugs;
- 9.2.7. co-ordinate the development, implementation and monitoring of initiatives that enable the use of better value medicines;
- 9.2.8. where appropriate, co-ordinate national procurement or other commercial processes to secure medicines or High Cost Drugs for Specialised Services.

10. Contracting

- 10.1. NHS England shall retain the following obligations in relation to contracting for Delegated Services:
 - 10.1.1. ensure Specialised Services are included in national NHS England contracting and payment strategy (for example, Aligned Payment Incentives);
 - 10.1.2. provide advice for ICBs on schedules to support the Delegated Services;
 - 10.1.3. set, publish or make otherwise available the Contracting Standard Operating Procedure and Mandated Guidance detailing contracting strategy and policy for Specialised Services; and
 - 10.1.4. provide and distribute contracting support tools and templates to the ICB.
- 10.2. In respect of the Retained Services, NHS England shall:
 - 10.2.1. where appropriate, ensure a Collaborative Commissioning Agreement is in place between NHS England and the ICB(s); and
 - 10.2.2. where appropriate, construct model template schedules for Retained Services and issue to ICBs.

11. Data Management and Analytics

- 11.1. NHS England shall:
 - 11.1.1. support the ICB by collaborating with the wider data and analytics network (nationally) to support development and local deployment or utilisation of support tools;
 - 11.1.2. support the ICB to address data quality and coverage needs, accuracy of reporting Specialised Services activity and spend on a Population basis to support commissioning of Specialised Services;
 - 11.1.3. ensure inclusion of Specialised Services data strategy in broader NHS England, DHSC and government data strategies;
 - 11.1.4. lead on defining relevant contractual content of the information schedule (Schedule 6) of the NHS Standard Contract for Clinical Services;
 - 11.1.5. work collaboratively with the ICB to drive continual improvement of the quality and coverage of data used to support commissioning of Specialised Services;
 - 11.1.6. provide a national analytical service to support oversight and assurance of Specialised Services, and support (where required) the national Specialised

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Commissioning team, Programmes of Care and Clinical Reference Groups;
and

- 11.1.7. provide access to data and analytic subject matter expertise to support the ICB when considering local service planning, needs assessment and transformation.

12. Finance

- 12.1. The provisions of Clause 10 shall apply in respect of the financial arrangements in respect of the Delegated Functions.
- 12.2. NHS England shall:
 - 12.2.1. hold the budgets for prescribed specialised services top-up payments for specialist centres;
 - 12.2.2. administer the top-up payments schemes; and
 - 12.2.3. make top-up payments to the Specialised Services Providers.
- 12.3. For the avoidance of doubt, the functions set out in 12.2 include top-up payments for the Delegated Services and Retained Services.

13. Freedom of Information and Parliamentary Requests

- 13.1. NHS England shall:
 - 13.1.1. lead on handling, managing and responding to all national FOIA and parliamentary correspondence relating to Retained Services; and
 - 13.1.2. co-ordinate a response when a single national response is required in respect of Delegated Services.

14. Incident Response and Management

- 14.1. NHS England shall:
 - 14.1.1. provide guidance and support to the ICB in the event of a complex incident;
 - 14.1.2. lead on national incident management for Specialised Services as appropriate to stated incident level and where nationally commissioned services are impacted;
 - 14.1.3. lead on monitoring, planning and support for service and operational resilience at a national level and provide support to the ICB; and
 - 14.1.4. respond to specific service interruptions where appropriate; for example, supplier and workforce challenges and provide support to the ICB in any response to interruptions.

15. Individual Funding Requests

- 15.1. NHS England shall be responsible for:
 - 15.1.1. leading on Individual Funding Requests (IFR) policy, IFR governance and managing the IFR process for Delegated Services and Retained Services;
 - 15.1.2. taking decisions in respect of IFRs at IFR Panels for both Delegated Services and Retained Services; and

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- 15.1.3. providing expertise for IFR decisions, including but not limited to pharmacy, public health, nursing and medical and quality.

16. Innovation and New Treatments

- 16.1. NHS England shall support the local implementation of innovative treatments for Delegated Services.
- 16.2. NHS England shall ensure services are in place for innovative treatments such as advanced medicinal therapy products recommended by NICE technology appraisals within statutory requirements.
- 16.3. NHS England shall provide national leadership for innovative treatments with significant service impacts including liaison with NICE.

17. Mental Health, Learning Disability and Autism Specialised Services

- 17.1. NHS England shall issue commissioning guidance for MHLDA Specialised Services in relation to the Delegated Services and Retained Services.
- 17.2. NHS England shall prepare and issue National Specifications and Clinical Commissioning Policies for MHLDA Specialised Services.
- 17.3. NHS England will monitor the ICB's compliance with the Mental Health Investment Standard in respect of MHLDA Delegated Services.
- 17.4. NHS England shall ensure that its case management function will work collaboratively across Delegated Services and Retained Services to support the oversight and progression of individual patient care, including the movement across elements of the care pathway.

18. Provider Selection and Procurement

- 18.1. In relation to procurement, NHS England shall be responsible for:
 - 18.1.1. setting standards and agreeing frameworks and processes for provider selections and procurements for Specialised Services;
 - 18.1.2. monitoring and providing advice, guidance and expertise on the overall provider market in relation to Specialised Services; and
 - 18.1.3. where appropriate, running provider selection and procurement processes for Specialised Services.

19. Quality

- 19.1. In respect of quality, NHS England shall:
 - 19.1.1. work with the ICB to ensure oversight of Specialised Services through quality surveillance and risk management and escalate as required;
 - 19.1.2. work with the ICB to seek to ensure that quality and safety issues and risks are managed effectively and escalated to the National Specialised Commissioning Quality and Governance Group (QGG), or other appropriate forums, as necessary;
 - 19.1.3. work with the ICB to seek to ensure that the quality governance and processes for Delegated Services are aligned and integrated with broader clinical quality governance and processes in accordance with National Quality Board Guidance;

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- 19.1.4. facilitate improvement when quality issues impact nationally and regionally, through programme support, and mobilising intensive support when required on specific quality issues;
- 19.1.5. provide guidance on quality and clinical governance matters and benchmark available data;
- 19.1.6. support the ICB to identify key themes and trends and utilise data and intelligence to respond and monitor as necessary;
- 19.1.7. report on quality to both NCG and DCG as well as QGG and Executive Quality Group as required;
- 19.1.8. facilitate and support the national quality governance infrastructure (for example, the QGG); and
- 19.1.9. identify and act upon issues and concerns that cross multiple ICBs, coordinating response and management as necessary.

20. National Standards, National Specifications and Clinical Commissioning Policies

20.1. NHS England shall carry out:

- 20.1.1. development, engagement and approval of National Standards for Specialised Services (including National Specifications, Clinical Commissioning Policies, quality and data standards);
- 20.1.2. production of national commissioning products and tools to support commissioning of Specialised Services;
- 20.1.3. maintenance and publication of the Prescribed Specialised Services Manual and engagement with the DHSC on policy matters; and
- 20.1.4. determination of content for national clinical registries.

21. Transformation

21.1. NHS England shall be responsible for:

- 21.1.1. co-ordinating and enabling ICB-led specialised service transformation programmes for Delegated Services where necessary;
- 21.1.2. supporting the ICB to implement national policy and guidance across its Populations for Retained Services;
- 21.1.3. supporting the ICB with agreed transformational programmes where national transformation support has been agreed for Delegated Services;
- 21.1.4. providing leadership for transformation programmes and projects that have been identified as priorities for national coordination and support, or are national priorities for the NHS, including supporting delivery of commitments in the NHS Long Term Plan;
- 21.1.5. co-production and co-design of transformation programmes with the ICB and wider stakeholders; and
- 21.1.6. providing access to subject matter expertise including Clinical Reference Groups, national clinical directors, Programme of Care leads for the ICB where it needs support, including in relation to local priority transformation.

SCHEDULE 5: Retained Services

NHS England shall retain the function of commissioning the Specialised Services that are not Delegated Services and as more particularly set out by NHS England and made available from time to time.

SCHEDULE 6: Further Information Governance, Sharing and Processing Provisions**PART 1****1. Introduction**

- 1.1. This Schedule sets out the scope for the secure and confidential sharing of information between the Parties on a Need To Know basis, or where a Party acts as a Data Processor on behalf of the other Party in order to enable the Parties to exercise their functions in pursuance of this Agreement.
- 1.2. References in this Schedule (*Further Information Governance and Sharing Provisions*) to the Need to Know basis or requirement (as the context requires) should be taken to mean that each Party's Staff will only have access to Personal Data or Special Category Personal Data if it is lawful for such Staff to have access to such data for the Specified Purpose in paragraph 2.1 and the function they are required to fulfil at that particular time, in relation to the Specified Purpose, cannot be achieved without access to the Personal Data or Special Category Personal Data specified.
- 1.3. This Schedule (including the details at Part 2 and 3 of this Schedule) and any Data Sharing Agreement and/or Data Processing Agreements entered into under this Schedule are designed to:
 - 1.3.1. provide information about the reasons why Relevant Information may need to be shared and/or processed on behalf of another Party and how this will be managed and controlled by the Parties;
 - 1.3.2. describe the purposes for which the Parties have agreed to share and/or the basis on which a Party is instructed to act as a Data Processor in relation to the Relevant Information;
 - 1.3.3. set out the lawful basis for the processing of Relevant Information and sharing of information between the Parties, and the principles that underpin the exchange of Relevant Information;
 - 1.3.4. describe roles and structures to support the exchange of Relevant Information between the Parties;
 - 1.3.5. apply to the sharing and processing of Relevant Information relating to Specialised Services Providers and their Staff;
 - 1.3.6. apply to the sharing and processing of Relevant Information whatever the medium in which it is held and however it is transmitted;

- 1.3.7. ensure that Data Subjects are, where appropriate, informed of the reasons why Personal Data about them may need to be shared and processed and how this sharing and processing will be managed;
- 1.3.8. apply to the activities of the Parties' Staff; and
- 1.3.9. describe how complaints relating to Personal Data sharing between the Parties and wider processing will be investigated and resolved, and how the information sharing and processing will be monitored and reviewed.

2. Purpose

- 2.1. The Specified Purpose of the data sharing and associated processing is to facilitate the exercise of the Delegated Functions and NHS England's Reserved Functions.
- 2.2. Each Party must ensure that they have in place appropriate data sharing or data processing arrangements to enable data to be received from any third party organisations from which the Parties must obtain data in order to achieve the Specified Purpose.
- 2.3. Where necessary specific and detailed purposes must be set out in a Data Sharing Agreement or Data Processing Agreement that complies with all relevant legislation and Guidance.

3. Benefits of information sharing

- 3.1. The benefits of sharing information are the achievement of the Specified Purpose, with benefits for service users and other stakeholders in terms of the improved delivery of the Delegated Services.

4. Lawful basis for sharing

- 4.1. The Parties shall comply with all relevant Data Protection Legislation requirements and Good Practice in relation to the processing of Relevant Information shared further to this Agreement.
- 4.2. The Parties shall ensure that there is a Data Protection Impact Assessment ("DPIA") that covers processing undertaken in pursuance of the Specified Purpose. The DPIA shall identify the lawful basis for sharing Relevant Information for each purpose and data flow.
- 4.3. Further details regarding the Relevant Information to be shared shall be set out in a Data Sharing Agreement and/or Data Processing Agreement.

5. Restrictions on use of the Shared Information

- 5.1. Each Party shall only process the Relevant Information as is necessary to achieve the Specified Purpose and, in particular, shall not use or process Relevant Information for any other purpose unless agreed in writing by the Data Controller that released the information to the other. There shall be no other use or onward transmission of the Relevant Information to any third party without a lawful basis first being determined, and the originating Data Controller being notified.
- 5.2. Access to, and processing of, the Relevant Information provided by a Party must be the minimum necessary to achieve the Specified Purpose. Information and Special Category Personal Data will be handled at all times on a restricted basis, in compliance with Data Protection Legislation requirements, and the Parties' Staff should only have access to Personal Data on a justifiable Need to Know basis.

- 5.3. Neither the provisions of this Schedule nor any associated Data Sharing Agreement and/or Data Processing Agreement should be taken to permit unrestricted access to data held by any of the Parties.
- 5.4. Neither Party shall subcontract any processing of the Relevant Information without the prior consent of the other Party. Where a Party subcontracts its obligations, it shall do so only by way of a written agreement with the sub-contractor which imposes the same obligations as are imposed on that Party under this Agreement, and shall remain liable for the performance of the subcontractor's obligations.
- 5.5. The Parties shall not cause or allow Relevant Information to be transferred to any territory outside the United Kingdom without the prior written permission of the responsible Data Controller.
- 5.6. Any particular restrictions on use of certain Relevant Information should be included in a Data Sharing Agreement and/or Data Processing Agreement.

6. Ensuring fairness to the Data Subject

- 6.1. In addition to having a lawful basis for sharing information, the UK GDPR generally requires that the sharing must be fair and transparent. In order to achieve fairness and transparency to the Data Subjects, the Parties will take the following measures as reasonably required:
 - 6.1.1. amendment of internal guidance to improve awareness and understanding among Staff;
 - 6.1.2. amendment of respective privacy notices and policies to reflect the processing of data carried out further to this Agreement, including covering the requirements of articles 13 and 14 UK GDPR and providing these (or making them available to) Data Subjects;
 - 6.1.3. ensuring that information and communications relating to the processing of data is clear and easily accessible; and
 - 6.1.4. giving consideration to carrying out activities to promote public understanding of how data is processed where appropriate.
- 6.2. Each Party shall procure that its notification to the Information Commissioner's Office, and record of processing maintained for the purposes of Article 30 UK GDPR, reflects the flows of information under this Agreement.
- 6.3. The Parties shall reasonably co-operate in undertaking any DPIA associated with the processing of data further to this Agreement, and in doing so engage with their respective Data Protection Officers in the performance by them of their duties pursuant to Article 39 UK GDPR.
- 6.4. Further provision in relation to specific data flows may be included in a Data Sharing Agreement and/or Data Processing Agreement between the Parties.

7. Governance: Staff

- 7.1. The Parties must take reasonable steps to ensure the suitability, reliability, training and competence, of any Staff who have access to Personal Data, and Special Category Personal Data, including ensuring reasonable background checks and evidence of completeness are available on request.

- 7.2. The Parties agree to treat all Relevant Information as confidential and imparted in confidence and must safeguard it accordingly. Where any of the Parties' Staff are not healthcare professionals (for the purposes of the Data Protection Act 2018), the employing Parties must procure that Staff operate under a duty of confidentiality which is equivalent to that which would arise if that person were a healthcare professional.
- 7.3. The Parties shall ensure that all Staff required to access Personal Data (including Special Category Personal Data) are informed of the confidential nature of the Personal Data. The Parties shall include appropriate confidentiality clauses in employment/service contracts of all Staff that have any access whatsoever to the Relevant Information, including details of sanctions for acting in a deliberate or reckless manner that may breach the confidentiality or the non-disclosure provisions of Data Protection Legislation requirements, or cause damage to or loss of the Relevant Information.
- 7.4. Each Party shall provide evidence (further to any reasonable request) that all Staff that have any access to the Relevant Information whatsoever are adequately and appropriately trained to comply with their responsibilities under Data Protection Legislation and this Agreement.
- 7.5. The Parties shall ensure that:
 - 7.5.1. only those Staff involved in delivery of the Agreement use or have access to the Relevant Information;
 - 7.5.2. that such access is granted on a strict Need to Know basis and shall implement appropriate access controls to ensure this requirement is satisfied and audited. Evidence of audit should be made freely available on request by the originating Data Controller; and
 - 7.5.3. specific limitations on the Staff who may have access to the Relevant Information are set out in any Data Sharing Agreement and/or Data Processing Agreement entered into in accordance with this Schedule.

8. Governance: Protection of Personal Data

- 8.1. At all times, the Parties shall have regard to the requirements of Data Protection Legislation and the rights of Data Subjects.
- 8.2. Wherever possible (in descending order of preference), only anonymised information, or, strongly or weakly pseudonymised information will be shared and processed by the Parties. The Parties shall co-operate in exploring alternative strategies to avoid the use of Personal Data in order to achieve the Specified Purpose. However, it is accepted that some Relevant Information shared further to this Agreement may be Personal Data or Special Category Personal Data.
- 8.3. Processing of any Personal Data or Special Category Personal Data shall be to the minimum extent necessary to achieve the Specified Purpose, and on a Need to Know basis.
- 8.4. If any Party becomes aware of:
 - 8.4.1. any unauthorised or unlawful processing of any Relevant Information or that any Relevant Information is lost or destroyed or has become damaged, corrupted or unusable; or
 - 8.4.2. any security vulnerability or breach in respect of the Relevant Information,

it shall promptly, within 48 hours, notify the other Parties. The Parties shall fully co-operate with one another to remedy the issue as soon as reasonably practicable, and in making information about the incident available to the Information Commissioner and Data Subjects where required by Data Protection Legislation.

- 8.5. In processing any Relevant Information further to this Agreement, the Parties shall process the Personal Data and Special Category Personal Data only:
- 8.5.1. in accordance with the terms of this Agreement and otherwise (to the extent that it acts as a Data Processor for the purposes of Article 27-28 GDPR) only in accordance with written instructions from the originating Data Controller in respect of its Relevant Information including any instructions set out in a Data Processing Agreement entered into under this Schedule, unless required by law (in which case, the processor shall inform the relevant Data Controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest);
 - 8.5.2. to the extent as is necessary for the provision of the Specified Purpose or as is required by law or any regulatory body; and
 - 8.5.3. in accordance with Data Protection Legislation requirements, in particular the principles set out in Article 5(1) and accountability requirements set out in Article 5(2) UK GDPR; and not in such a way as to cause any other Data Controller to breach any of their applicable obligations under Data Protection Legislation.
- 8.6. The Parties shall act generally in accordance with Data Protection Legislation requirements. This includes implementing, maintaining and keeping under review appropriate technical and organisational measures to ensure and demonstrate that the processing of Personal Data is undertaken in accordance with Data Protection Legislation, and in particular to protect Personal Data (and Special Category Personal Data) against unauthorised or unlawful processing, and against accidental loss, destruction, damage, alteration or disclosure. These measures shall:
- 8.6.1. take account of the nature, scope, context and purposes of processing as well as the risks, of varying likelihood and severity for the rights and freedoms of Data Subjects; and
 - 8.6.2. be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the Personal Data and Special Category Personal Data, and having the nature of the Personal Data and Special Category Personal Data which is to be protected.
- 8.7. In particular, each Party shall:
- 8.7.1. ensure that only Staff as provided under this Schedule have access to the Personal Data and Special Category Personal Data;
 - 8.7.2. ensure that the Relevant Information is kept secure and in an encrypted form, and shall use all reasonable security practices and systems applicable to the use of the Relevant Information to prevent and to take prompt and proper remedial action against, unauthorised access, copying, modification, storage, reproduction, display or distribution, of the Relevant Information;
 - 8.7.3. obtain prior written consent from the originating Party in order to transfer the Relevant Information to any third party;

- 8.7.4. permit any other party or their representatives (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the data processing activities carried out further to this Agreement (and/or those of its agents, successors or assigns) and comply with all reasonable requests or directions to enable each Party to verify and/or procure that the other is in full compliance with its obligations under this Agreement; and
- 8.7.5. if requested, provide a written description of the technical and organisational methods and security measures employed in processing Personal Data.
- 8.8. The Parties shall adhere to the specific requirements as to information security set out in any Data Sharing Agreement and/or Data Processing Agreement entered into in accordance with this Schedule.
- 8.9. The Parties shall use best endeavours to achieve and adhere to the requirements of the NHS Digital Data Security and Protection Toolkit.
- 8.10. The Parties' Single Points of Contact set out in paragraph **Error! Reference source not found.** will be the persons who, in the first instance, will have oversight of third party security measures.
- 9. Governance: Transmission of Information between the Parties**
- 9.1. This paragraph supplements paragraph 8 of this Schedule.
- 9.2. Transfer of Personal Data between the Parties shall be done through secure mechanisms including use of the N3 network, encryption, and approved secure (NHS.net or gcsx) e-mail.
- 9.3. Wherever possible, Personal Data should be transmitted and held in pseudonymised form, with only reference to the NHS number in 'clear' transmissions. Where there are significant consequences for the care of the patient, then additional data items, such as the postcode, date of birth and/or other identifiers should also be transmitted, in accordance with good information governance and clinical safety practice, so as to ensure that the correct patient record and/or data is identified.
- 9.4. Any other special measures relating to security of transfer should be specified in a Data Sharing Agreement and/or Data Processing Agreement entered into in accordance with this Schedule.
- 9.5. Each Party shall keep an audit log of Relevant Information transmitted and received in the course of this Agreement.
- 9.6. The Parties' Single Point of Contact notified pursuant to paragraph 13 will be the persons who, in the first instance, will have oversight of the transmission of information between the Parties.
- 10. Governance: Quality of Information**
- 10.1. The Parties will take steps to ensure the quality of the Relevant Information and to comply with the principles set out in Article 5 UK GDPR.
- 11. Governance: Retention and Disposal of Shared Information**
- 11.1. A non-originating Party shall securely destroy or return the Relevant Information once the need to use it has passed or, if later, upon the termination of this Agreement, howsoever determined. Where Relevant Information is held electronically, the Relevant Information will be deleted and formal notice of the deletion sent to the Party that shared

the Relevant Information. Once paper information is no longer required, paper records will be securely destroyed or securely returned to the Party they came from.

- 11.2. Each Party shall provide an explanation of the processes used to securely destroy or return the information, or verify such destruction or return, upon request and shall comply with any request of the Data Controllers to dispose of data in accordance with specified standards or criteria.
- 11.3. If a Party is required by any law, regulation, or government or regulatory body to retain any documents or materials that it would otherwise be required to return or destroy in accordance with this Schedule, it shall notify the other Parties in writing of that retention, giving details of the documents or materials that it must retain.
- 11.4. Retention of any data shall comply with the requirements of Article 5(1)(e) GDPR and with all Good Practice including the Records Management NHS Code of Practice, as updated or amended from time to time.
- 11.5. The Parties shall set out any special retention periods in a Data Sharing Agreement where appropriate.
- 11.6. The Parties shall ensure that Relevant Information held in paper form is held in secure files, and, when it is no-longer needed, destroyed using a cross cut shredder or subcontracted to a confidential waste company that complies with European Standard EN15713.
- 11.7. Each Party shall ensure that, when no longer required, electronic storage media used to hold or process Personal Data are destroyed or overwritten to current policy requirements.
- 11.8. Electronic records will be considered for deletion once the relevant retention period has ended.
- 11.9. In the event of any bad or unusable sectors of electronic storage media that cannot be overwritten, the Party shall ensure complete and irretrievable destruction of the media itself in accordance with policy requirements.

12. Governance: Complaints and Access to Personal Data

- 12.1. The Parties shall assist each other in responding to any requests made under Data Protection Legislation made by persons who wish to access copies of information held about them ("Subject Access Requests"), as well as any other exercise of a Data Subject's rights under Data Protection Legislation or complaint to or investigation undertaken by the Information Commissioner.
- 12.2. Complaints about processing shall be reported to the Single Points of Contact and the ICB. Complaints about information sharing shall be routed through each Parties' own complaints procedure unless otherwise provided for in the Agreement or determined by the ICB. Where the complaint relates to processing undertaken by a Party acting as a Data Processor on behalf of the other Party, complaints shall be routed through the relevant Data Controller's own complaints procedure unless otherwise provided for in the Agreement.
- 12.3. The Parties shall use all reasonable endeavours to work together to resolve any dispute or complaint arising under this Schedule or any data processing carried out further to it.
- 12.4. Basic details of the Agreement shall be included in the appropriate log under each Party's publication scheme.

13. Governance: Single Points of Contact

- 13.1. The Parties each shall appoint a Single Point of Contact to whom all queries relating to the particular information sharing should be directed in the first instance.

14. Monitoring and review

- 14.1. The Parties shall monitor and review on an ongoing basis the sharing and wider processing of Relevant Information to ensure compliance with Data Protection Legislation and Best Practice. Specific monitoring requirements must be set out in the relevant Data Sharing Agreement and/or Data Processing Agreement.

SCHEDULE 6: Further Information Governance, Sharing and Processing Provisions**PART 2****Data Sharing Agreement**

Description	Details
Subject matter of the processing	Due to the complexities of Specialised Services and the distinctions between Delegated Functions and Reserved Functions, both the ICB Commissioning Teams (employed by the Host ICB) delivering Delegated Functions and the NHS England teams delivering Reserved Functions will need access to Relevant Information, which contains Personal Data. As set out in Schedule 6, Part 1, Paragraph 2.1, the Specified Purpose for sharing data is: <i>'...to facilitate the exercise of the Delegated Functions and NHS England's Reserved Functions.'</i> In order to achieve this purpose in the most effective, efficient and cost effective manner, the data will be hosted by NHS England in a collaborative working space which ICBs will have access to. NHS England will be responsible for ensuring that Commissioning Team staff have sufficient and appropriate access to Relevant Information to enable those staff to fulfil their commissioning functions in respect of the Delegated Services, including those described in Schedule 3 (Delegated Functions) to this agreement. In addition, NHS England may process the data for the following purposes: • development, oversight, and the quality improvement of Specialised Commissioning Functions; • undertaking work to evaluate the effectiveness of innovation and changes in delivery models and advising other bodies and organisations about these functions; • arranging the provision of services to support commissioning activities, to enable reporting and evaluations; • undertaking analysis, audits, and inspections to assess and assure the quality of Specialised Commissioning Functions; • supporting healthcare organisations to interpret population health data and evidence, and to undertake reviews of the likely effectiveness and cost-effectiveness of a range of interventions; • development a of strategies on population health outcomes and to identify gaps or deficiencies in current care and to produce recommendations for improvements, including in relation to specific pathways of care; • using and supporting health organisations to use health economic tools to support decision-making and interpreting data about the surveillance or assessment of a population's health to improve health outcomes and reduce health inequalities; • the development of population health policies and strategies, and their implementation
Duration of the processing	Unless otherwise specified in this Data Sharing Agreement, the processing shall commence on the Effective Date of Delegation and, as per paragraph

	11.1 of this Schedule, shall continue until the need to use it has passed or, if later, upon the termination of this Agreement.
Nature and purpose of the processing	Personal Data is shared between the in relation to the delivery of the Delegated Functions. Such processing should ensure continued: • Provision of live services and associated reporting; • Quality improvement and assurance of services; • Dissemination of data for health and research purposes.
Type of Personal Data being Processed	The following potentially in scope: • Patient identifiers including but not limited to NHS numbers or pseudonymised NHS numbers, hospital numbers or medical records identifiers. • Patient name, address (or partial address), date of birth (or age). • Patient characteristics including ethnicity or categorisation derived from ethnicity and collected for the purposes of monitoring equity of access to services. • OPCS coding for medical procedures and ICD-10 or other classification of medical conditions, comorbidities or patient healthcare status including where not the primary reason (or a reason) for treatment. • Specific details of medical history, including correspondence between third parties relating to patients, where necessary to support individual casework decisions on treatment eligibility, to confirm funding status for treatments, to investigate and resolve safety concerns or complaints, to settle claims, or to progress legal or regulatory reviews. • Patient financial details, including bank details, where necessary to make direct payments to patients
Categories of Data Subject	Staff (including volunteers, agents, and temporary workers), customers/clients, suppliers, patients, members of the public where information is held for the purposes of population health management.

SCHEDULE 6: Further Information Governance, Sharing and Processing Provisions**PART 3****Data Processing Agreement**

Description	Details
Identity of the Controller and Processor	The ICB is the Data Controller and NHS England is the Data Processor.
Subject matter of the processing	Both the ICB Commissioning Teams (employed by the Host ICB) delivering Delegated Functions and the NHS England teams delivering Reserved Functions will need access to Relevant Information. In order to achieve this purpose in the most effective, efficient and cost effective manner, the data will be hosted by NHS England in a collaborative working space which ICBs will have access to. Consequently, NHS England will act as a Data Processor on behalf of the ICB in relation to the Relevant Information required to commission the Delegated Services and fulfil the Delegated Functions.
Duration of the processing	Unless otherwise specified in this Data Processing Agreement the processing shall commence on the Effective Date of Delegation and, as per paragraph 11.1 of this Schedule, shall continue until the need to use it has passed or, if later, upon the termination of this Agreement.
Plan for return and destruction of the data once the processing is complete	As set out in paragraph 11.1 of this Schedule
Nature and purpose of the processing	This Data Processing Agreement considers processing of any data by NHS England on behalf of the ICB Commissioning Teams in relation to the delivery of the Delegated Functions. Such processing should ensure continued: • Provision of live services and associated reporting; • Quality improvement and assurance of services; • Dissemination of data for health and research purposes.
Type of Personal Data being Processed	The following potentially in scope: • Patient identifiers including but not limited to NHS numbers or pseudonymised NHS numbers, hospital numbers or medical records identifiers. • Patient name, address (or partial address), date of birth (or age). • Patient characteristics including ethnicity or categorisation derived from ethnicity and collected for the purposes of monitoring equity of access to services. • OPCS coding for medical procedures and ICD-10 or other classification of medical conditions, comorbidities or patient healthcare status including where not the primary reason (or a reason) for treatment. • Specific details of medical history, including correspondence between third parties relating to patients, where necessary to support individual casework decisions on treatment eligibility, to

	confirm funding status for treatments, to investigate and resolve safety concerns or complaints, to settle claims, or to progress legal or regulatory reviews. • Patient financial details, including bank details, where necessary to make direct payments to patients
Categories of Data Subject	Staff (including volunteers, agents, and temporary workers), customers/clients, suppliers, patients, members of the public where information is held for the purposes of population health management.

18.9 6 (*Further Information Governance, Sharing and Processing Provisions*) makes further provision about information sharing, information governance and the Data Sharing Agreement.

19. IT INTER-OPERABILITY

19.1 The Parties will work together to ensure that all relevant IT systems they operate in respect of the Delegated Functions and Reserved Functions are inter-operable and that data may be transferred between systems securely, easily and efficiently.

19.2 The Parties will use their respective reasonable endeavours to help develop initiatives to further this aim.

20. CONFLICTS OF INTEREST AND TRANSPARENCY ON GIFTS AND HOSPITALITY

20.1 The ICB must ensure that, in delivering the Delegated Functions, all Staff comply with Law, with Managing Conflicts of Interest in the NHS and other Guidance, and with Good Practice, in relation to gifts, hospitality and other inducements and actual or potential conflicts of interest.

20.2 Without prejudice to the general obligations set out in Clause 20.1, the ICB must maintain a register of interests in respect of all persons making decisions concerning the Delegated Functions. This register must be publicly available. For the purposes of this clause, the ICB may rely on an existing register of interests rather than creating a further register.

21. PROHIBITED ACTS AND COUNTER-FRAUD

21.1 The ICB must not commit any Prohibited Act.

21.2 If the ICB or its Staff commits any Prohibited Act in relation to this Agreement with or without the knowledge of NHS England, NHS England will be entitled:

21.2.1 to revoke the Delegation;

21.2.2 to recover from the ICB the amount or value of any gift, consideration or commission concerned; and

21.2.3 to recover from the ICB any loss or expense sustained in consequence of the carrying out of the Prohibited Act.

21.3 The ICB must put in place and maintain appropriate arrangements, including without limitation, Staff training, to address counter-fraud issues, having regard to any relevant Guidance, including from the NHS Counter Fraud Authority.

21.4 If requested by NHS England or the NHS Counter Fraud Authority, the ICB must allow a person duly authorised to act on behalf of the NHS Counter Fraud Authority or on

behalf of NHS England to review, in line with the appropriate standards, any counter-fraud arrangements put in place by the ICB.

- 21.5 The ICB must implement any reasonable modifications to its counter-fraud arrangements required by a person referred to in Clause 21.4 in order to meet the appropriate standards within whatever time periods as that person may reasonably require.

- 21.6 The ICB must, on becoming aware of:

21.6.1 any suspected or actual bribery, corruption or fraud involving public funds; or

21.6.2 any suspected or actual security incident or security breach involving Staff or involving NHS resources;

promptly report the matter to NHS England and to the NHS Counter Fraud Authority.

- 21.7 On the request of NHS England or NHS Counter Fraud Authority, the ICB must allow the NHS Counter Fraud Authority or any person appointed by NHS England, as soon as it is reasonably practicable and in any event not later than five (5) Operational Days following the date of the request, access to:

21.7.1 all property, premises, information (including records and data) owned or controlled by the ICB; and

21.7.2 all Staff who may have information to provide.

relevant to the detection and investigation of cases of bribery, fraud or corruption, or security incidents or security breaches directly or indirectly in connection with this Agreement.

22. CONFIDENTIAL INFORMATION OF THE PARTIES

- 22.1 Except as this Agreement otherwise provides, Confidential Information is owned by the disclosing Party and the receiving Party has no right to use it.

- 22.2 Subject to Clauses 22.3 to 22.5, the receiving Party agrees:

22.2.1 to use the disclosing Party's Confidential Information only in connection with the receiving Party's performance under this Agreement;

22.2.2 not to disclose the disclosing Party's Confidential Information to any third party or to use it to the detriment of the disclosing Party; and

22.2.3 to maintain the confidentiality of the disclosing Party's Confidential Information.

- 22.3 The receiving Party may disclose the disclosing Party's Confidential Information:

22.3.1 in connection with any dispute resolution procedure under Clause 25;

22.3.2 in connection with any litigation between the Parties;

22.3.3 to comply with the Law;

22.3.4 to any appropriate Regulatory or Supervisory Body;

22.3.5 to its Staff, who in respect of that Confidential Information will be under a duty no less onerous than the receiving Party's duty under Clause 22.2;

- 22.3.6 to NHS bodies for the purposes of carrying out their functions;
 - 22.3.7 as permitted under or as may be required to give effect to Clause 21 (*Prohibited Acts and Counter-Fraud*); and
 - 22.3.8 as permitted under any other express arrangement or other provision of this Agreement.
- 22.4 The obligations in Clauses 22.1 and 22.2 will not apply to any Confidential Information which:
- 22.4.1 is in, or comes into, the public domain other than by breach of this Agreement;
 - 22.4.2 the receiving Party can show by its records was in its possession before it received it from the disclosing Party; or
 - 22.4.3 the receiving Party can prove it obtained or was able to obtain from a source other than the disclosing Party without breaching any obligation of confidence.
- 22.5 This Clause 22 does not prevent NHS England making use of or disclosing any Confidential Information disclosed by the ICB where necessary for the purposes of exercising its functions in relation to the ICB.
- 22.6 The Parties acknowledge that damages would not be an adequate remedy for any breach of this Clause 22 by the receiving Party, and in addition to any right to damages the disclosing Party will be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of this Clause 22.
- 22.7 This Clause 222 will survive the termination of this Agreement for any reason for a period of five (5) years.
- 22.8 This Clause 22 will not limit the application of the Public Interest Disclosure Act 1998 in any way whatsoever.
23. **INTELLECTUAL PROPERTY**
- 23.1 The ICB grants to NHS England a fully paid-up, non-exclusive, perpetual licence to use the ICB Deliverables for the purposes of the exercise of its statutory and contractual functions.
 - 23.2 NHS England grants the ICB a fully paid-up, non-exclusive licence to use the NHS England Deliverables for the purpose of performing this Agreement and the Delegated Functions.
 - 23.3 The ICB must co-operate with NHS England to enable it to understand and adopt Best Practice (including the dissemination of Best Practice to other commissioners or providers of NHS services), and must supply such materials and information in relation to Best Practice as NHS England may reasonably request, and (to the extent that any Intellectual Property Rights ("IPR") attaches to Best Practice) grants NHS England a fully paid-up, non-exclusive, perpetual licence for NHS England to use Best Practice IPR for the commissioning and provision of NHS services and to share any Best Practice IPR with other commissioners of NHS services (and other providers of NHS services) to enable those parties to adopt such Best Practice.
24. **NOTICES**

24.1 Any notices given under this Agreement must be sent by e-mail to the other Party's address set out in the Particulars or as otherwise notified by one Party to another as the appropriate address for this Clause 24.1.

24.2 Notices by e-mail will be effective when sent in legible form, but only if, following transmission, the sender does not receive a non-delivery message.

25. DISPUTES

25.1 This clause does not affect NHS England's right to exercise its functions for the purposes of assessing and addressing the performance of the ICB.

25.2 If a Dispute arises out of, or in connection with, this Agreement then the Parties must follow the procedure set out in this clause:

25.2.1 either Party must give to the other written notice of the Dispute, setting out its nature and full particulars ("Dispute Notice"), together with relevant supporting documents. On service of the Dispute Notice, the Agreement Representatives must attempt in good faith to resolve the Dispute;

25.2.2 if the Agreement Representatives are, for any reason, unable to resolve the Dispute within twenty (20) Operational Days of service of the Dispute Notice, the Dispute must be referred to the Chief Executive Officer (or equivalent person) of the ICB and a director of or other person nominated by NHS England (and who has authority from NHS England to settle the Dispute) who must attempt in good faith to resolve it; and

25.2.3 if the people referred to in Clause 25.2.2 are for any reason unable to resolve the Dispute within twenty (20) Operational Days of it being referred to them, the Parties may attempt to settle it by mediation in accordance with the CEDR model mediation procedure. Unless otherwise agreed between the Parties, the mediator must be nominated by CEDR. To initiate the mediation, a Party must serve notice in writing ('Alternative Dispute Resolution' ("ADR) notice") to the other Party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start no later than ten (10) Operational Days after the date of the ADR notice.

25.3 If the Dispute is not resolved within thirty (30) Operational Days after service of the ADR notice, or either Party fails to participate or to continue to participate in the mediation before the expiration of the period of thirty (30) Operational Days, or the mediation terminates before the expiration of the period of thirty (30) Operational Days, the Dispute must be referred to the NHS England Board, who shall resolve the matter and whose decision shall be binding upon the Parties.

26. VARIATIONS

26.1 The Parties acknowledge that the scope of the Delegated Functions may be reviewed and amended from time to time including by revoking this Agreement and making alternative arrangements.

26.2 NHS England may vary this Agreement without the ICB's consent where:

26.2.1 it is reasonably satisfied that the variation is necessary in order to comply with legislation, NHS England's statutory duties, or any requirements or direction given by the Secretary of State;

- 26.2.2 where variation is as a result of amendment to or additional Mandated Guidance;
- 26.2.3 it is satisfied that any Developmental Arrangements are no longer required;
- 26.2.4 it reasonably considers that Developmental Arrangements are required under Clause 14 (*Breach*); or
- 26.2.5 it is satisfied that such amendment or Developmental Arrangement is required in order to ensure the effective commissioning of the Delegated Services or other Specialised Services.
- 26.3 Where NHS England wishes to vary the Agreement in accordance with Clause 26.2 it must notice in writing to the ICB of the wording of the proposed variation and the date on which that variation is to take effect which must, unless it is not reasonably practicable, be a date which falls at least thirty (30) Operational Days after the date on which the notice under that clause is given to the ICB.
- 26.4 For the avoidance of doubt, NHS England may issue or update Mandated Guidance at any point during the term of the Agreement.
- 26.5 Either Party ("the Proposing Party") may notify the other Party (the "Receiving Party") of a Variation Proposal in respect of this Agreement including, but not limited to the following:
 - 26.5.1 a request by the ICB to add, vary or remove any Developmental Arrangement; or
 - 26.5.2 a request by NHS England to include additional Specialised Services or NHS England Functions within the Delegation; and

the Proposing Party will identify whether the proposed variation may have the impact of changing the scope of the Delegated Functions or Reserved Functions so that NHS England can establish the requisite level of approval required.
- 26.6 The Variation Proposal will set out the variation proposed and the date on which the Proposing Party requests the variation to take effect.
- 26.7 When a Variation Proposal is issued in accordance with 26.6, the Receiving Party must respond within thirty (30) Operational Days following the date that it is issued by serving notice confirming either:
 - 26.7.1 that it accepts the Variation Proposal; or
 - 26.7.2 that it refuses to accept the Variation Proposal and setting out reasonable grounds for that refusal.
- 26.8 If the Receiving Party accepts the Variation Proposal issued in accordance with Clause 26.5, the Receiving Party agrees to take all necessary steps (including executing a variation agreement) in order to give effect to any variation by the date on which the proposed variation will take effect as set out in the Variation Proposal.
- 26.9 If the Receiving Party refuses to accept a Variation Proposal submitted in accordance with 26.5 to 26.7, or to take such steps as are required to give effect to the variation, then the provisions of Clause 15 (*Escalation Rights*) shall apply.
- 26.10 When varying the Agreement in accordance with Clause 26, the Parties must consider the impact of the proposed variation on any ICB Collaboration Arrangements and any Further Arrangements.

27. TERMINATION

27.1 The ICB may:

27.1.1 notify NHS England that it requires NHS England to revoke the Delegation; and

27.1.2 terminate this Agreement;

with effect from the end of 31 March in any calendar year, provided that:

27.1.3 on or before 30 September of the previous calendar year, the ICB sends written notice to NHS England of its requirement that NHS England revoke the Delegation and its intention to terminate this Agreement; and

27.1.4 the ICB meets with NHS England within ten (10) Operational Days of NHS England receiving the notice set out at Clause 27.1.3 above to discuss arrangements for termination and transition of the Delegated Functions to a successor commissioner in accordance with Clause 28.2; and

27.1.5 the ICB confirms satisfactory arrangements for terminating any ICB Collaboration Arrangements or Further Agreements in whole or part as required including agreed succession arrangements for Commissioning Teams,

in which case NHS England shall revoke the Delegation and this Agreement shall terminate with effect from the end of 31 March in the next calendar year.

27.2 NHS England may revoke the Delegation in whole or in part with effect from 23.59 hours on 31 March in any year, provided that it gives notice to the ICB of its intention to terminate the Delegation on or before 30 September in the year prior to the year in which the Delegation will terminate, and in which case Clause 27.4 will apply.

27.3 The Delegation may be revoked in whole or in part, and this Agreement may be terminated by NHS England at any time, including in (but not limited to) the following circumstances:

27.3.1 the ICB acts outside of the scope of its delegated authority;

27.3.2 the ICB fails to perform any material obligation of the ICB owed to NHS England under this Agreement;

27.3.3 the ICB persistently commits non-material breaches of this Agreement;

27.3.4 NHS England is satisfied that its intervention powers under section 14Z61 of the NHS Act apply;

27.3.5 to give effect to legislative changes, including conferral of any of the Delegated or Reserved Functions on the ICB;

27.3.6 failure to agree to a variation in accordance with Clause 26 (*Variations*);

27.3.7 NHS England and the ICB agree in writing that the Delegation shall be revoked and this Agreement shall terminate on such date as is agreed; and/or

27.3.8 the ICB merges with another ICB or other body.

27.4 This Agreement will terminate upon revocation or termination of the full Delegation (including revocation and termination in accordance with this Clause 277 (*Termination*))

except that the provisions referred to in Clause 299 (*Provisions Surviving Termination*) will continue in full force and effect.

27.5 Without prejudice to Clause 14.3 and to avoid doubt, NHS England may waive any right to terminate this Agreement under this Clause 27 (*Termination*). Any such waiver is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

27.6 As an alternative to termination of the Agreement in respect of all the Delegated Functions, NHS England may terminate the Agreement in respect of specified Delegated Functions (or aspects of such Delegated Functions) only, in which case this Agreement shall otherwise remain in effect.

28. CONSEQUENCE OF TERMINATION

28.1 Termination of this Agreement, or termination of the ICB's exercise of any of the Delegated Functions, will not affect any rights or liabilities of the Parties that have accrued before the date of that termination or which later accrue in respect of the term of this Agreement. For the avoidance of doubt, the ICB shall be responsible for any Claims or other costs or liabilities incurred in the exercise of the Delegated Functions during the period of this Agreement unless expressly agreed otherwise by NHS England.

28.2 Subject to Clause 28.4, on or pending termination of this Agreement or termination of the ICB's exercise of any of the Delegated Functions, NHS England, the ICB and, if appropriate, any successor delegate will:

28.2.1 agree a plan for the transition of the Delegated Functions from the ICB to the successor delegate, including details of the transition, the Parties' responsibilities in relation to the transition, the Parties' arrangements in respect of the Staff engaged in the Delegated Functions and the date on which the successor delegate will take responsibility for the Delegated Functions;

28.2.2 implement and comply with their respective obligations under the plan for transition agreed in accordance with Clause 28.2.1; and

28.2.3 act with a view to minimising any inconvenience or disruption to the commissioning of healthcare in the Area.

28.3 For a reasonable period before and after termination of this Agreement or termination of the ICB's exercise of any of the Delegated Functions, the ICB must:

28.3.1 co-operate with NHS England and any successor delegate to ensure continuity and a smooth transfer of the Delegated Functions; and

28.3.2 at the reasonable request of NHS England:

28.3.2.1 promptly provide all reasonable assistance and information to the extent necessary for an efficient assumption of the Delegated Functions by a successor delegate;

28.3.2.2 deliver to NHS England all materials and documents used by the ICB in the exercise of any of the Delegated Functions; and

28.3.2.3 use all reasonable efforts to obtain the consent of third parties to the assignment, novation or termination of existing contracts between the ICB and any third party which relate to or are associated with the Delegated Functions.

- 28.4 Where any or all of the Delegated Functions or Reserved Functions are to be directly conferred on the ICB, the Parties will co-operate with a view to ensuring continuity and a smooth transfer to the ICB.

29. PROVISIONS SURVIVING TERMINATION

- 29.1 Any rights, duties or obligations of any of the Parties which are expressed to survive, including those referred to in Clause 29.2, or which otherwise by necessary implication survive the termination for any reason of this Agreement, together with all indemnities, will continue after termination, subject to any limitations of time expressed in this Agreement.
- 29.2 The surviving provisions include the following clauses together with such other provisions as are required to interpret and give effect to them:
- 29.2.1 Clause 10 (*Finance*);
 - 29.2.2 Clause 13 (*Staffing, Workforce and Commissioning Teams*);
 - 29.2.3 Clause 16 (*Liability and Indemnity*);
 - 29.2.4 Clause 17 (*Claims and Litigation*);
 - 29.2.5 Clause 18 (*Data Protection, Freedom of Information and Transparency*);
 - 29.2.6 Clause 25 (*Disputes*);
 - 29.2.7 Clause 27 (*Termination*);
 - 29.2.8 Schedule 6 (*Further Information Governance, Sharing and Processing Provisions*).

30. COSTS

- 30.1 Each Party is responsible for paying its own costs and expenses incurred in connection with the negotiation, preparation and execution of this Agreement.

31. SEVERABILITY

- 31.1 If any provision or part of any provision of this Agreement is declared invalid or otherwise unenforceable, that provision or part of the provision as applicable will be severed from this Agreement. This will not affect the validity and/or enforceability of the remaining part of that provision or of other provisions.

32. GENERAL

- 32.1 Nothing in this Agreement will create a partnership or joint venture or relationship of principal and agent between NHS England and the ICB.
- 32.2 A delay or failure to exercise any right or remedy in whole or in part shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 32.3 This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

SCHEDULE 1: Definitions and Interpretation

1.

The headings in this Agreement will not affect its interpretation.
2.

Reference to any statute or statutory provision, Law, Guidance, Mandated Guidance or Data Guidance, includes a reference to that statute or statutory provision, Law, Guidance, Mandated Guidance or Data Guidance as from time to time updated, amended, extended, supplemented, re-enacted or replaced in whole or in part.
3.

Reference to a statutory provision includes any subordinate legislation made from time to time under that provision.
4.

References to clauses and schedules are to the clauses and schedules of this Agreement, unless expressly stated otherwise.
5.

References to any body, organisation or office include reference to its applicable successor from time to time.
6.

Any references to this Agreement or any other documents or resources includes reference to this Agreement or those other documents or resources as varied, amended, supplemented, extended, restated and/or replaced from time to time and any reference to a website address for a resource includes reference to any replacement website address for that resource.
7.

Use of the singular includes the plural and vice versa.
8.

Use of the masculine includes the feminine and all other genders.
9.

Use of the term "including" or "includes" will be interpreted as being without limitation.
10.

The following words and phrases have the following meanings:
- "Administrative and Management Services"

means administrative and management support provided in accordance with Clause 9.5 or 9.7;

"Agreement"

means this agreement between NHS England and the ICB comprising the Particulars, the Terms and Conditions, the Schedules and the Mandated Guidance;

"Agreement Representatives"

means the ICB Representative and the NHS England Representative as set out in the Particulars or such person identified to the other Party from time to time as the relevant representative;

"Annual Allocation"

means the funds allocated to the ICB annually under section 223G of the NHS Act;

"Area"

means the geographical area covered by the ICB;

"Assurance Processes"

has the definition given in paragraph 3.1 of Schedule 3;

"Best Practice"

means any methodologies, pathway designs and processes relating to this Agreement or the Delegated Functions developed by the ICB or its Staff for the purposes of delivering the Delegated Functions and which are capable of wider use in the delivery of healthcare services for the purposes of the NHS, but not including inventions that are capable of patent protection

	and for which patent protection is being sought or has been obtained, registered designs, or copyright in software;
“Capital Investment Guidance”	means any Mandated Guidance issued by NHS England from time to time in relation to the development, assurance and approvals process for proposals in relation to: - the expenditure of Capital, or investment in property, infrastructure or information and technology; and - the revenue consequences for commissioners or third parties making such investment;
“CEDR”	means the Centre for Effective Dispute Resolution;
“Claims”	means, for or in relation to the Delegated Functions (i) any litigation or administrative, mediation, arbitration or other proceedings, or any claims, actions or hearings before any court, tribunal or the Secretary of State, any governmental, regulatory or similar body, or any department, board or agency or (ii) any dispute with, or any investigation, inquiry or enforcement proceedings by, any governmental, regulatory or similar body or agency;
“Claim Losses”	means all Losses arising in relation to any Claim;
“Clinical Commissioning Policies”	means a nationally determined clinical policy setting out the commissioning position on a particular clinical treatment issue and defines accessibility (including a not for routine commissioning position) of a medicine, medical device, diagnostic technique, surgical procedure or intervention for patients with a condition requiring a specialised service;
“Clinical Reference Groups”	means a group consisting of clinicians, commissioners, public health experts, patient and public voice representatives and professional associations, which offers specific knowledge and expertise on the best ways that Specialised Services should be provided;
“Collaborative Commissioning Agreement”	means an agreement under which NHS Commissioners set out collaboration arrangements in respect of commissioning Specialised Services Contracts;
“Commissioning Functions”	means the respective statutory functions of the Parties in arranging for the provision of services as part of the health service;
“Commissioning Team”	means those Specialised Services Staff that support the commissioning of Delegated Services immediately prior to this Agreement and, at the point that Staff transfer from NHS England to an identified ICB, it shall mean those NHS England Staff and such other Staff appointed by that ICB to carry out a role in respect of commissioning the Delegated Services;
“Commissioning Team Arrangements”	means the arrangements through which the services of a Commissioning Team are made available to another NHS body for the purposes of commissioning the Delegated Services;

“Complaints Sharing Protocol”	has the definition given in paragraph 7.5 of Schedule 3;
“Confidential Information”	means any information or data in whatever form disclosed, which by its nature is confidential or which the disclosing Party acting reasonably states in writing to the receiving Party is to be regarded as confidential, or which the disclosing Party acting reasonably has marked ‘confidential’ (including, financial information, strategy documents, tenders, employee confidential information, development or workforce plans and information, and information relating to services) but which is not information which is disclosed in response to an FOIA request, or information which is published as a result of NHS England or government policy in relation to transparency;
“Contracts”	means any contract or arrangement in respect of the commissioning of any of the Delegated Services;
“Contracting Standard Operating Procedure”	means the Contracting Standard Operating Procedure produced by NHS England in respect of the Delegated Services;
“Contractual Notice”	means a contractual notice issued by NHS England to the ICB, from time to time and relating to allocation of contracts for the purposes of the Delegated Functions;
“CQC”	means the Care Quality Commission;
“Data Controller”	shall have the same meaning as set out in the UK GDPR;
“Data Guidance”	means any applicable guidance, guidelines, direction or determination, framework, code of practice, standard or requirement regarding information governance, confidentiality, privacy or compliance with Data Protection Legislation to the extent published and publicly available or their existence or contents have been notified to the ICB by NHS England and/or any relevant Regulatory or Supervisory Body. This includes but is not limited to guidance issued by NHS Digital, the National Data Guardian for Health & Care, the Department of Health and Social Care, NHS England, the Health Research Authority, the UK Health Security Agency and the Information Commissioner;
“Data Protection Impact Assessment”	means an assessment to identify and minimise the data protection risks in relation to any data sharing proposals;
“Data Protection Officer”	shall have the same meaning as set out in the Data Protection Legislation;
“Data Processing Agreement”	means a data processing agreement which should be in substantially the same form as a Data Processing Agreement template approved by NHS England;
“Data Processor”	shall have the same meaning as set out in the UK GDPR;
“Data Protection Legislation”	means the UK GDPR, the Data Protection Act 2018 and all applicable Law concerning privacy, confidentiality or the processing of personal data including but not limited to the

	Human Rights Act 1998, the Health and Social Care (Safety and Quality) Act 2015, the common law duty of confidentiality and the Privacy and Electronic Communications (EC Directive) Regulations 2003;
“Data Sharing Agreement”	means a data sharing agreement which should be in substantially the same form as a Data Sharing Agreement template approved by NHS England;
“Data Subject”	shall have the same meaning as set out in the UK GDPR;
“Delegated Commissioning Group (DCG)”	means the advisory forum in respect of Delegated Services set up by NHS England currently known as the Delegated Commissioning Group for Specialised Services;
“Delegated Functions”	means the statutory functions delegated by NHS England to the ICB under the Delegation and as set out in detail in this Agreement;
“Delegated Funds”	means the funds defined in Clause 10.2;
“Delegated Services”	means the services set out in Schedule 2 of this Agreement and which may be updated from time to time by NHS England;
“Delegation”	means the delegation of the Delegated Functions from NHS England to the ICB as described at Clause 6.1;
“Developmental Arrangements”	means the arrangements set out in Schedule 9 as amended or replaced;
“Dispute”	a dispute, conflict or other disagreement between the Parties arising out of or in connection with this Agreement;
“Effective Date of Delegation”	means for the Specialised Services set out in Schedule 2, the date set out in Schedule 2 as the date delegation will take effect in respect of that particular Specialised Service and for any future delegations means the date agreed by the parties as the date that the delegation will take effect;
“EIR”	means the Environmental Information Regulations 2004;
“Escalation Rights”	means the escalation rights as defined in Clause 15 (<i>Escalation Rights</i>);
“Finance Guidance”	means the guidance, rules and operating procedures produced by NHS England that relate to these delegated arrangements, including but not limited to the following: - Commissioning Change Management Business Rules; - Contracting Standard Operating Procedure; - Cashflow Standard Operating Procedure; - Finance and Accounting Standard Operating Procedure;

	- Service Level Framework Guidance;
“Financial Year”	shall bear the same meaning as in section 275 of the NHS Act;
“FOIA”	means the Freedom of Information Act 2000;
“Further Arrangements”	means arrangements for the exercise of Delegated Functions as defined at Clause 12;
“Good Practice”	means using standards, practices, methods and procedures conforming to the law, reflecting up-to-date published evidence and exercising that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled, efficient and experienced commissioner;
“Guidance”	means any applicable guidance, guidelines, direction or determination, framework, code of practice, standard or requirement to which the ICB has a duty to have regard (and whether specifically mentioned in this Agreement or not), to the extent that the same are published and publicly available or the existence or contents of them have been notified to the ICB by any relevant Regulatory or Supervisory Body but excluding Mandated Guidance;
“High Cost Drugs”	means medicines not reimbursed though national prices and identified on the NHS England high cost drugs list;
“Host ICB”	means the ICB that employs the Commissioning Team as part of the Commissioning Team Arrangements;
“ICB”	means an Integrated Care Board established pursuant to section 14Z25 of the NHS Act and named in the Particulars;
“ICB Collaboration Arrangement”	means an arrangement entered into by the ICB and at least one other ICB under which the parties agree joint working arrangements in respect of the exercise of the Delegated Functions;
“ICB Deliverables”	all documents, products and materials developed by the ICB or its Staff in relation to this Agreement and the Delegated Functions in any form and required to be submitted to NHS England under this Agreement, including data, reports, policies, plans and specifications;
“ICB Functions”	the Commissioning Functions of the ICB;
“Information Governance Guidance for Serious Incidents”	means the checklist Guidance for Reporting, Managing and Investigating Information Governance and Cyber Security Serious Incidents Requiring Investigation’ (2015) as may be amended or replaced;
“Indemnity Arrangement”	means either: (i) a policy of insurance; (ii) an arrangement made for the purposes of indemnifying a person or organisation; or (iii) a combination of (i) and (ii);

“IPR”	means intellectual property rights and includes inventions, copyright, patents, database right, trademarks, designs and confidential know-how and any similar rights anywhere in the world whether registered or not, including applications and the right to apply for any such rights;
“Law”	means any applicable law, statute, rule, bye-law, regulation, direction, order, regulatory policy, guidance or code, rule of court or directives or requirements of any regulatory body, delegated or subordinate legislation or notice of any regulatory body (including any Regulatory or Supervisory Body);
“Local Terms”	means the terms set out in Schedule 8 (<i>Local Terms</i>) and/or such other Schedule or part thereof as designated as Local Terms;
“Losses”	means all damages, 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 common law;
“Managing Conflicts of Interest in the NHS”	the NHS publication by that name available at: https://www.england.nhs.uk/publication/managing-conflicts-of-interest-in-the-nhs-guidance-for-staff-and-organisations/ ;
“Mandated Guidance”	means any protocol, policy, guidance, guidelines, framework or manual relating to the exercise of the Delegated Functions and issued by NHS England to the ICB as Mandated Guidance from time to time, in accordance with Clause 7.34 which at the Effective Date of Delegation shall include the Mandated Guidance set out in Schedule 7;
“National Commissioning Group (NCG)”	means the advisory forum in respect of the Retained Services currently known as the National Commissioning Group for Specialised, Health and Justice and Armed Forces Services;
“National Standards”	means the service standards for each Specialised Service, as set by NHS England and included in Clinical Commissioning Policies or National Specifications;
“National Specifications”	the service specifications published by NHS England in respect of Specialised Services;
“Need to Know”	has the meaning set out in paragraph 1.2 of Schedule 6 (<i>Further Information Governance, Sharing and Processing Provisions</i>);
“NICE Regulations”	means the National Institute for Health and Care Excellence (Constitution and Functions) and the Health and Social Care Information Centre (Functions) Regulations 2013 as amended or replaced;
“NHS Act”	means the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012 and the Health and Care Act 2022 and other legislation from time to time);

“NHS Counter Fraud Authority”	means the Special Health Authority established by and in accordance with the NHS Counter Fraud Authority (Establishment, Constitution, and Staff and Other Transfer Provisions) Order 2017/958;
“NHS Digital Data Security and Protection Toolkit”	means the toolkit published by NHS Digital and available on the NHS Digital website at: https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/data-security-and-protection-toolkit ;
“NHS England”	means the body established by section 1H of the NHS Act;
“NHS England Deliverables”	means all documents, products and materials NHS England in which NHS England holds IPRs which are relevant to this Agreement, the Delegated Functions or the Reserved Functions in any form and made available by NHS England to the ICB under this Agreement, including data, reports, policies, plans and specifications;
“NHS England Functions”	means all functions of NHS England as set out in legislation excluding any functions that have been expressly delegated;
“Non-Personal Data”	means data which is not Personal Data;
“Operational Days”	a day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday in England;
“Oversight Framework”	means the NHS Oversight Framework, as may be amended or replaced from time to time, and any relevant associated Guidance published by NHS England;
“Party/Parties”	means a party or both parties to this Agreement;
“Patient Safety Incident Response Framework”	means the framework published by NHS England and made available on the NHS England website at: https://www.england.nhs.uk/patient-safety/incident-response-framework/ ;
“Personal Data”	shall have the same meaning as set out in the UK GDPR and shall include references to Special Category Personal Data where appropriate;
“Population”	means, in relation to any particular delegated service, the group of people for which the ICB would have the duty to arrange for the provision of that service under section 3 of the NHS Act (hospital and other services), if it was not a service which NHS England had a duty to arrange under its Specialised Commissioning Functions; For guidance on the persons for whom an ICB is responsible for arranging services see <i>Who Pays? Determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers</i> ;

“Prescribed Specialised Services Manual”

means the document which may be amended or replaced from time to time which is currently known as the prescribed specialised services manual which describes how NHS England and ICBs commission specialised services and sets out the identification rules which describe how NHS England and ICBs identify Specialised Services activity within data flows;

“Provider Collaborative”

means a group of Specialised Service Providers who have agreed to work together to improve the care pathway for one or more Specialised Services;

“Provider Collaborative Guidance”

means the guidance published by NHS England in respect of Provider Collaboratives;

“Prohibited Act”

means the ICB:

- (i) offering, giving, or agreeing to give NHS England (or an of their officers, employees or agents) any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining of performance of this Agreement, the Reserved Functions, the Delegation or any other arrangement with the ICB, or for showing or not showing favour or disfavour to any person in relation to this Agreement or any other arrangement with the ICB; and
- (ii) in connection with this Agreement, paying or agreeing to pay any commission, other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to NHS England; or
- (iii) committing an offence under the Bribery Act 2010;

“Regional Quality Group”

means a group set up to act as a strategic forum at which regional partners from across health and social care can share, identify and mitigate wider regional quality risks and concerns as well as share learning so that quality improvement and best practice can be replicated;

“Regulatory or Supervisory Body”

means any statutory or other body having authority to issue guidance, standards or recommendations with which the relevant Party and/or Staff must comply or to which it or they must have regard, including:

- (i) CQC;
- (ii) NHS England;
- (iii) the Department of Health and Social Care;
- (iv) the National Institute for Health and Care Excellence;
- (v) Healthwatch England and Local Healthwatch;
- (vi) the General Medical Council;

	(vii) the General Dental Council;
	(viii) the General Optical Council;
	(ix) the General Pharmaceutical Council;
	(x) the Healthcare Safety Investigation Branch; and
	(xi) the Information Commissioner;
"Relevant Clinical Networks"	means those clinical networks identified by NHS England as required to support the commissioning of Specialised Services for the Population;
"Relevant Information"	means the Personal Data and Non-Personal Data processed under the Delegation and this Agreement, and includes, where appropriate, "confidential patient information" (as defined under section 251 of the NHS Act), and "patient confidential information" as defined in the 2013 Report, The Information Governance Review – <i>"To Share or Not to Share?"</i> ;
"Reserved Functions"	means statutory functions of NHS England that it has not delegated to the ICB including but not limited to those set out in the Schedules to this Agreement;
"Retained Services"	means those Specialised Services for which NHS England shall retain commissioning responsibility, as set out in Schedule 5;
"Secretary of State"	means the Secretary of State for Health and Social Care;
"Shared Care Arrangements"	means arrangements put in place to support patients receiving elements of their care closer to home, whilst still ensuring that they have access to the expertise of a specialised centre and that care is delivered in line with the expectation of the relevant National Specification;
"Single Point of Contact"	means the member of Staff appointed by each relevant Party in accordance with Paragraph 9.6 of Schedule 6;
"Special Category Personal Data"	shall have the same meaning as in UK GDPR;
"Specialised Commissioning Budget"	means the budget identified by NHS England for the purpose of exercising the Delegated Functions;
"Specialised Commissioning Functions"	means the statutory functions conferred on NHS England under Section 3B of the NHS Act and Regulation 11 and Schedule 4 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012/2996 (as amended or replaced);
"Specialised Services"	means the services commissioned in exercise of the Specialised Commissioning Functions;

“Specialised Services Contract”	means a contract for the provision of Specialised Services entered into in the exercise of the Specialised Commissioning Functions;
“Specialised Services Provider”	means a provider party to a Specialised Services Contract;
“Specialised Services Staff”	means the Staff or roles identified as carrying out the Delegated Functions immediately prior to the date of this Agreement;
“Specified Purpose”	means the purpose for which the Relevant Information is shared and processed, being to facilitate the exercise of the ICB's Delegated Functions and NHS England's Reserved Functions as specified in paragraph Error! Reference source not found. of Schedule 6 (<i>Further Information Governance, Sharing and Processing Provisions</i>) to this Agreement;
“Staff or Staffing”	means the Parties' employees, officers, elected members, directors, voluntary staff, consultants, and other contractors and sub-contractors acting on behalf of either Party (whether or not the arrangements with such contractors and sub-contractors are subject to legally binding contracts) and such contractors' and their sub-contractors' personnel;
“Sub-Delegate”	shall have the meaning in Clause 12.2;
“System Quality Group”	means a group set up to identify and manage concerns across the local system. The system quality group shall act as a strategic forum at which partners from across the local health and social care footprint can share issues and risk information to inform response and management, identify and mitigate quality risks and concerns as well as share learning and best practice;
“Triple Aim”	means the duty to have regard to wider effect of decisions, which is placed on each of the Parties under section 13NA (as regards NHS England) and section 14Z43 (as regards the ICB) of the NHS Act;
“UK GDPR”	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018;
“Variation Proposal”	means a written proposal for a variation to the Agreement, which complies with the requirements of Clause 26.5.

SCHEDULE 2: Delegated Services

Delegated Services

NHS England delegates to the ICB the statutory function for commissioning the Specialised Services set out in this Schedule 2 (*Delegated Services*) subject to the reservations set out in Schedule 4 (*Reserved Functions*) and the provisions of any Developmental Arrangements set out in Schedule 9.

The list of Delegated Services set out in Schedule 2 of this Agreement contains two categories of service: the first is drawn from the Prescribed Specialised Services (PSS) Manual and aligns to Schedule 4 of the 2012 Standing Rules Regulations; the second is the sub-service line codes that NHS England has introduced over time to assist in the commissioning of Specialised Services. From time-to-time, NHS England will amend the list of sub-service line codes, either to repurpose, remove or add a code.

This is done to support in the management of finances, activity or for other administrative reasons; or to support transformational work that may be ongoing in the service area that requires a sub-service line code to track and manage funding and activity. The intention is that any changes will be supportive of ICBs' commissioning responsibilities, and that there will be a small number of changes in the Delegated Services sub-service line codes in any one year.

All future changes to sub-service line codes relating to Delegated Services will be developed with ICBs. ICBs will be engaged and have the opportunity to provide comment on the proposed change before it is made. Changes to the sub-service line codes will be discussed at and agreed by the Delegated Commissioning Group, hosted by NHS England and attended by ICB representatives. If changes are agreed, the latest lists will be made available on the NHS England website here [\[NHS England » NHS England service codes by year 2024/25\]](#) and a more detailed version on the Future NHS site here [\[Service Portfolio Analysis - Integrating specialised services within Integrated Care Systems - FutureNHS Collaboration Platform\]](#).

The PSS Manual Lines in Schedule 2 of the Agreement, which derive from the 2012 Standing Rules Regulations, will not be altered unless there is a decision of the NHS England Board, which will necessitate wider engagement with ICBs and stakeholders.

The following Specialised Services will be delegated to the ICB on 1 April 2025:

PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
2	Adult congenital heart disease services	13X	Adult congenital heart disease services (non-surgical)
		13Y	Adult congenital heart disease services (surgical)
3	Adult specialist pain management services	31Z	Adult specialist pain management services
4	Adult specialist respiratory services	29M	Interstitial lung disease (adults)
		29S	Severe asthma (adults)
		29L	Lung volume reduction (adults)
		29V	Complex home ventilation (adults)
5	Adult specialist rheumatology services	26Z	Adult specialist rheumatology services

PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
6	Adult secure mental health services	22S(a)	Secure and specialised mental health services (adult) (medium and low) – excluding LD/ASD/WEMS/ABI/DEAF
		22S(c)	Secure and specialised mental health services (adult) (Medium and low) – ASD MHLDA PC
		22S(d)	Secure and specialised mental health services (adult) (Medium and low) – LD MHLDA PC
7	Adult Specialist Cardiac Services	13A	Complex device therapy
		13B	Cardiac electrophysiology & ablation
		13C	Inherited cardiac conditions
		13E	Cardiac surgery (inpatient)
		13F	PPCI for ST- elevation myocardial infarction
		13H	Cardiac magnetic resonance imaging
		13T	Complex interventional cardiology
		13Z	Cardiac surgery (outpatient)
8	Adult specialist eating disorder services	22E	Adult specialist eating disorder services MHLDA PC
9	Adult specialist endocrinology services	27E	Adrenal Cancer (adults)
		27Z	Adult specialist endocrinology services
11	Adult specialist neurosciences services Adult specialist neurosciences services (continued)	08O	Neurology (adults)
		08P	Neurophysiology (adults)
		08R	Neuroradiology (adults)
		08S	Neurosurgery (adults)
		08T	Mechanical Thrombectomy
		58A	Neurosurgery LVHC national: surgical removal of clival chordoma and chondrosarcoma
		58B	Neurosurgery LVHC national: EC-IC bypass (complex/high flow)
		58C	Neurosurgery LVHC national: transoral excision of dens
		58D	Neurosurgery LVHC regional: anterior skull based tumours
		58E	Neurosurgery LVHC regional: lateral skull based tumours
		58F	Neurosurgery LVHC regional: surgical removal of brainstem lesions
		58G	Neurosurgery LVHC regional: deep brain stimulation
		58H	Neurosurgery LVHC regional: pineal tumour surgeries - resection
		58I	Neurosurgery LVHC regional: removal of arteriovenous malformations of the nervous system
		58J	Neurosurgery LVHC regional: epilepsy
		58K	Neurosurgery LVHC regional: insula glioma's/complex low grade glioma's
		58L	Neurosurgery LVHC local: anterior lumbar fusion
		58M	Neurosurgery LVHC local: removal of intramedullary spinal tumours
		58N	Neurosurgery LVHC local: intraventricular tumours resection
		58O	Neurosurgery LVHC local: surgical repair of aneurysms (surgical clipping)
		58P	Neurosurgery LVHC local: thoracic discectomy
		58Q	Neurosurgery LVHC local: microvascular decompression for trigeminal neuralgia
		58R	Neurosurgery LVHC local: awake surgery for removal of brain tumours
		58S	Neurosurgery LVHC local: removal of pituitary tumours including for Cushing's and acromegaly
12	Adult specialist ophthalmology services	37C	Artificial Eye Service
		37Z	Adult specialist ophthalmology services
13	Adult specialist orthopaedic services	34A	Orthopaedic surgery (adults)

PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
		34R	Orthopaedic revision (adults)
15	Adult specialist renal services	11B	Renal dialysis
		11C	Access for renal dialysis
		11T	Renal Transplantation
16	Adult specialist services for people living with HIV	14A	Adult specialised services for people living with HIV
17	Adult specialist vascular services	30Z	Adult specialist vascular services
18	Adult thoracic surgery services	29B	Complex thoracic surgery (adults)
		29Z	Adult thoracic surgery services: outpatients
29	Haematopoietic stem cell transplantation services (adults and children)	02Z	Haematopoietic stem cell transplantation services (adults and children)
		ECP	Extracorporeal photopheresis service (adults and children)
30	Bone conduction hearing implant services (adults and children)	32B	Bone anchored hearing aids service
		32D	Middle ear implantable hearing aids service
32	Children and young people's inpatient mental health service	23K	Tier 4 CAMHS (general adolescent inc eating disorders) MHLDA PC
		23L	Tier 4 CAMHS (low secure) MHLDA PC
		23O	Tier 4 CAMHS (PICU) MHLDA PC
		23U	Tier 4 CAMHS (LD) MHLDA PC
		23V	Tier 4 CAMHS (ASD) MHLDA PC
35	Cleft lip and palate services (adults and children)	15Z	Cleft lip and palate services (adults and children)
36	Cochlear implantation services (adults and children)	32A	Cochlear implantation services (adults and children)
40	Complex spinal surgery services (adults and children)	06Z	Complex spinal surgery services (adults and children)
		08Z	Complex neuro-spinal surgery services (adults and children)
45	Cystic fibrosis services (adults and children)	10Z	Cystic fibrosis services (adults and children)
54	Fetal medicine services (adults and adolescents)	04C	Fetal medicine services (adults and adolescents)
58	Specialist adult gynaecological surgery and urinary surgery services for females	04A	Severe Endometriosis
		04D	Complex urinary incontinence and genital prolapse
58A	Specialist adult urological surgery services for men	41P	Penile implants
		41S	Surgical sperm removal
		41U	Urethral reconstruction
59	Specialist allergy services (adults and children)	17Z	Specialist allergy services (adults and children)
61	Specialist dermatology services (adults and children)	24Z	Specialist dermatology services (adults and children)
62	Specialist metabolic disorder services (adults and children)	36Z	Specialist metabolic disorder services (adults and children)
63	Specialist pain management services for children	23Y	Specialist pain management services for children
64	Specialist palliative care services for children and young adults	E23	Specialist palliative care services for children and young adults
65	Specialist services for adults with infectious diseases	18A	Specialist services for adults with infectious diseases

PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
		18E	Specialist Bone and Joint Infection (adults)
72	Major trauma services (adults and children)	34T	Major trauma services (adults and children)
78	Neuropsychiatry services (adults and children)	08Y	Neuropsychiatry services (adults and children)
83	Paediatric cardiac services	23B	Paediatric cardiac services
94	Radiotherapy services (adults and children)	01R	Radiotherapy services (Adults)
		51R	Radiotherapy services (Children)
		01S	Stereotactic Radiosurgery / radiotherapy
98	Specialist secure forensic mental health services for young people	24C	FCAMHS MHLDA PC
103A	Specialist adult haematology services	03C	Castleman disease
105	Specialist cancer services (adults)	01C	Chemotherapy
		01J	Anal cancer (adults)
		01K	Malignant mesothelioma (adults)
		01M	Head and neck cancer (adults)
		01N	Kidney, bladder and prostate cancer (adults)
		01Q	Rare brain and CNS cancer (adults)
		01U	Oesophageal and gastric cancer (adults)
		01V	Biliary tract cancer (adults)
		01W	Liver cancer (adults)
		01X	Penile cancer (adults)
		01Y	Cancer Outpatients (adults)
		01Z	Testicular cancer (adults)
		04F	Gynaecological cancer (adults)
		19V	Pancreatic cancer (adults)
		19C	Biliary tract cancer surgery (adults)
		19M	Liver cancer surgery (adults)
		19Q	Pancreatic cancer surgery (adults)
		24Y	Skin cancer (adults)
		29E	Management of central airway obstruction (adults)
		51A	Interventional oncology (adults)
		51B	Brachytherapy (adults)
		51C	Molecular oncology (adults)
		61M	Head and neck cancer surgery (adults)
		61Q	Ophthalmic cancer surgery (adults)
		61U	Oesophageal and gastric cancer surgery (adults)
		61Z	Testicular cancer surgery (adults)
		33C	Transanal endoscopic microsurgery (adults)
		33D	Distal sacrectomy for advanced and recurrent rectal cancer (adults)
106	Specialist cancer services for children and young adults	01T	Teenage and young adult cancer
		23A	Children's cancer
106A	Specialist colorectal surgery services (adults)	33A	Complex surgery for faecal incontinence (adults)
		33B	Complex inflammatory bowel disease (adults)
107	Specialist dentistry services for children	23P	Specialist dentistry services for children
108	Specialist ear, nose and throat services for children	23D	Specialist ear, nose and throat services for children
109	Specialist endocrinology services for children	23E	Specialist endocrinology and diabetes services for children

PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
110	Specialist gastroenterology, hepatology and nutritional support services for children	23F	Specialist gastroenterology, hepatology and nutritional support services for children
112	Specialist gynaecology services for children	73X	Specialist paediatric surgery services - gynaecology
113	Specialist haematology services for children	23H	Specialist haematology services for children
114	Specialist haemoglobinopathy services (adults and children)	38S	Sickle cell anaemia (adults and children)
		38T	Thalassemia (adults and children)
115	Specialist immunology services for adults with deficient immune systems	16X	Specialist immunology services for adults with deficient immune systems
115A	Specialist immunology services for children with deficient immune systems	16Y	Specialist immunology services for children with deficient immune systems
115B	Specialist maternity care for adults diagnosed with abnormally invasive placenta	04G	Specialist maternity care for women diagnosed with abnormally invasive placenta
118	Neonatal critical care services	NIC	Specialist neonatal care services
119	Specialist neuroscience services for children	23M	Specialist neuroscience services for children
		07Y	Paediatric neurorehabilitation
		08J	Selective dorsal rhizotomy
120	Specialist ophthalmology services for children	23N	Specialist ophthalmology services for children
121	Specialist orthopaedic services for children	23Q	Specialist orthopaedic services for children
122	Paediatric critical care services	PIC	Specialist paediatric intensive care services
124	Specialist perinatal mental health services (adults and adolescents)	22P	Specialist perinatal mental health services (adults and adolescents) MHLDA PC
125	Specialist plastic surgery services for children	23R	Specialist plastic surgery services for children
126	Specialist rehabilitation services for patients with highly complex needs (adults and children)	07Z	Specialist rehabilitation services for patients with highly complex needs (adults and children)
127	Specialist renal services for children	23S	Specialist renal services for children
128	Specialist respiratory services for children	23T	Specialist respiratory services for children
129	Specialist rheumatology services for children	23W	Specialist rheumatology services for children
130	Specialist services for children with infectious diseases	18C	Specialist services for children with infectious diseases
131	Specialist services for complex liver, biliary and pancreatic diseases in adults	19L	Specialist services for complex liver diseases in adults
		19P	Specialist services for complex pancreatic diseases in adults
		19Z	Specialist services for complex liver, biliary and pancreatic diseases in adults
		19B	Specialist services for complex biliary diseases in adults
132	Specialist services for haemophilia and other related bleeding disorders (adults and children)	03X	Specialist services for haemophilia and other related bleeding disorders (Adults)
		03Y	Specialist services for haemophilia and other related bleeding disorders (Children)
134	Specialist services to support patients with complex physical disabilities (excluding wheelchair services) (adults and children)	05C	Specialist augmentative and alternative communication aids (adults and children)
		05E	Specialist environmental controls (adults and children)

PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
		05P	Prosthetics (adults and children)
135	Specialist paediatric surgery services	23X	Specialist paediatric surgery services - general surgery
136	Specialist paediatric urology services	23Z	Specialist paediatric urology services
139A	Specialist morbid obesity services for children	35Z	Specialist morbid obesity services for children
139AA	Termination services for patients with medical complexity and or significant co-morbidities requiring treatment in a specialist hospital	04P	Termination services for patients with medical complexity and or significant co-morbidities requiring treatment in a specialist hospital
ACC	Adult Critical Care	ACC	Adult critical care

SCHEDULE 3: Delegated Functions

22 Introduction

- 22.1 Subject to the reservations set out in Schedule 4 (*Reserved Functions*) and the provisions of any Developmental Arrangements, NHS England delegates to the ICB the statutory function for commissioning the Delegated Services. This Schedule 3 sets out the key powers and duties that the ICB will be required to carry out in exercise of the Delegated Functions being, in summary:
- 22.1.1 decisions in relation to the commissioning and management of Delegated Services;
 - 22.1.2 planning Delegated Services for the Population, including carrying out needs assessments;
 - 22.1.3 undertaking reviews of Delegated Services in respect of the Population;
 - 22.1.4 supporting the management of the Specialised Commissioning Budget;
 - 22.1.5 co-ordinating a common approach to the commissioning and delivery of Delegated Services with other health and social care bodies in respect of the Population where appropriate; and
 - 22.1.6 such other ancillary activities that are necessary to exercise the Specialised Commissioning Functions.
- 22.2 When exercising the Delegated Functions, ICBs are not acting on behalf of NHS England but acquire rights and incur any liabilities in exercising the functions.

23 General Obligations

- 23.1 The ICB is responsible for planning the commissioning of the Delegated Services in accordance with this Agreement. This includes ensuring at all times that the Delegated Services are commissioned in accordance with the National Standards.
- 23.2 The ICB shall put in place arrangements for collaborative working with other ICBs in accordance with Clause 8 (*Requirement for ICB Collaboration Arrangement*).
- 23.3 The Developmental Arrangements set out in Schedule 9 shall apply.

Specific Obligations

24 Assurance and Oversight

- 24.1 The ICB must at all times operate in accordance with:
- 24.1.1 the Oversight Framework published by NHS England;
 - 24.1.2 any national oversight and/or assurance guidance in respect of Specialised Services and/or joint working arrangements; and
 - 24.1.3 any other relevant NHS oversight and assurance guidance;

collectively known as the "Assurance Processes".

24.2 The ICB must:

- 24.2.1 develop and operate in accordance with mutually agreed ways of working in line with the Assurance Processes;
- 24.2.2 oversee the provision of Delegated Services and the outcomes being delivered for its Population in accordance with the Assurance Processes;
- 24.2.3 assure that Specialised Service Providers are meeting, or have an improvement plan in place to meet, National Standards;
- 24.2.4 provide any information and comply with specific actions in relation to the Delegated Services, as required by NHS England, including metrics and detailed reporting.

25 Attendance at governance meetings

- 25.1 The ICB must ensure that there is appropriate representation at forums established through the ICB Collaboration Arrangement.
- 25.2 The ICB must ensure that an individual(s) has been nominated to represent the ICB at the Delegated Commissioning Group (DCG) and regularly attends that group. This could be a single representative on behalf of the members of an ICB Collaboration Arrangement. Where that representative is not an employee of the ICB, the ICB must have in place appropriate arrangements to enable the representative to feedback to the ICB.
- 25.3 The ICB should also ensure that they have a nominated representative with appropriate subject matter expertise to attend National Standards development forums as requested by NHS England. This could be a single representative on behalf of the members of an ICB Collaboration Arrangement. Where that representative is not an employee of the ICB, the ICB must have in place appropriate arrangements to enable the representative to feedback to the ICB.

26 Clinical Leadership and Clinical Reference Groups

- 26.1 The ICB shall support the development of clinical leadership and expertise at a local level in respect of Specialised Services.
- 26.2 The ICB shall support local and national groups including Relevant Clinical Networks and Clinical Reference Groups that are involved in developing Clinical Commissioning Policies, National Specifications, National Standards and knowledge around Specialised Services.

27 Clinical Networks

- 27.1 The ICB shall participate in the planning, governance and oversight of the Relevant Clinical Networks, including involvement in agreeing the annual plan for each Relevant Clinical Network. The ICB shall seek to align the network priorities with system priorities and to ensure that the annual plan for the Relevant Clinical Network reflects local needs and priorities.
- 27.2 The ICB will be involved in the development and agreement of a single annual plan for the Relevant Clinical Network.

- 27.3 The ICB shall monitor the implementation of the annual plan and receive an annual report from the Relevant Clinical Network that considers delivery against the annual plan.
- 27.4 The ICB shall actively support and participate in dialogue with Relevant Clinical Networks and shall ensure that there is a clear and effective mechanism in place for giving and receiving information with the Relevant Clinical Networks including network reports.
- 27.5 The ICB shall support NHS England in the management of Relevant Clinical Networks.
- 27.6 The ICB shall actively engage and promote Specialised Service Provider engagement in appropriate Relevant Clinical Networks.
- 27.7 Where a Relevant Clinical Network identifies any concern, the ICB shall seek to consider and review that concern as soon as is reasonably practicable and take such action, if any, as it deems appropriate.
- 27.8 The ICB shall ensure that network reports are considered where relevant as part of exercising the Delegated Functions.

28 Complaints

- 28.1 This part (*Complaints*) applies from the Effective Date of Delegation or the date on which the Commissioning Team is transferred to the relevant Host ICB (whichever is the later) ("the Applicable Date").
- 28.2 The ICB will be responsible for all complaints in respect of the Delegated Services that are received from the Applicable Date, regardless of whether the circumstances to which the complaint relates occurred prior to the Applicable Date.
- 28.3 For the avoidance of doubt, NHS England will retain responsibility for all complaints in respect of the Delegated Services that were received prior to the Applicable Date.
- 28.4 At all times the ICB shall operate in accordance with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and shall co-operate with other ICBs to ensure that complaints are managed effectively.
- 28.5 Where NHS England has provided the ICB with a protocol for sharing complaints in respect of any or all Specialised Services then those provisions shall apply and are deemed to be part of this Agreement (the "Complaints Sharing Protocol").
- 28.6 The ICB shall:
 - 28.6.1 work with local organisations, including other ICBs that are party to the ICB Collaboration Arrangement or Commissioning Team, to ensure that arrangements are in place for the management of complaints in respect of the Delegated Services.
 - 28.6.2 consider, in the context of the ICB Collaboration Arrangement for the commissioning of the Delegated Services and employment arrangements for the Commissioning Team, whether it is best placed to manage the complaint, or whether it should be transferred to another ICB that is better placed to affect change.
 - 28.6.3 provide the relevant individuals at NHS England with appropriate access to complaints data held by the ICB that is necessary to carry out the complaints function as set out in the Complaints Sharing Protocol.

- 28.6.4 Provide such information relating to key performance indicators ("KPIs") as is requested by NHS England.
- 28.6.5 co-operate with NHS England in respect of the review of complaints related to the Delegated Services and shall, on request, share any learning identified in carrying out the complaints function.
- 28.6.6 take part in any peer review process put in place in respect of the complaints function.

29 Commissioning and optimisation of High Cost Drugs

- 29.1 The ICB must support the effective and efficient commissioning of High Cost Drugs for Delegated Services.
- 29.2 The ICB must support NHS England in its responsibility for the financial management and reimbursement of High Cost Drugs for Specialised Services. The ICB and NHS England must agree the support to be provided. The support must be set out in writing and may include staffing, processes, reporting, prescribing analysis and oversight arrangements, but is not limited to these matters.
- 29.3 The ICB must ensure equitable access to High Cost Drugs used within the Delegated Services that may be impacted by health inequalities and develop a strategy for delivering equitable access.
- 29.4 The ICB must develop and implement Shared Care Arrangements across the Area of the ICB.
- 29.5 The ICB must provide clinical and commissioning leadership in the commissioning and management of High Cost Drugs.
- 29.6 The ICB must ensure:
 - 29.6.1 safe and effective use of High Cost Drugs in line with national Clinical Commissioning Policies, NICE technology appraisal or highly specialised technologies guidance;
 - 29.6.2 effective introduction of new medicines;
 - 29.6.3 compliance with all NHS England commercial processes and frameworks for High Cost Drugs;
 - 29.6.4 Specialised Services Providers adhere to all NHS England commercial processes and frameworks for High Cost Drugs;
 - 29.6.5 appropriate use of Shared Care Arrangements, ensuring that they are safe and well monitored; and
 - 29.6.6 consistency of prescribing and unwarranted prescribing variation are addressed.
- 29.7 The ICB must engage in the development, implementation and monitoring of initiatives that enable use of better value medicines. Such schemes include those at a local, regional or national level.
- 29.8 Where the relevant pharmacy teams have transferred to the ICB or Host ICB, the ICB must provide:

- 29.8.1 support to prescribing networks and forums, including but not limited to, Immunoglobulin Assessment panels, prescribing networks and medicines optimisation networks;
- 29.8.2 expert medicines advice and input into the Individual Funding Request process for Delegated Services;
- 29.8.3 advice and input to national procurement and other commercial processes relating to medicines and High Cost Drugs (for example, arrangements for Homecare);
- 29.8.4 advice and input to NHS England policy development relating to medicines and High Cost Drugs.

30 Contracting

- 30.1 The ICB shall be responsible for ensuring appropriate arrangements are in place for the commissioning of the Delegated Services which for the avoidance of doubt includes:
 - 30.1.1 co-ordinating or collaborating in the award of appropriate Specialised Service Contracts;
 - 30.1.2 drafting of the contract schedules so that it reflects Mandatory Guidance, National Specifications and any specific instructions from NHS England; and
 - 30.1.3 management of Specialised Services Contracts.
- 30.2 The ICB must comply with the Contracting Standard Operating Procedure issued by NHS England.
- 30.3 In relation to the contracting for NHS England Retained Services where the ICB has agreed to act as the co-ordinating commissioner, to implement NHS England's instructions in relation to those Retained Services and, where appropriate, put in place a Collaborative Commissioning Agreement with NHS England as a party.

31 Data Management and Analytics

- 31.1 The ICB shall:
 - 31.1.1 lead on standardised collection, processing, and sharing of data for Delegated Services in line with broader NHS England, Department of Health and Social Care and government data strategies;
 - 31.1.2 lead on the provision of data and analytical services to support commissioning of Delegated Services;
 - 31.1.3 ensure collaborative working across partners on agreed programmes of work focusing on provision of pathway analytics;
 - 31.1.4 share expertise and existing reporting tools with partner ICBs in the ICB Collaboration Arrangement;
 - 31.1.5 ensure interpretation of data is made available to NHS England and other ICBs within the ICB Collaboration Arrangement;

31.1.6 ensure data and analytics teams within ICBs and NHS England work collaboratively on jointly agreed programmes of work focusing on provision of pathway analytics;

31.2 The ICB must ensure that the data reporting and analytical frameworks, as set out in Mandated Guidance or as otherwise required by NHS England, are in place to support the commissioning of the Delegated Services.

32 Finance

32.1 The provisions of Clause 10 (*Finance*) of this Agreement set out the financial requirements in respect of the Delegated Functions.

33 Freedom of Information and Parliamentary Requests

33.1 The ICB shall lead on the handling, management and response to all Freedom of Information and parliamentary correspondence relating to Delegated Services.

34 Incident Response and Management

34.1 The ICB shall:

34.1.1 lead on local incident management for Delegated Services as appropriate to the stated incident level;

34.1.2 support national and regional incident management relating to Specialised Services; and

34.1.3 ensure surge events and actions relating to Specialised Services are included in ICB escalation plans.

34.2 In the event that an incident is identified that has an impact on the Delegated Services (such as potential failure of a Specialised Services Provider), the ICB shall fully support the implementation of any requirements set by NHS England around the management of such incident and shall provide full co-operation to NHS England to enable a co-ordinated national approach to incident management. NHS England retains the right to take decisions at a national level where it determines this is necessary for the proper management and resolution of any such incident and the ICB shall be bound by any such decision.

35 Individual Funding Requests

35.1 The ICB shall provide any support required by NHS England in respect of determining an Individual Funding Request and shall implement the decision of the Individual Funding Request panel.

36 Innovation and New Treatments

36.1 The ICB shall support local implementation of innovative treatments for Delegated Services.

37 Mental Health, Learning Disability and Autism Specialised Services

37.1 The ICB will oversee the lead provider contract(s) relating to mental health, learning disability and autism (MHLDA) Provider Collaboratives that are transferred to the ICB on 1 April 2025 by NHS England. This includes complying with all terms and conditions of the contract(s), including in respect of notice periods and extensions.

- 37.2 If the ICB proposes to terminate a MHLDA lead provider contract before the end of its term, it must seek written approval from NHS England in advance.
- 37.3 In the performance of its commissioning responsibilities for MHLDA Specialised Services, the ICB shall:
 - 37.3.1 Have regard to any commissioning guidance relating to MHLDA Specialised Services issued by NHS England;
 - 37.3.2 Comply with the requirements of the Mental Health Investment Standard and related guidance issued by NHS England;
 - 37.3.3 Generally have regard to the need to commission MHLDA Specialised Services for the ICB's Population in such a manner as to ensure safe, efficient and effective services, across appropriate geographies, and which may require partnership working across other ICB or other organisational boundaries.
 - 37.3.4 Ensure that its case management function will work collaboratively across Delegated Services and Retained Services to support the oversight and progression of individual patient care, including the movement across elements of the care pathway.

38 Provider Selection and Procurement

- 38.1 The ICB shall:
 - 38.1.1 run appropriate local provider selection and procurement processes for Delegated Services;
 - 38.1.2 align all procurement processes with any changes to national procurement policy (for example new legislation) for Delegated Services;
 - 38.1.3 support NHS England with national procurements where required with subject matter expertise on provider engagement and provider landscape; and
 - 38.1.4 monitor and provide advice, guidance and expertise to NHS England on the overall provider market and provider landscape.
- 38.2 In discharging these responsibilities, the ICB must comply at all times with Law and any relevant Guidance including but not limited to Mandated Guidance; any applicable procurement law and Guidance on the selection of, and award of contracts to, providers of healthcare services.
- 38.3 When the ICB makes decisions in connection with the awarding of Specialised Services Contracts, it should ensure that it can demonstrate compliance with requirements for the award of such Contracts, including that the decision was:
 - 38.3.1 made in the best interest of patients, taxpayers and the Population;
 - 38.3.2 robust and defensible, with conflicts of interests appropriately managed;
 - 38.3.3 made transparently; and
 - 38.3.4 compliant with relevant Guidance and legislation.

39 Quality

- 39.1 The ICB must ensure that appropriate arrangements for quality oversight are in place. This must include:
- 39.1.1 clearly defined roles and responsibilities for ensuring governance and oversight of Delegated Services;
 - 39.1.2 defined roles and responsibilities for ensuring robust communication and appropriate feedback, particularly where Delegated Services are commissioned through an arrangement with one or more other ICBs;
 - 39.1.3 working with providers and partner organisations to address any issues relating to Delegated Services and escalate appropriately if such issues cannot be resolved;
 - 39.1.4 developing and standardising processes that align with regional systems to ensure oversight of the quality of Delegated Services, and participating in local System Quality Groups and Regional Quality Groups, or their equivalent;
 - 39.1.5 ensuring processes are robust and concerns are identified, mitigated and escalated as necessary;
 - 39.1.6 ensuring providers are held to account for delivery of safe, patient-focused and quality care for Delegated Services, including mechanisms for monitoring patient complaints, concerns and feedback; and
 - 39.1.7 the implementation of the Patient Safety Incident Response Framework for the management of incidents and serious events, appropriate reporting of any incidents, undertaking any appropriate patient safety incident investigation and obtaining support as required.
- 39.2 The ICB must establish a plan to ensure that the quality of the Delegated Services is measured consistently, using nationally and locally agreed metrics triangulated with professional insight and soft intelligence.
- 39.3 The ICB must ensure that the oversight of the quality of the Delegated Services is integrated with wider quality governance in the local system and aligns with the NHS England National Quality Board's recommended quality escalation processes.
- 39.4 The ICB must ensure that there is a System Quality Group (or equivalent) to identify and manage concerns across the local system.
- 39.5 The ICB must ensure that there is appropriate representation at any Regional Quality Groups or their equivalent.
- 39.6 The ICB must have in place all appropriate arrangements in respect of child and adult safeguarding and comply with all relevant Guidance.

40 Service Planning and Strategic Priorities

- 40.1 The ICB is responsible for setting local commissioning strategy, policy and priorities and planning for and carrying out needs assessments for the Delegated Services.
- 40.2 In planning, commissioning and managing the Delegated Services, the ICB must have processes in place to assess and monitor equitable patient access, in accordance with

the access criteria set out in Clinical Commissioning Policies and National Specifications, taking action to address any apparent anomalies.

- 40.3 The ICB must ensure that it works with Specialised Service Providers and Provider Collaboratives to translate local strategic priorities into operational outputs for Delegated Services.
- 40.4 The ICB shall provide input into any consideration by NHS England as to whether the commissioning responsibility in respect of any of the Retained Services should be delegated.

41 National Standards, National Specifications and Clinical Commissioning Policies

- 41.1 The ICB shall provide input into national decisions on National Standards and national transformation regarding Delegated Services through attendance at governance meetings.
- 41.2 The ICB shall facilitate engagement with local communities on National Specification development.
- 41.3 The ICB must comply with the National Specifications and relevant Clinical Commissioning Policies and ensure that all clinical Specialised Services Contracts accurately reflect Clinical Commissioning Policies and include the relevant National Specification, where one exists in relation to the relevant Delegated Service.
- 41.4 The ICB must co-operate with any NHS England activities relating to the assessment of compliance against National Standards, including through the Assurance Processes.
- 41.5 The ICB must have appropriate mechanisms in place to ensure National Standards and National Specifications are being adhered to.
- 41.6 Where the ICB has identified that a Specialised Services Provider may not be complying with the National Standards set out in the relevant National Specification, the ICB shall consider the action to take to address this in line with the Assurance Processes.

42 Transformation

- 42.1 The ICB shall:
 - 42.1.1 prioritise pathways and services for transformation according to the needs of its Population and opportunities for improvement in ICB commissioned services and for Delegated Services;
 - 42.1.2 lead ICB and ICB Collaboration Arrangement driven transformation programmes across pathways for Delegated Services;
 - 42.1.3 lead the delivery locally of transformation in areas of national priority (such as Cancer, Mental Health and Learning Disability and Autism), including supporting delivery of commitments in the NHS Long Term Plan;
 - 42.1.4 support NHS England with agreed transformational programmes for Retained Services;
 - 42.1.5 support NHS England with agreed transformational programmes and identify future transformation programmes for consideration and prioritisation for Delegated Services where national co-ordination and enablement may support transformation;

- 42.1.6 work collaboratively with NHS England on the co-production and co-design of transformation and improvement interventions and solutions in those areas prioritised; and
- 42.1.7 ensure Relevant Clinical Networks and other clinical networks use levers to facilitate and embed transformation at a local level for Delegated Services.

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SCHEDULE 4: Reserved Functions

Introduction

22. Reserved Functions in Relation to the Delegated Services

- 22.1. In accordance with Clause 6.2 of this Agreement, all functions of NHS England other than those defined as Delegated Functions, are Reserved Functions.
- 22.2. This Schedule sets out further provision regarding the carrying out of the Reserved Functions as they relate to the Delegated Functions.
- 22.3. The ICB will work collaboratively with NHS England and will support and assist NHS England to carry out the Reserved Functions.
- 22.4. The following functions and related activities shall continue to be exercised by NHS England.

23. Retained Services

- 23.1. NHS England shall commission the Retained Services set out in Schedule 5.

24. Reserved Specialised Service Functions

- 24.1. NHS England shall carry out the functions set out in this Schedule 4 in respect of the Delegated Services.

Reserved Functions

25. Assurance and Oversight

- 25.1. NHS England shall:
 - 25.1.1. have oversight of what ICBs are delivering (inclusive of Delegated Services) for their Populations and all patients;
 - 25.1.2. design and implement appropriate assurance of ICBs' exercise of Delegated Functions including the Assurance Processes;
 - 25.1.3. help the ICB to coordinate and escalate improvement and resolution interventions where challenges are identified (as appropriate);
 - 25.1.4. ensure that the NHS England Board is assured that Delegated Functions are being discharged appropriately;
 - 25.1.5. ensure specialised commissioning considerations are appropriately included in NHS England frameworks that guide oversight and assurance of service delivery; and
 - 25.1.6. host a Delegated Commissioning Group ("DCG") that will undertake an assurance role in line with the Assurance Processes. This assurance role shall include assessing and monitoring the overall coherence, stability and sustainability of the commissioning model of Specialised Services at a

national level, including identification, review and management of appropriate cross-ICB risks.

- 25.2. Where an officer or employee of NHS England is performing its Reserved Functions in respect of assurance and oversight, NHS England must ensure that those officers or employees do not hold responsibility for, or undertake any, decision making in respect of the ICB's Delegated Functions.

26. Attendance at governance meetings

- 26.1. NHS England shall ensure that there is appropriate representation in respect of Reserved Functions and Retained Services at local governance forums (for example, the Regional Leadership Team) and at the National Commissioning Group ("NCG").
- 26.2. NHS England shall:
- 26.2.1. ensure that there is appropriate representation by NHS England subject matter expert(s) at National Standards development forums;
 - 26.2.2. ensure there is appropriate attendance by NHS England representatives at nationally led clinical governance meetings; and
 - 26.2.3. co-ordinate, and support key national governance groups.

27. Clinical Leadership and Clinical Reference Groups

- 27.1. NHS England shall be responsible for the following:
- 27.1.1. developing local leadership and support for the ICB relating to Specialised Services;
 - 27.1.2. providing clinical leadership, advice and guidance to the ICB in relation to the Delegated Services;
 - 27.1.3. providing point-of-contact and ongoing engagement with key external bodies, such as interest groups, charities, NICE, DHSC, and Royal Colleges; and enabling access to clinical trials for new treatments and medicines.
- 27.2. NHS England will host Clinical Reference Groups, which will lead on the development and publication of the following for Specialised Services:
- 27.2.1. Clinical Commissioning Policies;
 - 27.2.2. National Specifications, including National Standards for each of the Specialised Services.

28. Clinical Networks

- 28.1. Unless otherwise agreed between the Parties, NHS England shall put in place contractual arrangements and funding mechanisms for the commissioning of the Relevant Clinical Networks.
- 28.2. NHS England shall ensure development of multi-ICB, and multi-region (where necessary) governance and oversight arrangements for Relevant Clinical Networks that give line of sight between all clinical networks and all ICBs whose Population they serve.
- 28.3. NHS England shall be responsible for:
- 28.3.1. developing national policy for the Relevant Clinical Networks;

- 28.3.2. developing and approving the specifications for the Relevant Clinical Networks;
- 28.3.3. maintaining links with other NHS England national leads for clinical networks not focused on Specialised Services;
- 28.3.4. convening or supporting national networks of the Relevant Clinical Networks;
- 28.3.5. agreeing the annual plan for each Relevant Clinical Network with the involvement of the ICB and Relevant Clinical Network, ensuring these reflect national and regional priorities;
- 28.3.6. managing Relevant Clinical Networks jointly with the ICB; and
- 28.3.7. agreeing and commissioning the hosting arrangements of the Relevant Clinical Networks.

29. Complaints

- 29.1. NHS England shall manage all complaints in respect of the Delegated Services that are received prior to the Effective Date of Delegation or the date on which the Commissioning Team is transferred to the Host ICB (whichever is the later).
- 29.2. NHS England shall provide the relevant individuals at the ICB with appropriate access to complaints data held by NHS England that is necessary to carry out the complaints function as set out in the Complaints Sharing Protocol.
- 29.3. NHS England shall manage all complaints in respect of the Retained Services.
- 29.4. NHS England shall set out what information the ICB is required to provide when reporting on the key performance indicators. NHS England should notify the ICB in advance and provide sufficient time to allow compliance.

30. Commissioning and optimisation of High Cost Drugs

- 30.1. Unless otherwise agreed with the ICB, NHS England shall manage a central process for reimbursement of High Costs Drugs for Specialised Services. This may include making reimbursements directly to Specialised Services Providers.
- 30.2. In respect of pharmacy and optimisation of High Cost Drugs, NHS England shall:
 - 30.2.1. where appropriate, ensure that only validated drugs spend is reimbursed, there is timely drugs data and drugs data quality meets the standards set nationally;
 - 30.2.2. support the ICB on strategy for access to medicines used within Delegated Services, minimising barriers to health inequalities;
 - 30.2.3. provide support, as reasonably required, to the ICB to assist it in the commissioning of High Cost Drugs for Delegated Services including shared care agreements;
 - 30.2.4. seek to address consistency of prescribing in line with national commissioning policies, introduction of new medicines, and addressing unwarranted prescribing variation;
 - 30.2.5. develop medicines commissioning policies and criteria for access to medicines within Specialised Services;

- 30.2.6. develop support tools, including prior approval criteria, and frameworks to support the delivery of cost-effective and high quality commissioning of High Cost Drugs;
- 30.2.7. co-ordinate the development, implementation and monitoring of initiatives that enable the use of better value medicines;
- 30.2.8. where appropriate, co-ordinate national procurement or other commercial processes to secure medicines or High Cost Drugs for Specialised Services.

31. Contracting

- 31.1. NHS England shall retain the following obligations in relation to contracting for Delegated Services:
 - 31.1.1. ensure Specialised Services are included in national NHS England contracting and payment strategy (for example, Aligned Payment Incentives);
 - 31.1.2. provide advice for ICBs on schedules to support the Delegated Services;
 - 31.1.3. set, publish or make otherwise available the Contracting Standard Operating Procedure and Mandated Guidance detailing contracting strategy and policy for Specialised Services; and
 - 31.1.4. provide and distribute contracting support tools and templates to the ICB.
- 31.2. In respect of the Retained Services, NHS England shall:
 - 31.2.1. where appropriate, ensure a Collaborative Commissioning Agreement is in place between NHS England and the ICB(s); and
 - 31.2.2. where appropriate, construct model template schedules for Retained Services and issue to ICBs.

32. Data Management and Analytics

- 32.1. NHS England shall:
 - 32.1.1. support the ICB by collaborating with the wider data and analytics network (nationally) to support development and local deployment or utilisation of support tools;
 - 32.1.2. support the ICB to address data quality and coverage needs, accuracy of reporting Specialised Services activity and spend on a Population basis to support commissioning of Specialised Services;
 - 32.1.3. ensure inclusion of Specialised Services data strategy in broader NHS England, DHSC and government data strategies;
 - 32.1.4. lead on defining relevant contractual content of the information schedule (Schedule 6) of the NHS Standard Contract for Clinical Services;
 - 32.1.5. work collaboratively with the ICB to drive continual improvement of the quality and coverage of data used to support commissioning of Specialised Services;
 - 32.1.6. provide a national analytical service to support oversight and assurance of Specialised Services, and support (where required) the national Specialised

Commissioning team, Programmes of Care and Clinical Reference Groups;
and

- 32.1.7. provide access to data and analytic subject matter expertise to support the ICB when considering local service planning, needs assessment and transformation.

33. Finance

- 33.1. The provisions of Clause 10 shall apply in respect of the financial arrangements in respect of the Delegated Functions.
- 33.2. NHS England shall:
 - 33.2.1. hold the budgets for prescribed specialised services top-up payments for specialist centres;
 - 33.2.2. administer the top-up payments schemes; and
 - 33.2.3. make top-up payments to the Specialised Services Providers.
- 33.3. For the avoidance of doubt, the functions set out in 12.2 include top-up payments for the Delegated Services and Retained Services.

34. Freedom of Information and Parliamentary Requests

- 34.1. NHS England shall:
 - 34.1.1. lead on handling, managing and responding to all national FOIA and parliamentary correspondence relating to Retained Services; and
 - 34.1.2. co-ordinate a response when a single national response is required in respect of Delegated Services.

35. Incident Response and Management

- 35.1. NHS England shall:
 - 35.1.1. provide guidance and support to the ICB in the event of a complex incident;
 - 35.1.2. lead on national incident management for Specialised Services as appropriate to stated incident level and where nationally commissioned services are impacted;
 - 35.1.3. lead on monitoring, planning and support for service and operational resilience at a national level and provide support to the ICB; and
 - 35.1.4. respond to specific service interruptions where appropriate; for example, supplier and workforce challenges and provide support to the ICB in any response to interruptions.

36. Individual Funding Requests

- 36.1. NHS England shall be responsible for:
 - 36.1.1. leading on Individual Funding Requests (IFR) policy, IFR governance and managing the IFR process for Delegated Services and Retained Services;
 - 36.1.2. taking decisions in respect of IFRs at IFR Panels for both Delegated Services and Retained Services; and

- 36.1.3. providing expertise for IFR decisions, including but not limited to pharmacy, public health, nursing and medical and quality.

37. Innovation and New Treatments

- 37.1. NHS England shall support the local implementation of innovative treatments for Delegated Services.
- 37.2. NHS England shall ensure services are in place for innovative treatments such as advanced medicinal therapy products recommended by NICE technology appraisals within statutory requirements.
- 37.3. NHS England shall provide national leadership for innovative treatments with significant service impacts including liaison with NICE.

38. Mental Health, Learning Disability and Autism Specialised Services

- 38.1. NHS England shall issue commissioning guidance for MHLDA Specialised Services in relation to the Delegated Services and Retained Services.
- 38.2. NHS England shall prepare and issue National Specifications and Clinical Commissioning Policies for MHLDA Specialised Services.
- 38.3. NHS England will monitor the ICB's compliance with the Mental Health Investment Standard in respect of MHLDA Delegated Services.
- 38.4. NHS England shall ensure that its case management function will work collaboratively across Delegated Services and Retained Services to support the oversight and progression of individual patient care, including the movement across elements of the care pathway.

39. Provider Selection and Procurement

- 39.1. In relation to procurement, NHS England shall be responsible for:
 - 39.1.1. setting standards and agreeing frameworks and processes for provider selections and procurements for Specialised Services;
 - 39.1.2. monitoring and providing advice, guidance and expertise on the overall provider market in relation to Specialised Services; and
 - 39.1.3. where appropriate, running provider selection and procurement processes for Specialised Services.

40. Quality

- 40.1. In respect of quality, NHS England shall:
 - 40.1.1. work with the ICB to ensure oversight of Specialised Services through quality surveillance and risk management and escalate as required;
 - 40.1.2. work with the ICB to seek to ensure that quality and safety issues and risks are managed effectively and escalated to the National Specialised Commissioning Quality and Governance Group (QGG), or other appropriate forums, as necessary;
 - 40.1.3. work with the ICB to seek to ensure that the quality governance and processes for Delegated Services are aligned and integrated with broader clinical quality governance and processes in accordance with National Quality Board Guidance;

- 40.1.4. facilitate improvement when quality issues impact nationally and regionally, through programme support, and mobilising intensive support when required on specific quality issues;
- 40.1.5. provide guidance on quality and clinical governance matters and benchmark available data;
- 40.1.6. support the ICB to identify key themes and trends and utilise data and intelligence to respond and monitor as necessary;
- 40.1.7. report on quality to both NCG and DCG as well as QGG and Executive Quality Group as required;
- 40.1.8. facilitate and support the national quality governance infrastructure (for example, the QGG); and
- 40.1.9. identify and act upon issues and concerns that cross multiple ICBs, coordinating response and management as necessary.

41. National Standards, National Specifications and Clinical Commissioning Policies

41.1. NHS England shall carry out:

- 41.1.1. development, engagement and approval of National Standards for Specialised Services (including National Specifications, Clinical Commissioning Policies, quality and data standards);
- 41.1.2. production of national commissioning products and tools to support commissioning of Specialised Services;
- 41.1.3. maintenance and publication of the Prescribed Specialised Services Manual and engagement with the DHSC on policy matters; and
- 41.1.4. determination of content for national clinical registries.

42. Transformation

42.1. NHS England shall be responsible for:

- 42.1.1. co-ordinating and enabling ICB-led specialised service transformation programmes for Delegated Services where necessary;
- 42.1.2. supporting the ICB to implement national policy and guidance across its Populations for Retained Services;
- 42.1.3. supporting the ICB with agreed transformational programmes where national transformation support has been agreed for Delegated Services;
- 42.1.4. providing leadership for transformation programmes and projects that have been identified as priorities for national coordination and support, or are national priorities for the NHS, including supporting delivery of commitments in the NHS Long Term Plan;
- 42.1.5. co-production and co-design of transformation programmes with the ICB and wider stakeholders; and
- 42.1.6. providing access to subject matter expertise including Clinical Reference Groups, national clinical directors, Programme of Care leads for the ICB where it needs support, including in relation to local priority transformation.

SCHEDULE 5: Retained Services

NHS England shall retain the function of commissioning the Specialised Services that are not Delegated Services and as more particularly set out by NHS England and made available from time to time.

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SCHEDULE 6: Further Information Governance, Sharing and Processing Provisions

PART 1

15. Introduction

- 15.1. This Schedule sets out the scope for the secure and confidential sharing of information between the Parties on a Need To Know basis, or where a Party acts as a Data Processor on behalf of the other Party in order to enable the Parties to exercise their functions in pursuance of this Agreement.
- 15.2. References in this Schedule (*Further Information Governance and Sharing Provisions*) to the Need to Know basis or requirement (as the context requires) should be taken to mean that each Party's Staff will only have access to Personal Data or Special Category Personal Data if it is lawful for such Staff to have access to such data for the Specified Purpose in paragraph 2.1 and the function they are required to fulfil at that particular time, in relation to the Specified Purpose, cannot be achieved without access to the Personal Data or Special Category Personal Data specified.
- 15.3. This Schedule (including the details at Part 2 and 3 of this Schedule) and any Data Sharing Agreement and/or Data Processing Agreements entered into under this Schedule are designed to:
 - 15.3.1. provide information about the reasons why Relevant Information may need to be shared and/or processed on behalf of another Party and how this will be managed and controlled by the Parties;
 - 15.3.2. describe the purposes for which the Parties have agreed to share and/or the basis on which a Party is instructed to act as a Data Processor in relation to the Relevant Information;
 - 15.3.3. set out the lawful basis for the processing of Relevant Information and sharing of information between the Parties, and the principles that underpin the exchange of Relevant Information;
 - 15.3.4. describe roles and structures to support the exchange of Relevant Information between the Parties;
 - 15.3.5. apply to the sharing and processing of Relevant Information relating to Specialised Services Providers and their Staff;
 - 15.3.6. apply to the sharing and processing of Relevant Information whatever the medium in which it is held and however it is transmitted;
 - 15.3.7. ensure that Data Subjects are, where appropriate, informed of the reasons why Personal Data about them may need to be shared and processed and how this sharing and processing will be managed;
 - 15.3.8. apply to the activities of the Parties' Staff; and
 - 15.3.9. describe how complaints relating to Personal Data sharing between the Parties and wider processing will be investigated and resolved, and how the information sharing and processing will be monitored and reviewed.

16. Purpose

- 16.1. The Specified Purpose of the data sharing and associated processing is to facilitate the exercise of the Delegated Functions and NHS England's Reserved Functions.

- 16.2. Each Party must ensure that they have in place appropriate data sharing or data processing arrangements to enable data to be received from any third party organisations from which the Parties must obtain data in order to achieve the Specified Purpose.
- 16.3. Where necessary specific and detailed purposes must be set out in a Data Sharing Agreement or Data Processing Agreement that complies with all relevant legislation and Guidance.

17. Benefits of information sharing

- 17.1. The benefits of sharing information are the achievement of the Specified Purpose, with benefits for service users and other stakeholders in terms of the improved delivery of the Delegated Services.

18. Lawful basis for sharing

- 18.1. The Parties shall comply with all relevant Data Protection Legislation requirements and Good Practice in relation to the processing of Relevant Information shared further to this Agreement.
- 18.2. The Parties shall ensure that there is a Data Protection Impact Assessment ("DPIA") that covers processing undertaken in pursuance of the Specified Purpose. The DPIA shall identify the lawful basis for sharing Relevant Information for each purpose and data flow.
- 18.3. Further details regarding the Relevant Information to be shared shall be set out in a Data Sharing Agreement and/or Data Processing Agreement.

19. Restrictions on use of the Shared Information

- 19.1. Each Party shall only process the Relevant Information as is necessary to achieve the Specified Purpose and, in particular, shall not use or process Relevant Information for any other purpose unless agreed in writing by the Data Controller that released the information to the other. There shall be no other use or onward transmission of the Relevant Information to any third party without a lawful basis first being determined, and the originating Data Controller being notified.
- 19.2. Access to, and processing of, the Relevant Information provided by a Party must be the minimum necessary to achieve the Specified Purpose. Information and Special Category Personal Data will be handled at all times on a restricted basis, in compliance with Data Protection Legislation requirements, and the Parties' Staff should only have access to Personal Data on a justifiable Need to Know basis.
- 19.3. Neither the provisions of this Schedule nor any associated Data Sharing Agreement and/or Data Processing Agreement should be taken to permit unrestricted access to data held by any of the Parties.
- 19.4. Neither Party shall subcontract any processing of the Relevant Information without the prior consent of the other Party. Where a Party subcontracts its obligations, it shall do so only by way of a written agreement with the sub-contractor which imposes the same obligations as are imposed on that Party under this Agreement, and shall remain liable for the performance of the subcontractor's obligations.
- 19.5. The Parties shall not cause or allow Relevant Information to be transferred to any territory outside the United Kingdom without the prior written permission of the responsible Data Controller.

- 19.6. Any particular restrictions on use of certain Relevant Information should be included in a Data Sharing Agreement and/or Data Processing Agreement.

20. Ensuring fairness to the Data Subject

- 20.1. In addition to having a lawful basis for sharing information, the UK GDPR generally requires that the sharing must be fair and transparent. In order to achieve fairness and transparency to the Data Subjects, the Parties will take the following measures as reasonably required:
- 20.1.1. amendment of internal guidance to improve awareness and understanding among Staff;
 - 20.1.2. amendment of respective privacy notices and policies to reflect the processing of data carried out further to this Agreement, including covering the requirements of articles 13 and 14 UK GDPR and providing these (or making them available to) Data Subjects;
 - 20.1.3. ensuring that information and communications relating to the processing of data is clear and easily accessible; and
 - 20.1.4. giving consideration to carrying out activities to promote public understanding of how data is processed where appropriate.
- 20.2. Each Party shall procure that its notification to the Information Commissioner's Office, and record of processing maintained for the purposes of Article 30 UK GDPR, reflects the flows of information under this Agreement.
- 20.3. The Parties shall reasonably co-operate in undertaking any DPIA associated with the processing of data further to this Agreement, and in doing so engage with their respective Data Protection Officers in the performance by them of their duties pursuant to Article 39 UK GDPR.
- 20.4. Further provision in relation to specific data flows may be included in a Data Sharing Agreement and/or Data Processing Agreement between the Parties.

21. Governance: Staff

- 21.1. The Parties must take reasonable steps to ensure the suitability, reliability, training and competence, of any Staff who have access to Personal Data, and Special Category Personal Data, including ensuring reasonable background checks and evidence of completeness are available on request.
- 21.2. The Parties agree to treat all Relevant Information as confidential and imparted in confidence and must safeguard it accordingly. Where any of the Parties' Staff are not healthcare professionals (for the purposes of the Data Protection Act 2018), the employing Parties must procure that Staff operate under a duty of confidentiality which is equivalent to that which would arise if that person were a healthcare professional.
- 21.3. The Parties shall ensure that all Staff required to access Personal Data (including Special Category Personal Data) are informed of the confidential nature of the Personal Data. The Parties shall include appropriate confidentiality clauses in employment/service contracts of all Staff that have any access whatsoever to the Relevant Information, including details of sanctions for acting in a deliberate or reckless manner that may breach the confidentiality or the non-disclosure provisions of Data Protection Legislation requirements, or cause damage to or loss of the Relevant Information.

- 21.4. Each Party shall provide evidence (further to any reasonable request) that all Staff that have any access to the Relevant Information whatsoever are adequately and appropriately trained to comply with their responsibilities under Data Protection Legislation and this Agreement.
- 21.5. The Parties shall ensure that:
- 21.5.1. only those Staff involved in delivery of the Agreement use or have access to the Relevant Information;
 - 21.5.2. that such access is granted on a strict Need to Know basis and shall implement appropriate access controls to ensure this requirement is satisfied and audited. Evidence of audit should be made freely available on request by the originating Data Controller; and
 - 21.5.3. specific limitations on the Staff who may have access to the Relevant Information are set out in any Data Sharing Agreement and/or Data Processing Agreement entered into in accordance with this Schedule.

22. Governance: Protection of Personal Data

- 22.1. At all times, the Parties shall have regard to the requirements of Data Protection Legislation and the rights of Data Subjects.
- 22.2. Wherever possible (in descending order of preference), only anonymised information, or, strongly or weakly pseudonymised information will be shared and processed by the Parties. The Parties shall co-operate in exploring alternative strategies to avoid the use of Personal Data in order to achieve the Specified Purpose. However, it is accepted that some Relevant Information shared further to this Agreement may be Personal Data or Special Category Personal Data.
- 22.3. Processing of any Personal Data or Special Category Personal Data shall be to the minimum extent necessary to achieve the Specified Purpose, and on a Need to Know basis.
- 22.4. If any Party becomes aware of:
- 22.4.1. any unauthorised or unlawful processing of any Relevant Information or that any Relevant Information is lost or destroyed or has become damaged, corrupted or unusable; or
 - 22.4.2. any security vulnerability or breach in respect of the Relevant Information,
- it shall promptly, within 48 hours, notify the other Parties. The Parties shall fully co-operate with one another to remedy the issue as soon as reasonably practicable, and in making information about the incident available to the Information Commissioner and Data Subjects where required by Data Protection Legislation.
- 22.5. In processing any Relevant Information further to this Agreement, the Parties shall process the Personal Data and Special Category Personal Data only:
- 22.5.1. in accordance with the terms of this Agreement and otherwise (to the extent that it acts as a Data Processor for the purposes of Article 27-28 GDPR) only in accordance with written instructions from the originating Data Controller in respect of its Relevant Information including any instructions set out in a Data Processing Agreement entered into under this Schedule, unless required by law (in which case, the processor shall inform the relevant Data

- Controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest);
- 22.5.2. to the extent as is necessary for the provision of the Specified Purpose or as is required by law or any regulatory body; and
 - 22.5.3. in accordance with Data Protection Legislation requirements, in particular the principles set out in Article 5(1) and accountability requirements set out in Article 5(2) UK GDPR; and not in such a way as to cause any other Data Controller to breach any of their applicable obligations under Data Protection Legislation.
- 22.6. The Parties shall act generally in accordance with Data Protection Legislation requirements. This includes implementing, maintaining and keeping under review appropriate technical and organisational measures to ensure and demonstrate that the processing of Personal Data is undertaken in accordance with Data Protection Legislation, and in particular to protect Personal Data (and Special Category Personal Data) against unauthorised or unlawful processing, and against accidental loss, destruction, damage, alteration or disclosure. These measures shall:
- 22.6.1. take account of the nature, scope, context and purposes of processing as well as the risks, of varying likelihood and severity for the rights and freedoms of Data Subjects; and
 - 22.6.2. be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the Personal Data and Special Category Personal Data, and having the nature of the Personal Data and Special Category Personal Data which is to be protected.
- 22.7. In particular, each Party shall:
- 22.7.1. ensure that only Staff as provided under this Schedule have access to the Personal Data and Special Category Personal Data;
 - 22.7.2. ensure that the Relevant Information is kept secure and in an encrypted form, and shall use all reasonable security practices and systems applicable to the use of the Relevant Information to prevent and to take prompt and proper remedial action against, unauthorised access, copying, modification, storage, reproduction, display or distribution, of the Relevant Information;
 - 22.7.3. obtain prior written consent from the originating Party in order to transfer the Relevant Information to any third party;
 - 22.7.4. permit any other party or their representatives (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the data processing activities carried out further to this Agreement (and/or those of its agents, successors or assigns) and comply with all reasonable requests or directions to enable each Party to verify and/or procure that the other is in full compliance with its obligations under this Agreement; and
 - 22.7.5. if requested, provide a written description of the technical and organisational methods and security measures employed in processing Personal Data.
- 22.8. The Parties shall adhere to the specific requirements as to information security set out in any Data Sharing Agreement and/or Data Processing Agreement entered into in accordance with this Schedule.

22.9. The Parties shall use best endeavours to achieve and adhere to the requirements of the NHS Digital Data Security and Protection Toolkit.

22.10. The Parties' Single Points of Contact set out in paragraph **Error! Reference source not found.** will be the persons who, in the first instance, will have oversight of third party security measures.

23. Governance: Transmission of Information between the Parties

23.1. This paragraph supplements paragraph 8 of this Schedule.

23.2. Transfer of Personal Data between the Parties shall be done through secure mechanisms including use of the N3 network, encryption, and approved secure (NHS.net or gcsx) e-mail.

23.3. Wherever possible, Personal Data should be transmitted and held in pseudonymised form, with only reference to the NHS number in 'clear' transmissions. Where there are significant consequences for the care of the patient, then additional data items, such as the postcode, date of birth and/or other identifiers should also be transmitted, in accordance with good information governance and clinical safety practice, so as to ensure that the correct patient record and/or data is identified.

23.4. Any other special measures relating to security of transfer should be specified in a Data Sharing Agreement and/or Data Processing Agreement entered into in accordance with this Schedule.

23.5. Each Party shall keep an audit log of Relevant Information transmitted and received in the course of this Agreement.

23.6. The Parties' Single Point of Contact notified pursuant to paragraph 13 will be the persons who, in the first instance, will have oversight of the transmission of information between the Parties.

24. Governance: Quality of Information

24.1. The Parties will take steps to ensure the quality of the Relevant Information and to comply with the principles set out in Article 5 UK GDPR.

25. Governance: Retention and Disposal of Shared Information

25.1. A non-originating Party shall securely destroy or return the Relevant Information once the need to use it has passed or, if later, upon the termination of this Agreement, howsoever determined. Where Relevant Information is held electronically, the Relevant Information will be deleted and formal notice of the deletion sent to the Party that shared the Relevant Information. Once paper information is no longer required, paper records will be securely destroyed or securely returned to the Party they came from.

25.2. Each Party shall provide an explanation of the processes used to securely destroy or return the information, or verify such destruction or return, upon request and shall comply with any request of the Data Controllers to dispose of data in accordance with specified standards or criteria.

25.3. If a Party is required by any law, regulation, or government or regulatory body to retain any documents or materials that it would otherwise be required to return or destroy in accordance with this Schedule, it shall notify the other Parties in writing of that retention, giving details of the documents or materials that it must retain.

- 25.4. Retention of any data shall comply with the requirements of Article 5(1)(e) GDPR and with all Good Practice including the Records Management NHS Code of Practice, as updated or amended from time to time.
- 25.5. The Parties shall set out any special retention periods in a Data Sharing Agreement where appropriate.
- 25.6. The Parties shall ensure that Relevant Information held in paper form is held in secure files, and, when it is no-longer needed, destroyed using a cross cut shredder or subcontracted to a confidential waste company that complies with European Standard EN15713.
- 25.7. Each Party shall ensure that, when no longer required, electronic storage media used to hold or process Personal Data are destroyed or overwritten to current policy requirements.
- 25.8. Electronic records will be considered for deletion once the relevant retention period has ended.
- 25.9. In the event of any bad or unusable sectors of electronic storage media that cannot be overwritten, the Party shall ensure complete and irretrievable destruction of the media itself in accordance with policy requirements.

26. Governance: Complaints and Access to Personal Data

- 26.1. The Parties shall assist each other in responding to any requests made under Data Protection Legislation made by persons who wish to access copies of information held about them ("Subject Access Requests"), as well as any other exercise of a Data Subject's rights under Data Protection Legislation or complaint to or investigation undertaken by the Information Commissioner.
- 26.2. Complaints about processing shall be reported to the Single Points of Contact and the ICB. Complaints about information sharing shall be routed through each Parties' own complaints procedure unless otherwise provided for in the Agreement or determined by the ICB. Where the complaint relates to processing undertaken by a Party acting as a Data Processor on behalf of the other Party, complaints shall be routed through the relevant Data Controller's own complaints procedure unless otherwise provided for in the Agreement.
- 26.3. The Parties shall use all reasonable endeavours to work together to resolve any dispute or complaint arising under this Schedule or any data processing carried out further to it.
- 26.4. Basic details of the Agreement shall be included in the appropriate log under each Party's publication scheme.

27. Governance: Single Points of Contact

- 27.1. The Parties each shall appoint a Single Point of Contact to whom all queries relating to the particular information sharing should be directed in the first instance.

28. Monitoring and review

- 28.1. The Parties shall monitor and review on an ongoing basis the sharing and wider processing of Relevant Information to ensure compliance with Data Protection Legislation and Best Practice. Specific monitoring requirements must be set out in the relevant Data Sharing Agreement and/or Data Processing Agreement.

SCHEDULE 6: Further Information Governance, Sharing and Processing Provisions**PART 2****Data Sharing Agreement**

Description	Details
Subject matter of the processing	Due to the complexities of Specialised Services and the distinctions between Delegated Functions and Reserved Functions, both the ICB Commissioning Teams (employed by the Host ICB) delivering Delegated Functions and the NHS England teams delivering Reserved Functions will need access to Relevant Information, which contains Personal Data. As set out in Schedule 6, Part 1, Paragraph 2.1, the Specified Purpose for sharing data is: <i>'...to facilitate the exercise of the Delegated Functions and NHS England's Reserved Functions.'</i> In order to achieve this purpose in the most effective, efficient and cost effective manner, the data will be hosted by NHS England in a collaborative working space which ICBs will have access to. NHS England will be responsible for ensuring that Commissioning Team staff have sufficient and appropriate access to Relevant Information to enable those staff to fulfil their commissioning functions in respect of the Delegated Services, including those described in Schedule 3 (Delegated Functions) to this agreement. In addition, NHS England may process the data for the following purposes: • development, oversight, and the quality improvement of Specialised Commissioning Functions; • undertaking work to evaluate the effectiveness of innovation and changes in delivery models and advising other bodies and organisations about these functions; • arranging the provision of services to support commissioning activities, to enable reporting and evaluations; • undertaking analysis, audits, and inspections to assess and assure the quality of Specialised Commissioning Functions; • supporting healthcare organisations to interpret population health data and evidence, and to undertake reviews of the likely effectiveness and cost-effectiveness of a range of interventions; • development a of strategies on population health outcomes and to identify gaps or deficiencies in current care and to produce recommendations for improvements, including in relation to specific pathways of care; • using and supporting health organisations to use health economic tools to support decision-making and interpreting data about the surveillance or assessment of a population's health to improve health outcomes and reduce health inequalities; • the development of population health policies and strategies, and their implementation
Duration of the processing	Unless otherwise specified in this Data Sharing Agreement, the processing shall commence on the Effective Date of Delegation and, as per paragraph

	11.1 of this Schedule, shall continue until the need to use it has passed or, if later, upon the termination of this Agreement.
Nature and purpose of the processing	Personal Data is shared between the in relation to the delivery of the Delegated Functions. Such processing should ensure continued: • Provision of live services and associated reporting; • Quality improvement and assurance of services; • Dissemination of data for health and research purposes.
Type of Personal Data being Processed	The following potentially in scope: • Patient identifiers including but not limited to NHS numbers or pseudonymised NHS numbers, hospital numbers or medical records identifiers. • Patient name, address (or partial address), date of birth (or age). • Patient characteristics including ethnicity or categorisation derived from ethnicity and collected for the purposes of monitoring equity of access to services. • OPCS coding for medical procedures and ICD-10 or other classification of medical conditions, comorbidities or patient healthcare status including where not the primary reason (or a reason) for treatment. • Specific details of medical history, including correspondence between third parties relating to patients, where necessary to support individual casework decisions on treatment eligibility, to confirm funding status for treatments, to investigate and resolve safety concerns or complaints, to settle claims, or to progress legal or regulatory reviews. • Patient financial details, including bank details, where necessary to make direct payments to patients
Categories of Data Subject	Staff (including volunteers, agents, and temporary workers), customers/clients, suppliers, patients, members of the public where information is held for the purposes of population health management.

SCHEDULE 6: Further Information Governance, Sharing and Processing Provisions**PART 3****Data Processing Agreement**

Description	Details
Identity of the Controller and Processor	The ICB is the Data Controller and NHS England is the Data Processor.
Subject matter of the processing	Both the ICB Commissioning Teams (employed by the Host ICB) delivering Delegated Functions and the NHS England teams delivering Reserved Functions will need access to Relevant Information. In order to achieve this purpose in the most effective, efficient and cost effective manner, the data will be hosted by NHS England in a collaborative working space which ICBs will have access to. Consequently, NHS England will act as a Data Processor on behalf of the ICB in relation to the Relevant Information required to commission the Delegated Services and fulfil the Delegated Functions.
Duration of the processing	Unless otherwise specified in this Data Processing Agreement the processing shall commence on the Effective Date of Delegation and, as per paragraph 11.1 of this Schedule, shall continue until the need to use it has passed or, if later, upon the termination of this Agreement.
Plan for return and destruction of the data once the processing is complete	As set out in paragraph 11.1 of this Schedule
Nature and purpose of the processing	This Data Processing Agreement considers processing of any data by NHS England on behalf of the ICB Commissioning Teams in relation to the delivery of the Delegated Functions. Such processing should ensure continued: • Provision of live services and associated reporting; • Quality improvement and assurance of services; • Dissemination of data for health and research purposes.
Type of Personal Data being Processed	The following potentially in scope: • Patient identifiers including but not limited to NHS numbers or pseudonymised NHS numbers, hospital numbers or medical records identifiers. • Patient name, address (or partial address), date of birth (or age). • Patient characteristics including ethnicity or categorisation derived from ethnicity and collected for the purposes of monitoring equity of access to services. • OPCS coding for medical procedures and ICD-10 or other classification of medical conditions, comorbidities or patient healthcare status including where not the primary reason (or a reason) for treatment. • Specific details of medical history, including correspondence between third parties relating to patients, where necessary to support individual casework decisions on treatment eligibility, to

	confirm funding status for treatments, to investigate and resolve safety concerns or complaints, to settle claims, or to progress legal or regulatory reviews. • Patient financial details, including bank details, where necessary to make direct payments to patients
Categories of Data Subject	Staff (including volunteers, agents, and temporary workers), customers/clients, suppliers, patients, members of the public where information is held for the purposes of population health management.

SCHEDULE 7: Mandated Guidance

Generally applicable Mandated Guidance

- [National Guidance on System Quality Groups.](#)
- [Managing Conflicts of Interest in the NHS.](#)
- Arrangements for Delegation and Joint Exercise of Statutory Functions.
- Guidance relating to procurement and provider selection.
- Information Governance Guidance relating to serious incidents.
- All other applicable IG and Data Protection Guidance.
- Any applicable Freedom of Information protocols.
- Any applicable Guidance on Counter Fraud, including from The NHS Counter Fraud Authority.
- Any applicable Guidance relating to the use of data and data sets for reporting.
- Guidance relating to the processes for making and handling individual funding requests, including:
 - [Commissioning policy: Individual funding requests;](#)
 - [Standard operating procedures: Individual funding requests.](#)

Workforce

- [Guidance on the Employment Commitment.](#)

Finance

- [Guidance on NHS System Capital Envelopes.](#)
- [Managing Public Money \(HM Treasury\).](#)

Specialised Services Mandated Guidance

- Commissioning Change Management Business Rules.
- Cashflow Standard Operating Procedure.
- Finance and Accounting Standard Operating Procedure.
- Provider Collaborative Guidance.
- Clinical Commissioning Policies.
- National Specifications.
- National Standards.
- The Prescribed Specialised Services Manual

SCHEDULE 8: Local Terms**General**

Where there is a Dispute as to the content of this Schedule, the Parties should follow the Disputes procedure set out at Clause 25.

Following signature of the Agreement, this Schedule can be amended by the Parties using the Variations procedure at Clause 26.

NHS England can amend this Schedule without the ICB's consent by using the variation procedure set out in Clause 26.2 but the expectation is that variations should be by consent.

Part 1A – Services to be managed and commissioned by the ICB on a host basis (Networks)

[Under clause 7.1 of this Agreement, which provides that “unless otherwise agreed between the parties, NHS England shall put in place contractual arrangements and funding mechanisms for the commissioning of the Relevant Clinical Networks” it is hereby agreed that:

1) NHS England will transfer the funding allocation for the following South West clinical networks to the ICB to hold on a host basis:

- a. South West Critical Care ODN
- b. Peninsula Major Trauma ODN
- c. Severn Major Trauma ODN
- d. South West Neurosurgery ODN
- e. Peninsula Spinal Surgery ODN
- f. Severn Spinal Surgery ODN
- g. South West Spinal Cord Injury ODN
- h. South West Neonatal ODN
- i. South West Paediatric Critical Care ODN
- j. South West Specialised Surgery in Children ODN
- k. South West Fetal Medicine ODN
- l. South West Congenital Heart Disease ODN
- m. South West Severe Asthma ODN
- n. South West Radiotherapy ODN
- o. South West CTYA Cancer ODN
- p. South West and Wales Burns ODN

2) The ICB will manage the allocation for the listed networks.

Commented [LC1]: This provision is only relevant for Somerset ICB which will be Principal Commissioner. It is included in this version circulated to all ICBs for visibility. It is NOT USED in other ICBs delegation arrangements and will be marked accordingly in the version of this agreement issued for acceptance and signing.

3) The ICB will contract for the listed networks with Provider organisations and will manage those contracts.

4) Day-to-day operational management and oversight of the listed networks shall be undertaken by the Specialised Commissioning Team within the Collaborative Commissioning Hub which has been established to perform delegated functions on behalf of the ICB.

5) This does not affect NHS England retained responsibilities listed in clauses 7.2 and 7.3 of this Agreement. Specifically, the following decisions belong to NHS England albeit that they may be made through shared governance (Joint Committee) identified under the separate ICB Collaboration Agreement made between the parties to this Agreement and the other South West ICBs:

- a. The ratification of the annual network work programmes.
- b. The ratification of proposed changes to the organisation which hosts any one of the networks or the terms on which it hosts that network.
- c. The ratification of proposed changes to the current uniform hosting and funding model or standardised SLA for South West networks.

Part 1B – Services to be managed and commissioned by the ICB on a host basis (other minor contracts)

The following services are in scope of delegation but have not been split on a population basis. These services shall be delegated to the ICB to commission and manage on a host provider basis in respect of the South West population:

- 1) NHS Blood and Transplant in respect of Therapeutic Plasma Exchange Services which is contracted on a block basis to deliver a pan-ICB service.

The following services are in scope of delegation but have not been split on a population basis. These services shall be delegated to the ICB to commission and manage on a host provider basis in respect of all England user populations:

- 1) NONE

Commented [LC2]: This provision is only relevant for Somerset ICB which will be Principal Commissioner. It is included in this version circulated to all ICBs for visibility. It is NOT USED in other ICBs delegation arrangements and will be marked accordingly in the version of this agreement issued for acceptance and signing.

Part 2 – the services to be planned or commissioned at an ICB level

None of the delegated services will be commissioned on an individual ICB footprint. This provision is subject to review for 2026/27 financial year, but may be reviewed earlier with the consent of all parties.

Part 3 – the services to be planned or commissioned by an ICB Collaboration Arrangement

All delegated services listed in Schedule 2 of this Agreement will be commissioned and planned through a collaboration Arrangement (“the Principal Commissioner model”). This provision is subject to review for 2026/27 financial year, but may be reviewed earlier with the consent of all parties.

Part 4 – Funding arrangements

Arrangements for establishing the financial framework for delegated specialised services are fully documented in the separate ICB Collaboration Agreement made between the parties to this Delegation Agreement and the other South West ICBs.

Part 5 – Workforce and Commissioning Team Arrangements

Arrangements for establishing the Specialised Commissioning Team are fully documented in the separate ICB Collaboration Agreement made between the parties to this Delegation Agreement and the other South West ICBs.

Part 6 – ICB Collaboration Arrangements

Further to Clause 8 of this Agreement, which requires the ICB to establish a Collaboration Arrangement with other ICBs, the parties shall enter into an ICB Collaboration Agreement in the form set out at Annexe A to this Schedule which appears at the end of the document in digital versions. Specifically, this agreement will:

- 1) Establish a single ICB to act as the Principal Commissioner for all South West delegated services
- 2) Sub-delegate the delegated services from each individual ICB to that Principal ICB making it solely legally responsible as commissioner
- 3) Arrange for the Principal Commissioner to exercise the consolidated delegated function jointly with all South West ICBs
- 4) Establish a Joint Commissioning arrangements under which all of the South west ICBs will participate in strategic decision-making on the consolidated delegated portfolio through a Joint Committee
- 5) Establish a Specialised Commissioning Team which will perform the delegated functions on behalf of the Principal.

Part 7 – Pooled Funds and Non-Pooled Funds

None established by this Agreement.

Part 8 – Provider Collaboratives

None established by this Agreement. Existing contracts with Mental Health Lead Provider Collaboratives will be assigned outside this Agreement by way of GC12 Contractual Notice.

Part 9 – Further Governance Arrangements

None established by this Agreement.

Annexe A to schedule 8 :

- South West ICB Collaboration Agreement version 0.5.1 follows out of sequence at the end of this document immediately after schedule 10 to preserve the ordering and numbering conventions of subsequent schedules.

SCHEDULE 9: Developmental Arrangements

These Development Arrangements take precedence over the terms of this Agreement including other Schedules, and the Agreement shall be read as varied by these Developmental Arrangements. Save as varied by these Developmental Arrangements the Agreement remains in full force and effect.

The Developmental Arrangements

The following Developmental Arrangements apply to this Agreement:

1. Delegated specialised commissioning allocations for the ICB will be ringfenced to be spent only on specialised commissioning services. This includes reserves and discretionary growth funding as well as existing contractual spend, both block and variable elements. This does not determine which specialised services those allocations are spent on. Any variation of this condition would need to be approved by the NHSE South West Regional Managing Director and Regional Director of Finance.
2. The ICB is required to include all delegated specialised services in the Principal Commissioner model (as defined in schedule 8, Part 6 of this Agreement and the draft ICB Collaboration Agreement included at Annexe A) and will not be permitted to remove any specialised services from the arrangement without a viable alternative to mitigating financial risk being agreed, with dual approval received from the NHSE South West Regional Managing Director and Regional Director of Finance
3. The ICB must plan to hold a contingency in their specialised commissioning financial plan of at least 0.5% of their allocation for delegated specialised services, unless an alternative approach is agreed with the NHSE South West Regional Director of Finance.
4. With reference to the Oversight Framework and the ICB's assessed status within the Oversight Framework, the ICB and NHS England agree that:
 - 4.1. Any decision that impacts on the overall spend of the specialised service allocation (the Delegated Funds) must have NHS England (regional) approval before the commissioning change is made or any change process is begun.
 - 4.2. This Developmental Arrangement:
 - 4.2.1.applies if the ICB is assessed as within NOF3 or NOF4 of the Oversight Framework at the time of signing the agreement or, an equivalent score at the time the annual ICB capability assessment is undertaken.
 - 4.2.2.should not act as barrier to innovation and change but does reflect NHS England's continued accountability for Delegated Services, its role in oversight and assurance and the need to work together to support those systems facing the greatest challenges.
 - 4.3. NHS England may issue further Guidance on this Developmental Arrangement to ensure it aligns with any amended Oversight Framework.

DRAFT

SCHEDULE 10: Administrative and Management Services

- NOT REQUIRED -

The administrative and management arrangements are fully documented in the separate ICB Collaboration Agreement made between the parties to this Delegation Agreement and the other South West ICBs.

DRAFT

Annexe A to Schedule 8 – ICB Collaboration Agreement

[Circulated as a separate document to ICBs 31st January 2025. Full text to be inserted here in version of this agreement issued for acceptance and signature]

DRAFT

Agreement Dated 31st March 2025

(commencement date 1st April 2025)

Between

NHS Cornwall and Isles of Scilly Integrated Care Board

- and -

NHS Devon Integrated Care Board

- and -

NHS Somerset Integrated Care Board

- and -

NHS Bristol, North Somerset & South Gloucestershire Integrated Care Board

- and -

NHS Gloucestershire Integrated Care Board

- and -

NHS Bath and North East Somerset, Swindon and Wiltshire Integrated Care Board

- and -

NHS Dorset Integrated Care Board

- and -

NHS England

ICB Collaboration Agreement

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THIS AGREEMENT is made on the 31st March 2025

BETWEEN:

- (1) **NHS Cornwall and Isles of Scilly Integrated Care Board** of Part 2S, Chy Trevail, Beacon Technology Park, Dunmere Road, Bodmin, PL31 2FR ("**CIOS ICB**");
- (2) **NHS Devon Integrated Care Board** of Newcourt House, Old Rydon Lane, Exeter, EX2 7JU ("**Devon ICB**");
- (3) **NHS Somerset Integrated Care Board** of Wynford House, Lufton Way, Yeovil, Somerset, BA22 8HR ("**Somerset ICB**");
- (4) **NHS Bristol, North Somerset & South Gloucestershire Integrated Care Board** of 360 Bristol – Three Six Zero, Marlborough Street, Bristol, BS1 3NX ("**BNSSG ICB**");
- (5) **NHS Gloucestershire Integrated Care Board** of Shire Hall, Westgate Street, Gloucester, GL1 2TR ("**Gloucestershire ICB**");
- (6) **NHS Bath and North-East Somerset, Swindon and Wiltshire Integrated Care Board** of Jenner House, Avon Way, Langley Park, Chippenham, SN15 1GG ("**BSW ICB**");
- (7) **NHS Dorset Integrated Care Board** of Vespasian House, Barrack Road, Dorchester DT1 1TG ("**Dorset ICB**"); and
- (8) **NHS England** of South West House, Blackbrook Park Avenue, Taunton, TA1 2PE

each a "Partner" and together the "Partners".

CIOS ICB, Devon ICB, Somerset ICB, BNSSG ICB, Gloucestershire ICB, BSW ICB and Dorset ICB are together referred to in this Agreement as the "**ICBs**" or "**Partner ICBs**", and "**ICB**" or "**Partner ICB**" shall mean any of them.

All references in this Agreement to "**the Principal Commissioner**" shall mean **Somerset ICB**. references in context to "**the Other Partner ICBs**" or similar shall take their natural interpretation.

All references in this Agreement to "**the Host ICB**" shall mean **Somerset ICB**. References in context to "**the Other Partner ICBs**" or similar shall take their natural interpretation.

BACKGROUND

- (A) NHS England has statutory functions to make arrangements for the provision of prescribed services for the purposes of the NHS.
- (B) The ICBs have statutory functions to make arrangements for the provision of services for the purposes of the NHS in their Areas, apart from those commissioned by NHS England.
- (C) Pursuant to section 65Z5 of the NHS Act, NHS England and the ICBs are able to establish and maintain joint arrangements in respect of the discharge of their Commissioning Functions.
- (D) Under the Delegation Agreement made pursuant to section 65Z5, NHS England has delegated the Delegated Functions to each of the ICBs. NHS England has retained responsibility for the NHS England Reserved Functions and commissioning of the Retained Services.

- (E) It is agreed that in order to exercise the Delegated Functions in the most efficient and effective manner, some of the Delegated Services are best commissioned collaboratively between multiple ICBs.
- (F) This Agreement sets out the arrangements that will apply between the ICBs in relation to the collaborative commissioning of Specialised Services for the ICBs' Populations.

NOW IT IS HEREBY AGREED as follows:

1. COMMENCEMENT, CONDITIONS PRECEDENT AND DURATION

- 1.1 This Agreement is made with a nominal commencement date of 1st April 2025.
- 1.2 The existence of a validly executed and legally effective Delegation Agreement between each of the ICBs and NHS England in respect of specialised services is a condition precedent to this Agreement. On satisfaction of this condition, whether on the Commencement Date or a later date, and without any requirement for further notification or communication this agreement will become effective in full.
- 1.3 This Agreement will remain in force unless terminated in accordance with Clause 23 (*Termination & Default*) below.

2. PRINCIPLES AND AIMS

- 2.1 The Partners acknowledge that, in exercising their obligations under this Agreement, each Partner must comply with the statutory duties set out in the NHS Act and must:
 - 2.1.1 consider how it can meet its legal duties to involve patients and the public in shaping the provision of Services, including by working with local communities, under-represented groups and those with protected characteristics for the purposes of the Equality Act 2010;
 - 2.1.2 consider how, in performing its obligations, it can address health inequalities;
 - 2.1.3 at all times exercise functions effectively, efficiently and economically; and
 - 2.1.4 act at all times in good faith towards each other.
- 2.2 The Partners agree:
 - 2.2.1 that successfully implementing this Agreement will require strong relationships and an environment based on trust and collaboration;
 - 2.2.2 to seek to continually improve whole pathways of care including Specialised Services and to design and implement effective and efficient integration;
 - 2.2.3 to act in a timely manner;
 - 2.2.4 to share information and best practice, and work collaboratively to identify solutions, eliminate duplication of effort, mitigate risks and reduce cost;
 - 2.2.5 to act at all times ensure the Partners comply with the requirements of the Delegation Agreements including Mandated Guidance;
 - 2.2.6 to act at all times in accordance with the scope of their statutory powers; and
 - 2.2.7 to have regard to each other's needs and views, irrespective of the relative contributions of the Partners to the commissioning of any Services and, as far as is reasonably practicable, take such needs and views into account.
- 2.3 The Partners' aims are:

- 2.3.1 to maximise the benefits to patients of integrating the Delegated Functions with the ICBs' Commissioning Functions through designing and commissioning the Specialised Services as part of the wider pathways of care of which they are a part and, in doing so, promote the Triple Aim;

3. OVERVIEW AND SCOPE OF THE ARRANGEMENTS

- 3.1 At the Commencement Date the Partners agree that the following Joint Working Arrangements shall be in place:
- 3.1.1 Delegation by NHS England of the Delegated Functions to each individual ICB in accordance with the relevant Delegation Agreement. For the **Principal Commissioner** this includes the following additional functions that are unique to its Delegation Agreement with NHS England:
- i. The commissioning, contracting and management of specific defined services which are delegated on a Host Provider basis rather than a population basis.
 - ii. The management of Operational Delivery Networks on behalf of NHS England, including the management of the associated budget.
- 3.2 This Agreement establishes the following further Joint Working Arrangements:
- 3.2.1 Sequentially to 3.1.1, further delegation of the Delegated Functions by each individual ICB to the **Principal Commissioner** causing it to become the legally responsible commissioner of these services.
- 3.2.2 Sequentially to 3.2.1, the creation of a joint commissioning arrangement between the **Principal Commissioner** and each individual ICB by which the Delegated Functions are exercised jointly by all the Partner ICBs together whilst the **Principal Commissioner** remains the legally responsible commissioner. For the avoidance of doubt, this includes the functions noted at 3.1.1(i) and (ii), above.
- 3.2.3 Sequentially to 3.2.2, the establishment of a **Joint Committee** of the Partners which shall be a sub-committee of the **Principal Commissioner's** Board and which shall exercise strategic decision making powers in respect of the Delegated Functions as set out in its agreed Terms of Reference included here at Schedule 3.
- 3.2.4 Decisions not reserved to the **Joint Committee** in its agreed Terms of Reference may by default be made by officers of the **Principal Commissioner** in line with its own Scheme of Reservation and Delegation.
- 3.2.5 The partners will establish a Specialised Commissioning Team employed by the **Host ICB** as part of a wider Collaborative Commissioning Hub. This Specialised Commissioning Team will undertake all day-to-day management activities in relation to the Delegated Functions as set out in Schedule 4. These management activities may extend to services which are retained by **NHS England** where separately agreed between the Partners.
- 3.2.6 The Partners will conclude a separate Accountability Agreement to establish a mechanism for managing the resourcing of the Specialised Commissioning Team and the wider Collaborative Commissioning Hub, and for agreeing an annual Commissioning Mandate for each of the portfolio areas.

4. ENACTMENT OF FURTHER DELEGATION

- 4.1 In accordance with their statutory powers under section 65Z5 of the NHS Act, each of the ICBs hereby delegate the exercise of the Delegated Functions to the **Principal Commissioner** to empower it to commission a range of services for their combined Population, as further described in this Agreement.
- 4.2 Although it is anticipated that this Agreement alone is sufficient, the other ICBs shall take any such action as may be required, or may be subsequently determined to be required, to amend their constitutions and enact any necessary Board measures to give effect to this further delegation.
- 4.3 The Delegated Functions in scope of this agreement are described in Schedule 2 to this Agreement, or else where Schedule 2 is not used then the Delegated Functions in scope are all functions described as being delegated individually to each of the ICBs in Schedule 3 of their respective Delegation Agreements with NHS England.
- 4.4 Each of the ICBs remains individually accountable to NHS England under their respective Delegation Agreements for ensuring that the Delegated Functions are properly exercised.
- 4.5 The **Principal Commissioner** becomes individually and separately accountable to each of the other ICBs for the manner in which it exercises the Delegated Functions, and must do so in a manner consistent to the other ICBs' own onward obligations to NHS England.
- 4.6 Decisions of the **Principal Commissioner** in respect of the Delegated Functions and made in accordance with the terms of this Agreement shall be binding on the **ICBs** and binding on **NHS England** through the operation of each ICB's respective Delegation Agreement with NHS England.

5. FINANCIAL CONDITIONS AND CONSEQUENCES OF THE FURTHER DELEGATION

- 5.1 In respect of each financial year that this Agreement remains in effect, the ICBs shall ensure that the full commissioning allocation they have received from NHS England for the Delegated Functions in scope of this Agreement is transferred to the Principal Commissioner entirely.
- 5.2 The **Principal Commissioner** shall hold the allocations received under clause 5.1 in its own right as principal and not as an agent or trustee of the ICB initiating the transfer, having full operational control over the allocations subject only to the restrictions and requirements established by this Agreement and bearing sole financial risk in relation to the management of these allocations.
- 5.3 The allocations received and held by the **Principal Commissioner** under clause 5.1 are hereafter referred to as **the Consolidated Budget**.
- 5.4 The **Principal Commissioner** shall agree and publish to all Partners a Financial SOP which documents:
 - 5.4.1 the Principal Commissioner's internal processes for financial management and reporting of the Consolidated Budget
 - 5.4.2 the arrangements for transacting allocation transfers with the individual ICBs

5.4.3 the arrangements for reporting to each Partner ICB, off ledger and in shadow, the notional position in relation to that ICBs population spend and allocation within the Consolidated Budget

5.5 The Financial SOP described under clause 5.4 is an internal operational document owned by the Principal Commissioner it may be amended and approved in line with the Principal Commissioner's own financial governance processes, but the **Principal Commissioner** must consult with the Partner ICBs on any material changes to the processes or interactions between the Principal ICB and the other Partner ICBs before adopting them.

6. ENACTMENT OF JOINT COMMISSIONING ARRANGEMENT AND CREATION OF JOINT COMMITTEE

6.1 Immediately following the effective operation of Clause 4 of this Agreement and in accordance with its statutory powers under section 65Z5 of the NHS Act the **Principal Commissioner** hereby establishes a joint working arrangement under which the Delegated Functions are jointly exercised with the other Partners.

6.2 This arrangement shall not change the status of the **Principal Commissioner** as the legally responsible commissioner for the delegated services which has been established by Clause 4 of this Agreement.

6.3 The **Principal Commissioner** shall, together with the other Partners, establish a **Joint Committee** which will operate in accordance with the terms of reference set out in Schedule 3 which may be updated from time-to-time by agreement of the Parties.

6.4 The **Principal Commissioner** shall take such action as may be required to amend its constitution and internal Scheme of Reservation and Delegation, and to enact any necessary Board measures to empower and authorise the **Joint Committee** to exercise the powers and remit set out in its terms of reference.

6.5 The **Principal Commissioner** shall take such action as may be necessary to implement decisions of the Joint Committee which are properly made under its agreed Terms of Reference.

6.6 Decisions not explicitly reserved to the **Joint Committee** under its agreed Terms of Reference fall to the **Principal Commissioner** by default, and the Principal Commissioner shall determine its own internal governance requirements in relation to these decisions, including the authority levels which are permitted to individuals or groups within the Specialised Commissioning Team.

7. FINANCIAL CONDITIONS AND CONSEQUENCES OF THE JOINT COMMISSIONING ARRANGEMENT

7.1 Nothing in Clause 6 shall have the effect of altering the financial responsibility for the Consolidated Budget as established by Clause 4 and Clause 5.

7.2 For the avoidance of doubt, where the **Joint Committee** makes decisions to commit resource from the Consolidated Budget within its agreed Terms of Reference, it does so as the subcommittee of the **Principal Commissioner's** Board.

- 7.3 The financial consequences associated with implementing decisions of the **Joint Committee**, remain solely with the **Principal Commissioner**, and other members of the **Joint Committee** incur no financial liability or risk
- 7.4 Notwithstanding Clause 7.3, all the Parties to this Agreement shall have a duty to act in good faith and cooperate in a manner which minimises risk on the Consolidated Budget. The Parties may, outside this Agreement, make further arrangements regarding the management and mitigation of financial risk.
- 7.5 The **Joint Committee** shall not make or purport to make any decision which:
 - 7.5.1 Causes or requires the **Principal Commissioner** to overcommit the Consolidated Budget
 - 7.5.2 Causes or requires the **Principal Commissioner** to breach a contract or regulatory undertaking that would expose the **Principal Commissioner** to financial penalties
 - 7.5.3 Causes or requires any **ICB** partner to breach any condition of its own respective Delegation Agreement with NHS England or which is otherwise contrary to any of the requirements or restrictions specified by the Developmental Arrangements set out in schedule 9 of any individual ICBs Delegation Agreement with NHS England.

8. **OPERATIONAL QUALITY AND CLINICAL RESPONSIBILITY CONSEQUENCES OF THE FURTHER DELEGATION AND JOINT COMMISIONING ARRANGEMENT**

- 8.1 The **Principal Commissioner** becomes responsible for operational quality management of all delegated services within scope of this agreement. This includes:
 - 8.1.1 monitoring the quality of the services commissioned
 - 8.1.2 identifying, documenting and mitigating quality risks within these services,
 - 8.1.3 exercising contractual or statutory commissioner powers to inspect, close, suspend or arrange for the re-provision of services where required as an operational response to quality and safety issue
 - 8.1.4 Responding to regulatory action and processes as the legal commissioner of the services
- 8.2 Individual **ICBs** remain responsible for overseeing the response to systemic or organisational quality issues in providers within their geography under the NHS Oversight Framework and accountable to NHSE England in relation to the quality of service within their geographically hosted providers.
- 8.3 Individual **ICBs** remain responsible for leading or coordinating the local response to critical incidents in providers within their geography which impact on the delegated services or functions within scope of this Agreement.
- 8.4 Formal escalation of quality and safety issues within the overarching NHS quality framework will continue to be through the System Quality Group relevant to the provider in which the concerns arise, coordinated by the relevant individual ICB

- 8.5 The **Principal Commissioner** must formally report quality, risk and safety issues to the individual ICBs and NHS England through the Joint Committee established under this Agreement or to the subgroup designated by that committee
- 8.6 In relation to material emerging or deteriorating quality and safety issues which are likely to require escalated action, the **Principal Commissioner** must ensure early visibility notification outside of standing reporting to the Joint Committee directly to:
 - 8.6.1 NHS England Regional Medical Director
 - 8.6.2 NHS England Regional Director of Nursing
 - 8.6.3 Medical Director of the relevant ICB
 - 8.6.4 Nursing Director of the relevant ICB.
- 8.7 Day to day operational quality management actions, including supporting of routine reporting to the Joint Committee are undertaken by Specialised Commissioning Team within the Collaborative Commissioning Hub as agents or employees of the Principal Commissioner. The Specialised Commissioning Team also manages communication with the individual ICBs to enable them to support formal reporting and resolution of quality issues through their relevant local System Quality Groups.
- 8.8 The Partners must agree and publish a Quality Framework and Risk Management Framework that describes the operational processes for managing quality issues and risks between them. This framework may be revised from time to time by agreement between the partners.

9. COLLABORATIVE COMMISSIONING HUB AND SPECIALISED COMMISSIONING TEAM

- 9.1 The ICBs have each received (or will receive) a running cost allocation from NHS England associated with the management of delegated specialised services.
- 9.2 Further, the ICBs have each received a running cost allocation from NHS England associated with the management of delegated pharmacy optometry and dentistry services. The delegation, commissioning, decision-making and management arrangements of these services are not governed by this agreement except insofar as this Section 8 shall specify
- 9.3 Staff and posts funded from the allocations referred to in clauses 9.1 and 9.2 have been (or will be) transferred to the **Host ICB** from NHS England under a TUPE process.
- 9.4 For as long as this agreement remains in force, the **ICBs** shall transfer in full their respective running cost allowances referred to in clause 9.1 and 9.2 to the **Host ICB** for the purpose of ensuring that the staff and posts referred to in clause 9.2 are funded.
- 9.5 The partners agree to establish a Collaborative Commissioning Hub which will work to manage the commissioning of both the Delegated Functions within scope of this agreement, and other delegated services which are outside the scope of this agreement on behalf of their respective legal commissioners.
- 9.6 The partners have (or will) enter into a separate Accountability Agreement which will govern the collective management of the Collaborative Commissioning Hub, and the arrangements for distributing or redeploying resources between the various services for which are covered by the Collaborative Commissioning Hub. And:

- 9.6.1 The partners will agree and document, through this governance mechanism, an annual Commissioning Mandate for each of the portfolio areas covered by the Collaborative Commissioning Hub;
- 9.6.2 The Partners shall have a duty to cooperate, through this governance mechanism, to minimise unnecessary administrative burden on the Collaborative Commissioning Hub, including by coordinating audit schedules and agreeing aligned audit requirements; and
- 9.6.3 The Partners may agree, through this governance mechanism, to pay additional recurrent or non-recurrent financial subscriptions to the **Host ICB** for the purchase of additional commissioning support or technical BI, legal or procurement support for the activities of the Collaborative Commissioning Hub.
- 9.7 Those staff within the Collaborative Commissioning Hub assigned to manage the Delegated Functions within scope of this Agreement are hereafter referred to as **“the Specialised Commissioning Team”**
- 9.8 Where the **Host ICB** and **Principal Commissioner** are *the same entity*, the Specialised Commissioning Team shall perform the functions set out in Schedule 4 on behalf of the **Principal Commissioner** as its officers and employees, acting in line with the **Principal Commissioner's** internal authority limits and Scheme of Reservation and Delegation.
- 9.9 Where the **Host ICB** and **Principal Commissioner** are *different entities*, they agree to enter into a legal agency agreement under which the **Host ICB** will act as an agent of the **Principal Commissioner**. The Specialised Commissioning Team shall perform the functions set out in Schedule 4 on behalf of the **Principal Commissioner** as employees of its legal agent, acting in line with the Scheme of Authority set out in Schedule 5.
- 9.10 The **Host ICB** shall adopt appropriate measures to segregate the management of the Specialised Commissioning Team from the management of its core business, including by endeavouring that:
 - 9.10.1 Insofar as possible the management accounting processes relevant to consolidated budget and the delegated specialised services are carried out on a self-contained basis by the Specialised Commissioning Team;
 - 9.10.2 The Specialised Commissioning Team, or ESM staff within that team, shall have appropriate authorisation levels to undertake day-to-day operational management and decision-making in relation to the delegated specialised services, without the need to routinely seek approval from officers of the Host ICB outside the Specialised Commissioning Team except where this is reasonable and proportionate in line with the **Host ICBs** Standing Financial Instructions.
- 9.11 Additionally, the Partners agree that the Specialised Commissioning Team may perform any of the functions set out in Schedule 4 on behalf of **NHS England** and in respect of services which are retained by NHS England under its delegation agreements with the ICBs where this is agreed through the arrangements for managing and coordinating the resource of the Collaborative Commissioning Hub described in Clause 9.6, above.
- 9.12 Nothing in Clause 9.11 shall be interpreted as authorising the **Host ICB** or the members of the Specialised Commissioning Team to make decisions on behalf of **NHS England** regarding functions or services which have been retained by NHS England or as creating any agency relationship between **NHS England** and the **Host ICB**. For the avoidance of doubt, where members of the Specialised Commissioning Team perform functions under Clause 9.11 they must at all times act in accordance with the instructions of **NHS England**

- 9.13 Nothing in Clause 9.11 shall be interpreted as delegating the services or functions which have been retained by **NHS England** at all times, **NHS England** remains the sole legal commissioner.
- 9.14 Nothing in clause 9.11 shall be interpreted as creating a joint commissioning relationship in respect of the services or functions retained by **NHS England**.

10. RESPONSIBILITIES OF THE PRINCIPAL COMMISSIONER

- 10.1 The **Principal Commissioner** shall:
- 10.1.1 exercise the Functions delegated to it by of each Partner in line with this Agreement;
 - 10.1.2 endeavour to ensure that all services are funded as set out in the financial plan agreed between all the Partners in respect of each Financial Year;
 - 10.1.3 comply with all relevant legal duties and Guidance of all Partners in relation to the Services being commissioned;
 - 10.1.4 perform all commissioning obligations with all due skill, care and attention;
 - 10.1.5 undertake performance management and contract monitoring of all service contracts in relation to financial, operational delivery and service quality issues including (without limitation) the use of contract notices or exercise of other commissioner powers where Services fail to deliver to contracted requirements or standards;
 - 10.1.6 make payment of all sums due to a Provider pursuant to the terms of any Services Contract;
 - 10.1.7 keep the other Partner(s) regularly informed of the effectiveness of the Joint Working Arrangements including any forecasted Overspend or Underspend against the Consolidated Budget; and
 - 10.1.8 Ensure that each of the other Partners receives regular reporting on its own notional population spend against its notional contribution to the Consolidated Budget, notwithstanding that the Consolidated Budget is managed and formally reported as a single fund.
 - 10.1.9 Provide such information or assistance as may be reasonably required to enable NHS England to be assured regarding its residual commissioning accountabilities in respect of the services within scope of this Agreement..

11. RESPONSIBILITIES OF THE OTHER PARTNER ICBS

- 11.1 The Other Partner ICBS Shall:
- 11.1.1 Participate fully in the activities of the **Joint Committee**.
 - 11.1.2 share with the **Joint Committee**, in good time, intelligence about ICB strategy that may have an impact on the planning, commissioning delivery or performance of specialised services.

- 11.1.3 Provide such support as the **Principal Commissioner** or its agents may require to implement decisions of the **Joint Committee**.
- 11.1.4 Provide such local support, intelligence and access to local system groups as the **Principal Commissioner** or its agents may require to effectively manage the service contracts with the service providers.
- 11.1.5 Continue to hold lead responsibility for overseeing providers within their geography under the NHS Oversight Framework in respect of those providers' full healthcare operation, inclusive of any delegated specialised services.
- 11.1.6 Establish their own internal reporting arrangements to ensure the standards of accountability and probity required by each Partner's own statutory duties and organisational governance processes are complied with.

11.2 The Other Partners Shall not:

- 11.2.1 Make or purport to make through their own governance processes any decision in respect of a service or function which they have delegated to the **Principal Commissioner** or which is exercised through the **Joint Committee** other than in accordance with the terms of this Agreement.
- 11.2.2 Make or purport to make through their own governance processes any decision to commission, decommission or materially change the provision of a service which forms part of their core commissioning responsibility outside the scope of this agreement where that service change could potentially materially impact capacity, demand or activity flows to specialised services which are in scope of this Agreement without first undertaking an impact assessment and bringing this to the **Joint Committee** for review at the earliest practicable point in the development of those proposals.

12. **POOLED FUNDS, NON-POOLED FUNDS AND RISK SHARING**

- 12.1 For the avoidance of doubt, none of the arrangements described in Clause 4 or Clause 5 establishing the Consolidated Budget creates a pooled or non-pooled fund in which the Partners have rights.

13. **REVIEW**

- 13.1 Save where the Partners agree alternative arrangements (including alternative frequencies) the Partners shall undertake an Annual Review of the operation of this Agreement, any Pooled Fund and Non-Pooled Fund and the provision of the Services within three (3) months of the end of each Financial Year.
- 13.2 Annual Reviews shall be conducted in good faith.

14. **VARIATION**

- 14.1 The Partners acknowledge that the scope of the Joint Working Arrangements may be reviewed and amended from time to time.
- 14.2 This Agreement may be varied by the agreement of the Partners at any time in writing in accordance with the Partners' internal decision-making processes.
- 14.3 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.

15. DATA PROTECTION

- 15.1 The Partners must ensure that all Personal Data processed by or on behalf of them in the course of carrying out the Joint Working Arrangements is processed in accordance with the relevant Partner's obligations under Data Protection Legislation and Data Guidance, and the Partners must assist each other as necessary to enable each other to comply with these obligations.
- 15.2 Processing of any Personal Data or Special Category Personal Data shall be to the minimum extent necessary to achieve the Specified Purpose, and on a Need to Know basis. If any Partner:
 - 15.2.1 becomes aware of any unauthorised or unlawful processing of any Relevant Information or that any Relevant Information is lost or destroyed or has become damaged, corrupted or unusable; or
 - 15.2.2 becomes aware of any security breach,

in respect of the Relevant Information it shall promptly notify the relevant Partners and NHS England. The Partners shall fully cooperate with one another to remedy the issue as soon as reasonably practicable.
- 15.3 In processing any Relevant Information further to this Agreement, each Partner shall at all times comply with their own policies and any NHS England policies and guidance on the handling of data.
- 15.4 Any information governance breach must be responded to in accordance with the Information Governance Guidance for Serious Incidents. If any Partner is required under Data Protection Legislation to notify the Information Commissioner's Office or a Data Subject of an information governance breach, then, as soon as reasonably practical and in any event on or before the first such notification is made, the relevant Partner must fully inform the other Partners of the information governance breach. This clause does not require the relevant Partner to provide information which identifies any individual affected by the information governance breach where doing so would breach Data Protection Legislation.
- 15.5 Whether or not a Partner is a Data Controller or Data Processor will be determined in accordance with Data Protection Legislation and any Data Guidance from a Regulatory or Supervisory Body. The Partners acknowledge that a Partner may act as both a Data Controller and a Data Processor.
- 15.6 The Partners will share information to enable joint service planning, commissioning, and financial management subject to the requirements of Law, including in particular the Data Protection Legislation in respect of any Personal Data.
- 15.7 Other than in compliance with judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or Claim or otherwise required

by any Law, no information will be shared with any third parties save as agreed by the Partners in writing.

- 15.8 Schedule 6 (*Further Information Governance and Sharing Provisions*) makes further provision about information sharing and information governance.

16. IT INTER-OPERABILITY

- 16.1 The Partners will work together to ensure that all relevant IT systems operated by the Partners in respect of the Joint Working Arrangements are inter-operable and that data may be transferred between systems securely, easily and efficiently.
- 16.2 The Partners will each use reasonable endeavours to help develop initiatives to further this aim.

17. FREEDOM OF INFORMATION

- 17.1 Each Partner acknowledges that the others are a public authority for the purposes of the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 ("EIR").
- 17.2 Each Partner may be statutorily required to disclose further information about the Agreement and the FOIA or EIA Information in response to a specific request under FOIA or EIR, in which case:
- 17.2.1 each Partner shall provide the other Partners with all reasonable assistance and co-operation to enable them to comply with their obligations under FOIA or EIR;
 - 17.2.2 each Partner shall consult the other Partners as relevant regarding the possible application of exemptions in relation to the FOIA or EIA Information requested; and
 - 17.2.3 each Partner acknowledges that the final decision as to the form or content of the response to any request is a matter for the Partner to whom the request is addressed.

18. CONFLICTS OF INTEREST AND TRANSPARENCY ON GIFTS AND HOSPITALITY

- 18.1 The Partners must ensure that, in delivering the Joint Working Arrangements, all Staff comply with Law, with Managing Conflicts of Interest in the NHS and other Guidance, and with Good Practice, in relation to gifts, hospitality and other inducements and actual or potential conflicts of interest.
- 18.2 Each ICB must maintain a register of interests in respect of all persons involved in decisions concerning the Joint Working Arrangements. This register must be publicly available. For the purposes of this clause, an ICB may rely on an existing register of interests rather than creating a further register.

19. CONFIDENTIALITY

- 19.1 Except as this Agreement otherwise provides, Confidential Information is owned by the disclosing Partner and the receiving Partner has no right to use it.
- 19.2 Subject to Clause 19.3, the receiving Partner agrees:
 - 19.2.1 to use the disclosing Partner's Confidential Information only in connection with the receiving Partner's performance under this Agreement;
 - 19.2.2 not to disclose the disclosing Partner's Confidential Information to any third party or to use it to the detriment of the disclosing Partner; and
 - 19.2.3 to maintain the confidentiality of the disclosing Partner's Confidential Information.
- 19.3 The receiving Partner may disclose the disclosing Partner's Confidential Information:
 - 19.3.1 in connection with any Dispute Resolution Procedure;
 - 19.3.2 to comply with the Law;
 - 19.3.3 to any appropriate Regulatory or Supervisory Body;
 - 19.3.4 to its Staff, who in respect of that Confidential Information will be under a duty no less onerous than the Receiving Partner's duty under Clause 19.2;
 - 19.3.5 to NHS bodies for the purposes of carrying out their functions; and
 - 19.3.6 as permitted under any other express arrangement or other provision of this Agreement.
- 19.4 The obligations in Clause 19 will not apply to any Confidential Information which:
 - 19.4.1 is in or comes into the public domain other than by breach of this Agreement;
 - 19.4.2 the receiving Partner can show by its records was in its possession before it received it from the disclosing Partner; or
 - 19.4.3 the receiving Partner can prove it obtained or was able to obtain from a source other than the disclosing Partner without breaching any obligation of confidence.
- 19.5 This Clause 19 does not prevent NHS England making use of or disclosing any Confidential Information disclosed by an ICB where necessary for the purposes of exercising its functions in relation to that ICB.
- 19.6 This Clause 19 will survive the termination of this Agreement for any reason for a period of five (5) years.
- 19.7 This Clause 19 will not limit the application of the Public Interest Disclosure Act 1998 in any way whatsoever.

20. LIABILITIES

- 20.1 Subject to Clause 20.2, and 20.3, if a Partner ("First Partner") incurs a Loss arising out of or in connection with this Agreement 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 then the Other Partner shall be liable to the First Partner for that Loss.

- 20.2 Clause 20.1 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.
- 20.3 If any third party makes a Claim or intimates an intention to make a Claim against any Partner, which may reasonably be considered as likely to give rise to liability under this Clause 20, the Partner that may have a Claim against the Other Partner will:
 - 20.3.1 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;
 - 20.3.2 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); and
 - 20.3.3 give the Other Partner and its professional advisers reasonable access to its premises and Staff and to any relevant assets, accounts, documents and records within its power or control so as to enable the Other 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.
- 20.4 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.
- 20.5 Unless expressly agreed otherwise, nothing in this Agreement shall affect:
 - 20.5.1 the liability of NHS England to any person in respect of NHS England's Commissioning Functions; or
 - 20.5.2 the liability of any of the ICBs to any person in respect of that ICB's Commissioning Functions.
- 20.6 Each ICB must:
 - 20.6.1 comply with any requirements set out in the Delegation Agreement in respect of Claims and any policy issued by NHS England from time to time in relation to the conduct of or avoidance of Claims or the pro-active management of Claims;
 - 20.6.2 if it receives any correspondence, issue of proceedings, claim document or other document concerning any Claim or potential Claim, immediately notify the other Partners and send each relevant Partner all copies of such correspondence; and
 - 20.6.3 co-operate fully with each relevant Partner in relation to such Claim and the conduct of such Claim.

21. DISPUTE RESOLUTION

- 21.1 Where any dispute arises between the ICBs in connection with this Agreement, the Partners must use their best endeavours to resolve that dispute.
- 21.2 Where any dispute is not resolved under Clause 21.1 on an informal basis, any Authorised Officer may convene a special meeting of the Partners to attempt to resolve the dispute.
- 21.3 If the dispute is not resolved in accordance with Clause 21.12 then any ICB may refer the matter to NHS England for resolution via a process to be determined by the NHSE Regional Director.

22. BREACHES OF THE AGREEMENT

- 22.1 If any Partner ("Relevant Partner") fails to meet any of its obligations under this Agreement, the other Partners (acting jointly) may by notice require the Relevant Partner to take such reasonable action within a reasonable timescale as the other Partners may specify to rectify such failure. Should the Relevant Partner fail to rectify such failure within such reasonable timescale, the matter shall be referred for resolution in accordance with Clause 21 (*Dispute Resolution*).
- 22.2 Without prejudice to Clause 22.1, if any Partner does not comply with the terms of this Agreement (including if any Partner exceeds its authority under this Agreement), the other Partners may at their discretion agree to:
 - 22.2.1 waive their rights in relation to such non-compliance;
 - 22.2.2 ratify any decision;
 - 22.2.3 terminate this Agreement in accordance with Clause 23 (*Termination and Default*) below; or
 - 22.2.4 exercise the Dispute Resolution Procedure in accordance with Clause 21 (*Dispute Resolution*).

23. TERMINATION AND DEFAULT

- 23.1 If an ICB wishes to end its participation in this Agreement, the relevant ICB must provide at least six (6) months' notice to the other Partners of its intention to end its participation in this Agreement and must have prior agreement by NHS England. Such notification shall only take effect from the end of 31 March in any calendar year and shall only take effect where alternative arrangements for the provision of the Delegated Services and effective exercise of the Delegated Functions are in place for the period immediately following termination.
- 23.2 The ICBs will work together to ensure that there are suitable alternative arrangements in place in relation to the Services.

24. CONSEQUENCES OF TERMINATION

- 24.1 Upon termination of this Agreement (in whole or in part), for any reason whatsoever, the following shall apply:
- 24.1.1 the Partners agree that they will work together and co-operate to ensure that the winding down of these arrangements is carried out smoothly and with as little disruption as possible to patients, employees, the Partners and third parties, so as to minimise costs and liabilities of each Partner in doing so;
 - 24.1.2 where there are Commissioning Team arrangements in place the Partners shall discuss and agree arrangements for the Staff and any financial arrangements;
 - 24.1.3 where the **Principal Commissioner** has entered into a Service Contract in exercise of the Functions of any other Partner which continues after the termination of this Agreement, all Partners shall continue to provide necessary funding 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;
 - 24.1.4 The **Principal 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 Partner in breach of the Service Contract) where the other Partner requests the same in writing provided that the **Principal Commissioner** shall not be required to make any payments to a Service provider for such amendment or termination unless the Partners shall have agreed in advance who shall be responsible for any such payment;
 - 24.1.5 where a Service Contract held by the **Principal Commissioner** relates all or partially to services which relate to the other Partner's Functions and provided that the Service Contract allows, the other Partner may request that the **Principal Commissioner** assigns the Service Contract in whole or part upon the same terms as the original contract; and
 - 24.1.6 termination of this Agreement shall have no effect on the liability, rights or remedies of any Partner already accrued, prior to the date upon which such termination takes effect.
- 24.2 The provisions of Clauses 15 (*Data Protection*), 170 (*Freedom of Information*), 19 (*Confidentiality*), 20 (*Liabilities*) and 24 (*Consequences of Termination*) shall survive termination or expiry of this Agreement.

25. PUBLICITY

- 25.1 The Partners shall use reasonable endeavours to consult one another before making any public announcements concerning the subject matter of this Agreement, the Joint Working Arrangements or any Services provided under the Joint Working Arrangements.

26. EXCLUSION OF PARTNERSHIP OR AGENCY

- 26.1 Nothing in this Agreement shall create or be deemed to create a legal partnership under the Partnership Act 1890 or the relationship of employer and employee between the Partners.

26.2 Save as specifically authorised under the terms of this Agreement, no Partner shall hold itself out as the agent of any other Partner.

26.3 Specifically, wherever the **Principal Commissioner** performs the Delegated Functions under this agreement, including where it implements decisions of the **Joint Committee**, it does so in its own right as the legally responsible commissioner and not as an agent of any other Partner.

27. **THIRD PARTY RIGHTS**

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

28. **NOTICES**

28.1 Any notices given under this Agreement must be sent by e-mail to the relevant Authorised Officers or their nominated deputies.

28.2 Notices by e-mail will be effective when sent in legible form, but only if, following transmission, the sender does not receive a non-delivery message.

29. **ASSIGNMENT AND SUBCONTRACTING**

29.1 This Agreement, and any rights and conditions contained in it, may not be assigned or transferred by a Partner, without the prior written consent of the other Partners, except to any statutory successor to the relevant Commissioning Function.

30. **SEVERABILITY**

30.1 If any term, condition or provision contained in this Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality or enforceability of the remaining parts of this Agreement.

31. **WAIVER**

31.1 No failure or delay by a Partner to exercise any right or remedy provided under this Agreement or by Law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

32. **STATUS**

32.1 The Partners acknowledge that they are health service bodies for the purposes of section 9 of the NHS Act. Accordingly, this Agreement shall be treated as an NHS contract and shall not be legally enforceable.

33. **ENTIRE AGREEMENT**

- 33.1 This Agreement constitutes the entire agreement and understanding of the Partners and supersedes any previous agreement between the Partners relating to the subject matter of this Agreement.

34. **GOVERNING LAW AND JURISDICTION**

- 34.1 Subject to the provisions of Clause 21 (*Dispute Resolution*) and Clause 32 (*Status*), this Agreement shall be governed by and construed in accordance with English Law, and the Partners irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or Claim that arises out of or in connection with this Agreement.

35. **FAIR DEALINGS**

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

36. **COUNTERPARTS**

- 36.1 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.

This Agreement has been entered into on the Commencement Date

On behalf of CIOS ICB

	NAME POSITION DATE
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On behalf of Devon ICB

	NAME POSITION DATE
--	---

On behalf of Somerset ICB

	NAME POSITION DATE
--	---

On behalf of BNSSG ICB

	NAME POSITION DATE
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On behalf of Gloucestershire ICB

	NAME POSITION DATE
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On behalf of BSW ICB

	NAME POSITION DATE
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On behalf of BSW ICB

	NAME POSITION DATE
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On behalf of NHS England

	NAME POSITION DATE
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SCHEDULE 1: DEFINITIONS AND INTERPRETATIONS

1. In this Agreement, unless the context otherwise requires, the following words and expressions shall have the following meanings:

"Accountability Agreement"	An agreement made separately between the parties to this agreement which sets out the arrangements for coordinating and managing the resource of the Collaborative Commissioning Hub
"Agreement"	means this agreement between the Partners comprising these terms and conditions together with all schedules attached to it;
"Annual Review"	means the annual review of the arrangements under this Agreement by the Partners;
"Area"	means the geographical area covered by the ICBs;
"Authorised Officer"	the individual(s) appointed as Authorised Officer in accordance with the agreed Terms of Reference;
"Claim"	means for or in relation to the Commissioning Functions (a) any litigation or administrative, mediation, arbitration or other proceedings, or any claims, actions or hearings before any court, tribunal or the Secretary of State, any governmental, regulatory or similar body, or any department, board or agency or (b) any dispute with, or any investigation, inquiry or enforcement proceedings by any governmental, regulatory or similar body or agency;
"Clinical Commissioning Policies"	a nationally determined clinical policy sets out the commissioning position on a particular clinical treatment issue and defines accessibility (including a not for routine commissioning position) of a medicine, medical device, diagnostic technique, surgical procedure or intervention for patients with a condition requiring a specialised service;
"Clinical Reference Groups"	means a group consisting of clinicians, commissioners, public health experts, patient and public voice representatives and professional associations, which offers specific knowledge and expertise on the best ways that Specialised Services should be provided;
"Collaborative Commissioning Agreement"	means an agreement under which NHS Commissioners set out collaboration arrangements in respect of commissioning Specialised Services Contracts;
"Commencement Date"	[means 1 April 2025];
"Commissioning Functions"	the respective statutory functions of the Partners in arranging for the provision of services as part of the health service;
"Commissioning Mandate"	A document which the Parties will agree annually to record the priorities and resourcing requirements of the Specialised Commissioning Team (or any other portfolio team within the Collaborative Commissioning Hub), and against which the performance of the Team will be managed. This document to be agreed through governance arrangements established under a separate Accountability Agreement.

"Commissioning Team"	means a staffing arrangement for commissioning agreed Services through an integrated team structure. This can be either set up using: (i) Lead Commissioning (one Partner hosts the Unit as Lead and all functions are delegated to that Partner); or (ii) Joint Commissioning or Aligned Commissioning (one Partner may host but no functions are delegated). The Partners will need to agree whether decisions are taken via a Joint Commissioning arrangement such as a Joint Committee or whether each Partner is required to take decisions;
"Commissioning Team Agreement"	means the separate agreement(s) that sets out the arrangements for a Commissioning Team (if such an agreement has been concluded);
"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 or Joint Working Arrangements made pursuant to it and: (i) which comprises Personal Data or which relates to any patient or his treatment or medical history; (ii) the release of which is likely to prejudice the commercial interests of a Partner; or (iii) which is a trade secret;
Consolidated Budget	Means the sum of the delegated specialised services allocations which in any given financial year the Partner ICBs have received from NHS England and have further delegated to the Principal Commissioner and which is held by the Principal Commissioner in its own right as a single allocation for the purposes of funding all delegated specialised services for the South West population
"Contracting Standard Operating Procedure"	means any contracting standard operating procedure produced by NHS England in respect of the Delegated Specialised Services;
"Data Controller"	shall have the same meaning as set out in the Data Protection Legislation;
"Data Processor"	shall have the same meaning as set out in the Data Protection Legislation;
"Data Sharing Agreement"	means any data sharing agreement entered into in accordance with Schedule 6 (<i>Further Information Governance and Sharing Provisions</i>);
"Data Guidance"	means any applicable guidance, guidelines, direction or determination, framework, code of practice, standard or requirement regarding information governance, confidentiality, privacy or compliance with Data Protection Legislation to the extent published and publicly available or their existence or contents have been notified to the ICB by NHS England and/or any relevant Regulatory or Supervisory Body. This includes but is not limited to guidance issued by NHS Digital, the National Data Guardian for Health & Care, the Department of Health and Social Care, NHS England, the Health Research Authority, the UK Health Security Agency and the Information Commissioner;
"Data Protection Legislation"	means the UK General Data Protection Regulation, the Data Protection Act 2018, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Privacy and

	Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003), the common law duty of confidentiality and all applicable laws and regulations relating to the processing of Personal Data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;
“Data Protection Officer”	shall have the same meaning as set out in the Data Protection Legislation;
“Data Security and Protection Toolkit”	means the toolkit at: https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/data-security-and-protection-toolkit or as amended or replaced from time to time
“Delegated Commissioning Group” “DCG”	means the advisory forum in respect of Delegated Services set up by NHS England currently known as the Delegated Commissioning Group for Specialised Services;
“Delegation Agreement(s)”	means the Delegation Agreements under which NHS England delegate specific NHS England Specialised Services Commissioning Functions to each ICB;
“Delegated Functions”	means the Specialised Services Commissioning Functions of NHS England delegated to each ICB under a Delegation Agreement;
“Delegated Services”	means those Specialised Services commissioned in exercise of the Delegated Functions;
“Dispute Resolution Procedure”	the procedure set out in Clause 0 (<i>Dispute Resolution</i>);
“EIR”	means the Environmental Information Regulations 2004;
“Finance Guidance”	guidance, rules and operating procedures produced by NHS England that relate to these Joint Working Arrangements, including but not limited to the following: - Commissioning Change Management Business Rules; - Contracting Standard Operating Procedure; - Cashflow Standard Operating Procedure; - Finance and Accounting Standard Operating Procedure; - Service Level Framework Guidance;
“Financial Contribution”	means the financial contributions agreed by each Partner in respect of an Individual Scheme 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;
“FOIA”	the Freedom of Information Act 2000 and any subordinate legislation made under it from time to time, together with any guidance or codes of practice issued by the Information Commissioner or relevant government department concerning this legislation;

"FOIA or EIR Information"	has the meaning given under section 84 of FOIA or the meaning given for "environmental information" under the EIR as applicable;
"Good Practice"	means using standards, practices, methods and procedures conforming to the law, reflecting up-to-date published evidence and exercising that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled, efficient and experienced commissioner;
"Guidance"	means any applicable guidance, guidelines, direction or determination, framework, code of practice, standard or requirement to which the Partners have a duty to have regard (and whether specifically mentioned in this Agreement or not), to the extent that the same are published and publicly available or the existence or contents of them have been notified by any relevant Regulatory or Supervisory Body;
"High Cost Drugs"	means medicines not reimbursed though national prices and identified on the NHS England high cost drugs list;
"ICB Reserved Functions"	Where there is any delegation of an ICB's Commissioning Functions or further delegation of Delegated Functions, those functions that remain reserved to each ICB;
"Indemnity Arrangement"	means either: (i) a policy of insurance; (ii) an arrangement made for the purposes of indemnifying a person or organisation; or (iii) a combination of (i) and (ii);
"Individual Scheme"	means an arrangement in relation to how the ICBs will work together using one or more of the Flexibilities which has been agreed by the Partners to be included within this Agreement as part of the Joint Working Arrangements;
"Joint Committee"	means the joint committee(s) established under this Agreement on the terms set out in the Terms of Reference;
"Joint Functions"	any Functions that are delegated to a Joint Committee;
"Joint Commissioning"	means Partners agreeing to jointly exercise agreed Commissioning Functions on behalf of each other in exercise of the functions of each Partner part of that Individual Scheme. This may, for example, be through agreeing to enter into the same contract or by use of a Joint Committee;
"Joint Working Arrangements"	means the Flexibilities that the Partners have agreed to use to work in a co-ordinated manner which, at the Commencement Date, are as set out in Clause 3;
"Law"	means: (i) any statute or proclamation or any delegated or subordinate legislation; (ii) 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

	(iii) any judgment of a relevant court of law which is a binding precedent in England;
“Loss”	means all damages, 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 common law;
“Managing Conflicts of Interest in the NHS”	means the NHS publication by that name available at: https://www.england.nhs.uk/publication/managing-conflicts-of-interest-in-the-nhs-guidance-for-staff-and-organisations/ or such publication that amends or replaces that publication;
“Mandated Guidance”	means any protocol, policy, guidance, guidelines, framework or manual relating to the exercise of Delegated Functions and issued by NHS England from time to time as mandatory;
“National Standards”	means the service standards for each Specialised Service, as set by NHS England and included in Clinical Commissioning Policies or National Specifications;
“National Specifications”	the service specifications published by NHS England in respect of Specialised Services;
“Need to Know”	has the meaning set out in Schedule 6 (<i>Further Information Governance and Sharing Provisions</i>);
“NHS Act”	the National Health Service Act 2006;
“NHS England Functions”	NHS England’s Commissioning Functions exercisable under or by virtue of the NHS Act;
“NHS England Reserved Functions”	those aspects of the Specialised Commissioning Functions for which NHS England retains commissioning responsibility;
“Non-Personal Data”	means data which is not Personal Data;
“Non-Pooled Funds”	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;
“Operational Days”	means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday in England;
“Partners”	means the parties to this Agreement;
“Personal Data”	has the meaning set out in the Data Protection Legislation;
“Pooled Funds”	means any pooled fund established and maintained by the Partners as a pooled fund;
“Population”	means the population for which an ICB or all of the ICBs have the responsibility for commissioning health services;

“Provider Collaborative”	means a group of Providers who have agreed to work together to improve the care pathway for one or more Services;
“Provider Collaborative Arrangements”	means the arrangements entered into in respect of a Provider Collaborative;
“Provider Collaborative Guidance”	means any guidance published by NHS England in respect of Provider Collaboratives;
“Regional Quality Group”	means a group set up to act as a strategic forum at which regional partners from across health and social care can share, identify and mitigate wider regional quality risks and concerns as well as share learning so that quality improvement and best practice can be replicated;
“Regulatory or Supervisory Body”	means any statutory or other body having authority to issue guidance, standards or recommendations with which the relevant Party and/or Staff must comply or to which it or they must have regard, including: (i) CQC; (ii) NHS England; (iii) the Department of Health and Social Care; (iv) NICE; (v) Healthwatch England and Local Healthwatch; (vi) the General Medical Council; (vii) the General Dental Council; (viii) the General Optical Council; (ix) the General Pharmaceutical Council; (x) the Healthcare Safety Investigation Branch; and (xi) the Information Commissioner;
“Relevant Information”	means the Personal Data and Non-Personal Data processed under this Agreement, and includes, where appropriate, “confidential patient information” (as defined under section 251 of the NHS Act), and “patient confidential information” as defined in the 2013 Report, The Information Governance Review – <i>“To Share or Not to Share?”</i>);
“Reserved Functions”	means NHS England Reserved Functions or ICB Reserved Functions;
“Relevant Clinical Networks”	means those clinical networks identified by NHS England as required to support the commissioning of Specialised Services for the Population;
“Retained Services”	means those Specialised Services for which NHS England shall retain commissioning responsibility, as set out the Delegation Agreement;

“Risk Sharing”	means an agreed arrangement for risk and benefit sharing between the Partners;
“Scheme Specification”	means a specification setting out the Joint Working Arrangements in respect of an Individual Scheme agreed by the Partners to be commissioned under this Agreement;
“Services”	means such health services as agreed from time to time by the Partners as commissioned under the Joint Working Arrangements and more specifically defined in each Scheme Specification;
“Service Contract”	means an agreement entered into by one or more of the Partners in exercise of its obligations under this Agreement to secure the provision of Services in accordance with the relevant Individual Scheme
“Single Point of Contact”	the member of Staff appointed by each relevant Partner in accordance with Paragraph 13 of Schedule 6 (<i>Further Information Governance and Sharing Provisions</i>);
“Special Category Personal Data”	has the meaning set out in the Data Protection Legislation;
“Specialised Commissioning Budget”	means the budget identified by NHS England in respect of each ICB for the purpose of exercising the Delegated Functions;
“Specialised Commissioning Functions”	means the statutory functions conferred on NHS England under Section 3B of the NHS Act 2006 and Regulation 11 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012/2996 (as amended or replaced);
“Specified Purpose”	means the purpose for which the Relevant Information is shared and processed to facilitate the exercise of the Joint Working Arrangements as specified in Schedule 6 (<i>Further Information Governance and Sharing Provisions</i>) to this Agreement;
“Specialised Services”	means the services commissioned in exercise of the Specialised Commissioning Functions;
“Specialised Services Contract”	means a contract for the provision of Specialised Services entered into in the exercise of the Specialised Commissioning Functions;
“Specialised Services Provider”	means a provider party to a Specialised Services Contract;
“Staff”	means the Partners’ employees, officers, elected members, directors, voluntary staff, consultants, and other contractors and sub-contractors acting on behalf of any Partner (whether or not the arrangements with such contractors and sub-contractors are subject to legally binding contracts) and such contractors’ and their sub-contractors’ personnel;
“System quality group”	means a group set up to identify and manage concerns across the local system. The system quality group shall act as a strategic forum at which partners from across the local health and social care footprint can share issues and risk information to inform response and management, identify and mitigate quality risks and concerns as well as share learning and best practice;

“Terms of Reference”	means the Terms of Reference for the Joint Committee agreed between the Partners at the first meeting of the Joint Committee;
“Triple Aim”	means the duty on each of the Partners in making decisions about the exercise of their functions, to have regard to all likely effects of the decision in relation to: (i) the health and well-being of the people of England; (ii) the quality of services provided to individuals by the NHS; (iii) efficiency and sustainability in relation to the use of resources by the NHS;
“Underspend”	means any expenditure from a Pooled Fund or Non-Pooled Fund in a Financial Year which is less than the value of the agreed contributions by the Partners for that Financial Year;
“UK GDPR”	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018.

2. References to statutory provisions shall be construed as references to those provisions as respectively amended or re-enacted (whether before or after the Commencement Date) from time to time.
3. The headings of the Clauses in this Agreement are for reference purposes only and shall not be construed as part of this Agreement or deemed to indicate the meaning of the relevant Clauses to which they relate. Reference to Clauses are Clauses in this Agreement
4. The use of colouring, highlighting or other emphasis of words or key terms within the clauses of this Agreement is for ease of identifying where particular partners (or partners acting in a particular capacity) are referenced and shall not be construed as part of this agreement or deemed to indicate the meaning or interpretation of the clauses within which they appear.
5. References to Schedules are references to the schedules to this Agreement and a reference to a Paragraph is a reference to the paragraph in the Schedule containing such reference.
6. References to a person or body shall not be restricted to natural persons and shall include a company, corporation or organisation.
7. Words importing the singular number only shall include the plural.
8. Use of the masculine includes the feminine and all other genders.
9. Where anything in this Agreement requires the mutual agreement of the Partners, then unless the context otherwise provides, such agreement must be in writing.
10. Any reference to the Partners shall include their respective statutory successors, employees and agents.
11. In the event of a conflict, the conditions set out in the Clauses to this Agreement shall take priority over the Schedules.

12. 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.

SCHEDULE 2: SERVICES AND FUNCTIONS IN SCOPE

(For use in scenarios where this is **not** the full scope of services and functions delegated to partner ICBs by NHS England as the agreement provides by default)

- NOT USED -

SCHEDULE 3: JOINT COMMITTEES

1. The ICBs have established a Joint Committee which will operate in accordance with the agreed Terms of Reference ("Terms of Reference"). The Joint Committee (and each member of the Joint Committee) will act at all times in accordance with the Terms of Reference.
2. The Partners shall nominate one Authorised Officer and substitutes to the Joint Committee in accordance with the Terms of Reference.
3. The Partners may establish sub-groups or sub-committees of the Joint Committee with such Terms of Reference as may be agreed between them from time to time.
4. The ICBs shall ensure that their Authorised Officer and substitutes have appropriate delegated authority, in accordance with each ICB's internal governance arrangements, to represent the interests of each ICB in the Joint Committee and any other sub-groups or sub-committees established by the Joint Committee.
5. The Partners recognise the need to ensure that any potential conflicts of interest on the part of any Partner, including its representatives, in respect of this Agreement and the establishment or operation of the Joint Committee and any sub-group or sub-committee of the Joint Committee must be appropriately identified, recorded and managed.
6. The Partners shall identify the Joint Functions that will be delegated to the Joint Committee ("Joint Functions"). The Joint Committee must exercise the Joint Functions in accordance with:
 - i. the terms of this Agreement;
 - ii. the terms of the Delegation Agreement for Specialised Services;
 - iii. Mandated Guidance;
 - iv. all applicable Law;
 - v. Guidance;
 - vi. the Partners' constitutions;
 - vii. the requirements of any assurance arrangements made by NHS England;
 - viii. the Terms of Reference; and
 - ix. Good Practice.
7. The Joint Committee must establish effective, safe, efficient and economic arrangements for the discharge of the Joint Functions.
8. The Joint Committee must perform the Joint Functions in such a manner as to ensure each Partner's compliance with their own statutory duties in respect of the Joint Functions and to enable each Partner to fulfil its Reserved Functions.

SCHEDULE 3 ANNEXE A**TERMS OF REFERENCE FOR THE JOINT COMMITTEE.**Per Version 0.6, 23rd January 2025

For adoption in this form at the first session of the Committee in May 2025.

1. Introduction and purpose	Between April 2023 and April 2025, Integrated Care Boards (ICBs) entered joint working arrangements with NHS England and became jointly responsible, with NHS England, for commissioning a defined subset of specialised services ("the Joint Specialised Services"). The commissioning of these services was coordinated by a legacy joint committee. In the South-West the Joint Specialised Services were delegated by NHS England to each of the 7 South-West ICBs on 1st April 2025 in 7 separate portfolios by 7 separate Delegation Agreements . The ICBs and NHS England entered into an ICB Collaboration Agreement (the Agreement") under which 6 of the ICBs further delegated their portfolio to one ICB designated as the Principal Commissioner which became responsible for the combined portfolio. The Agreement further provided that the Principal Commissioner would establish a replacement joint committee with the other 6 ICBs. These Terms of Reference should be read alongside the Agreement. The Principal Commissioner and the other 6 South-West ICBs together with NHS England (collectively "the Partners") will form a statutory Joint Committee to collaboratively make decisions on the planning and delivery of the Joint Specialised Services, inclusive of the programme of services delivered by the Operational Delivery Networks (ODNs) and Specialised Mental Health, to improve health and care outcomes and reduce health inequalities.
2. The Terms of Reference	These Terms of Reference support effective collaboration between NHS England and ICBs. They set out the role, responsibilities, membership, decision-making powers, and reporting arrangements of the Joint Committee in accordance with the Agreement between South-West ICBs and NHS England. The Joint Committee will operate as the strategic decision-making forum for exercising the agreed Joint Functions in accordance with the Agreement. The Joint Committee must adhere to these Terms of Reference but may otherwise regulate its own procedure.

3. Statutory Framework & Measures Constituting the Committee	Pursuant to section 65Z5 of the NHS Act 2006 the Partners have entered the Joint Working Agreements and: • Arranged to jointly exercise the Joint Functions in respect of the Joint Services; • Established the Joint Committee as the vehicle to make decisions regarding the exercise of those functions. The Joint Committee is constituted as a sub-committee of the Principal Commissioner's Board in accordance with the ICB Collaboration Agreement. Except as as set out in the Agreement, the formation of the Joint Committee does not affect the statutory or contractual responsibilities and accountabilities of the Partners.
4. Limitations on Committee Powers	The Joint Committee and its members must at all times operate within the terms of the ICB Collaboration Agreement, observing any constraints or limitations set out including specifically (but non-exhaustively) • Requirement to approve a balanced financial plan • Requirement not to adopt a measure that would create unfunded liabilities • Requirement not to adopt any measure which would breach any ICBs Delegation Agreement with NHS England • Requirement to support and not in any way undermine the Principal Commissioner in discharging its operational management of financial matters within the agreed financial plan, being matters for which it has sole responsibility and day-to-day discretion. The Joint Committee and its members must at all times observe any constraints or limitations imposed on the ICB Partners by the Developmental Conditions set out in their respective Delegation Agreements with NHS England

5. Role and functions of the Joint Committee	The role of the Joint Committee is to provide strategic decision-making, leadership and oversight for the Joint Specialised Services and any associated activities. The Joint Committee will safely, effectively, efficiently and economically discharge the Joint Functions and deliver these Joint Specialised Services through the following key responsibilities: ▪ Determining the appropriate structure of the Joint Committee; ▪ Ensuring there is ownership of the South West Specialised Commissioning Strategy that will guide the work of the Joint Committee; ▪ Making joint decisions in relation to the planning and commissioning of the Joint Specialised Services, and any associated commissioning or statutory functions, for the South West population, for example, through undertaking population needs assessments and approving proposed commissioning strategies and plans; ▪ Making recommendations on the population-based Joint Specialised Services financial allocation and financial plans; ▪ Oversight and assurance of the Joint Specialised Services in relation to quality, operational and financial performance, including co-ordinating risk and issue management and escalation, and developing the approach to intervention with Specialised Services Providers where there are quality or contractual issues; ▪ Identifying and setting strategic priorities and undertaking ongoing assessment and review of Joint Specialised Services within the remit of the Joint Committee, including tackling unequal outcomes and access; ▪ Supporting the development of partnership and integration arrangements with other health and care bodies that facilitate population health management and providing a forum that enables collaboration to integrate service pathways, improve population health and services and reduce health inequalities. This includes establishing links and working effectively with Provider Collaboratives and cancer alliances, and working
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	closely with other ICBs, Joint Committees and NHS England where there are cross-border patient flows to providers; ▪ Ensuring the Joint Committee has effective engagement with stakeholders, including patients and the public, and involving them in decision-making; ▪ Ensuring the Joint Committee has appropriate clinical advice and leadership, including through Clinical Reference Groups and Relevant Clinical Networks; ▪ Commencing longer-term planning, particularly in view of the ICB(s) receiving full delegated commissioning responsibility in future; ▪ Discussing any matter which any member of the Joint Committee believes to be of such importance that it should be brought to the attention of the Joint Committee; ▪ Where agreed by the Partners, overseeing the Collaborative Commissioning Agreements set out in the Joint Working Arrangement; ▪ Ensuring there is a South-West Joint Committee member at the national Devolved and Retained Commissioning Group; ▪ Otherwise ensuring that the roles and responsibilities set out in the Agreement between the Partners are discharged. The Partners may, to such extent that they consider it desirable and with the permission of the Chair, table an item at the Joint Committee relating to any other of their functions that is not a Joint Specialised Service or a Joint Function to facilitate engagement, promote integration and collaborative working. The Partners may, from time to time, establish sub-groups or sub-committees of the Joint Committee, with such terms of reference as may be agreed between them. The Partners must implement such arrangements as are necessary to demonstrate good decision-making and compliance with all statutory duties, guidance and good practice, including ensuring that the Joint Committee has sufficient independent scrutiny of its decision-making and processes.
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	The Principal Commissioner will ensure PPV representation on the Joint Committee to provide robust challenge. However, each ICB will already have patient and public representation on its own internal governance committees and should make use of these relationships, to inform the position and stance they adopt during Joint Committee meetings.
6. Accountability and reporting	7. The Joint Committee will report to NHS England South West Regional Executive Team and the Boards of the 7 Partner ICBs. 7.1 An annual work programme identifying the Committee's key objectives for the year including a plan outlining the key agenda items to be signed off at the beginning of the financial year. This annual plan will include the Annual Commissioning Plan, Financial Plan and the Operational Delivery Network Plans 7.2 Monthly formal reports of performance against the agreed objectives will be presented to the Committee alongside an Annual Review. The minutes of the meetings shall be formally recorded by the secretariat and submitted to the Board in accordance with the Standing Orders. 7.3 The Committee will be represented through inclusion of its Chair or one or more of its membership on the NHS England National Delegated Commissioning Group. 7.4 The Committee will receive reports and recommendations from the South-West Specialised Services Joint Directors Group, which will act as a reference group to the Joint Committee. 7.5 The Principal Commissioner and Host ICB will retain internal groups to support day- to-day operational decision making and management of routine business as part of the Collaborative Commissioning Hub. This includes but is not limited to Specialised Commissioning Operational Group (SCOG) and any of its subgroups. These groups may refer issues into the Joint Committee but are not subject to the supervision of the Joint Committee.
8. Membership	9. <u>Voting Membership</u> 10. Each of the Partners must nominate one Authorised Officer to be their representative at meetings of the Joint Committee.

	The Authorised Officers nominated by the Partners and present at a meeting of the Joint Committee comprise the Voting Membership of the Joint Committee. 11. Each of the Partners may nominate a named substitute to attend meetings of the Joint Committee if its Authorised Officer is unavailable or unable to attend or because they are conflicted. 12. Each of the Partners must ensure that its Authorised Officer (and any named substitute) is of a suitable level of seniority and duly authorised to act on its behalf and to agree to be bound by the final position or decision taken at any meeting of the Joint Committee. 13. To support robust decision making and breadth of discussion in the Joint Committee, Partner ICBs should endeavour to ensure that at least one ICB appoints a clinically qualified individual (Medical Director, Nursing Director or similar) to be its Authorised Officer. <u>Non-voting Membership</u> The Joint Committee may co-opt additional standing members who will provide relevant subject matter expertise and contribute to deliberations but will not have a vote in decisions of the Joint Committee: • <u>Patient and Public Voice (PPV) representation</u> The Principal Commissioner shall nominate one or more Patient & Public Voice (PPV) representatives who will be standing non-voting member(s) of the Joint Committee. • <u>Welsh commissioner representation</u> The Welsh Health Specialised Services Committee of NHS Wales may nominate a representative who will be a standing non-voting member of the Joint Committee. This representative will not have the right to vote in decisions of the Joint Committee, except that this may be agreed by the Voting Membership from time to time for specified items.
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	• <u>ICB non-executive director representation</u> The ICB Partners may collectively and by agreement between themselves nominate one non-executive director from one Partner ICB who will be attend the Joint Committee as a non-voting member of the Joint Committee. • <u>Additional ICB clinical representative where none of the Authorised Officers are clinically qualified</u> Where none of the Authorised Officers appointed by the ICB partners are clinically qualified, the ICB Partners should collectively and by agreement between themselves nominate at least one clinically qualified officer from at least one Partner ICB who will attend the Joint Committee as a non-voting member. • <u>CCH Commissioning Team representation</u> The Principal Commissioner or Host ICB may nominate additional officers who are required to attend the Joint Committee as standing non-voting members where it considers that this membership is necessary to ensure the Joint Committee has access to the necessary operational detail to adequately discharge its functions. • <u>NHS England Assurance representation</u> NHS England South-West may nominate additional officers who are required to attend the Joint Committee as standing non-voting members where it considers that this membership is necessary to ensure its proper assurance of the delegated commissioning functions for which it remains accountable to the Secretary of State.
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	14. <u>Non-members in attendance</u> 15. Any Partner may invite to meetings additional officers (or in the case of ICBs, a non-executive directors) who may observe proceedings and contribute to the Joint Committee's deliberations as required, but these representatives will not have the right to vote. 16. The Partners may invite to meetings clinical experts or representatives of other third-party organisations that may be invited to observe proceedings and contribute to the Joint Committee's deliberations as required. These representatives will not have the right to vote. The agreement of the Chair must be obtained for the attendance of any observer who is not an officer (or in the case of ICBs, a non-executive director) of one of the Partner organisations. <u>Term of membership</u> 17. Each Voting and Non-Voting Member (and any substitute appointed) will hold their appointment for a term for up to one year expiring 31st March being the anniversary of the start of the Joint Working Arrangement. Members will be eligible to be reappointed for further terms at the discretion of the Partners. 18. <u>Membership lists</u> 19. The Chair (or in the absence of a Chair, the Partners themselves) shall ensure that there is prepared (and updated from time to time) a list of the members and that this list is made available to the Partners.
20. Chair	In the interests of promoting collaborative working and consensus decision making between the Partners, the Joint Committee shall be convened and chaired by an Independent Chair. For as long as the ICB Collaboration Agreement is in force and the Principal Commissioner remains legally and financially responsible for the Joint Services, it may, from time-to-time,

	establish a process for the appointment or re-appointment of the Independent Chair in consultation with the Partner ICBs. The Chair shall hold office for the term of their initial engagement, or any subsequent renewal of that appointment. If the Chair is not in attendance at a meeting, the Voting Membership may select a substitute chair from amongst the Voting and Non-Voting Membership for the duration of that meeting.
21. Remuneration	The Partners shall prepare a scheme for the remuneration of any external members and for meeting the reasonable expenses incurred by other classes of membership of the Joint Committee. The scheme shall be reviewed on an annual basis.
22. Meetings	The Joint Committee shall meet 6 times per year, as a minimum. At its first meeting (and at the first meeting following each subsequent anniversary of that meeting) the Joint Committee shall prepare a schedule of meetings for the forthcoming year ("the Schedule"). The Chair(s) (or in the absence of a Chair, the Partners themselves) shall see that the Schedule is notified to the members. Any of the Voting Membership may call for a special meeting of the Joint Working Committee outside of the Schedule as they see fit, by giving notice of their request to the Chair. The Chair(s) may, following consultation with the Partners, confirm the date on which the special meeting is to be held and then issue a notice giving not less than 2 weeks' notice of the special meeting. The Chair may waive or reduce the 2 week notice requirement for Special Meetings where Voting Members unanimously agree to this.
23. Quorum	A Joint Committee meeting, or any part thereof is quorate for the purposes of delegated services if the following are in attendance: ▪ any 5 of the 7 Authorised Officers (or substitutes) appointed by the South-West ICBs.

	A Joint Committee meeting or any part thereof is quorate for the purposes of jointly commissioned ODNs if the following are in attendance: ▪ the Authorised Officer (or substitute) nominated by NHS England; AND ▪ any 5 of the 7 Authorised Officers (or substitutes) appointed by the South-West ICBs. Where any ICB Partner's Authorised Officer (or substitute) is not in attendance AND there are items on the agenda that require a formal vote AND where the meeting is otherwise quorate, those Authorised Officers (or substitute) must communicate their voting intention to the Chair in writing, in advance of the meeting, their views will be recorded at the meeting and votes cast on their behalf accordingly.
24. Decisions and voting arrangements	<u>Delegated Decisions Requiring NHSE Approval</u> Under the Delegation Agreements signed between NHS England South-West and the partner ICBs, certain decisions by ICBs in NOF3 or NOF4 require the approval of NHSE ("the Approval Condition"). NHSE will from time-to-time publish guidance on the interpretation of the Approval Condition. <u>Overriding all other provisions in these terms of reference</u>, no decision made by the Joint Committee in relation to an issue within scope of the Approval Condition shall be effective unless and until it is confirmed that the requirement for NHSE approval has been satisfied. Wherever possible, any necessary approval must be obtained from NHSE in advance of committee proceedings and clearly endorsed on the decision paper that the committee is asked to consider. Where it becomes apparent during the course of proceedings that NHSE approval is required for a decision and this has not been obtained in advance then: • The NHSE representative on the Joint Committee may confirm NHSE approval, permitting the Committee to make a valid and effective decision; OR

	• The Joint Committee may make a provisional decision which is subsequently activated and becomes valid and effective following ratification by NHSE at a later date outside the meeting. Provisional decisions must be recorded as such in the minutes of the meeting and ratification must be reported at the next session of the Joint Committee, OR • The Joint Committee may defer the decision entirely for consideration at a later session once necessary NHSE approvals have been obtained <u>Consensus Decision making as first recourse</u> • To support collaboration and shared ownership of strategic challenges, ICB Partners should, wherever possible, seek to adopt a common position on any matter to be decided. • The Partners must ensure that matters requiring a decision are anticipated and that sufficient time is allowed prior to Joint Committee meetings for discussions and negotiations between Partners to take place. The Joint Committee must seek to make decisions relating to the exercise of the Joint Functions and Joint Specialised Services inclusive of Specialised Mental Health and Operational Delivery Networks on a consensus basis. A consensus is established where the Chair formally calls for and receives no objections to a proposed decision. <u>Decision making by vote</u> Where, despite best efforts, it has not been possible to come to a consensus decision on any matter before the Joint Committee, the Chair may require the decision to be put to a vote in accordance with the following provisions: • The Chair must, on advice, determine whether the decision relates to delegated matters or to jointly commissioned ODN matters. In respect of delegated matters the qualified constituency shall be the 7 ICB partners. In respect of jointly
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	commsioned ODN matters the qualified constituency shall be the 7 ICB Parnters and NHS England. • Each Voting Member who is part of the qualified constituency for the decision (or their substitute) shall have a single vote to cast on behalf of their Partner Organisation. • All votes cast shall have equal weighting. • Votes of absent members which have been communicated in writing to the Chair shall be included in the count. • A decision is carried by simple majority of votes cast in person or in writing through the Chair. <u>Substitute Decisions following vote</u> These provisions are used in respect of jointly commissioned ODN matters only. Not used in respect of delegated matters. As the organisation with sole legal responsibility, liability and accountability for the jointly commissioned ODN matters which have not yet been fully delegated, NHS England South-West may substitute an alternative decision if it considers this is in the best interests of the health service. The original decision made by the committee should be formally recorded, and the NHS England substitute decision as well as the reasoning for this should also be documented. Substitute decisions may be made at a later date, after the meeting, but where this happens they must be reported to the next meeting of the Joint Committee via the Chair. Voting Members have a right to refer any substitute decision to the NHS England South-West Regional Director for review. <u>Decisions by Correspondence</u> Between sessions of the Committee and with permission of the Chair a matter may be put to the membership for a decision by email correspondence.
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	This procedure is only appropriate for decisions which are non-contentious and which do not require debate or choice between different potential options. By way of example, a non-exhaustive list of scenarios where this procedure may be appropriate includes: • scenarios where changes to mandatory national guidance will have a knock-on impact which requires the recalculation, reprofiling or re-presentation of financial plans that have already been agreed by the Committee without changing the bottom line position; • scenarios where the committee has already considered and agreed an approach to a particular issue in-principle but has not been able to formally commit to this decision because of the absence of information or because clarification on a technical point was required and this has subsequently been resolved; • scenarios where the Committee has previously made a decision or approved an action “subject to” a particular state of affairs arising, and the conditions for activating this decision are subsequently satisfied; • scenarios where individual ICB executive teams or Boards have separately approved a proposed submission into national planning or policy processes and there is a technical governance requirement that this is signed off through the Committee. Decisions by correspondence are carried only when the Chair is satisfied that all Voting Members have actively returned positive confirmation of agreement via their Authorised Officer or recognised substitute. Decisions by correspondence may not be carried by anything other than unanimous agreement. Where there is not unanimous agreement the alternative procedure for calling a special meeting of the Committee should be considered. Decisions proposed and taken by correspondence should be formally reported and minuted at the next session of the Committee.
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25. Conduct and conflicts of interest	Members of the Joint Committee will be expected to act consistently with existing statutory guidance, NHS Standards of Business Conduct and relevant organisational policies. The NHS Standards of Business Conduct policy is available from: https://www.england.nhs.uk/publication/standards-of-business-conduct-policy/ Members should act in accordance with the Nolan Principles (the Seven Principles of Public Life). See: https://www.gov.uk/government/publications/the-7-principles-of-public-life. Members should refer to and act consistently with the NHS England guidance: <i>Managing Conflicts of Interest in the NHS: Guidance for staff and organisations</i>. See: https://www.england.nhs.uk/ourwork/coi/. Where any member of the Joint Committee has an actual or potential conflict of interest in relation to any matter under consideration by the Joint Committee, that member must not participate in meetings (or parts of meetings) in which the relevant matter is discussed, either by participating in discussion or by voting. A Partner whose Authorised Officer is conflicted in this way may secure that their appointed substitute attend the meeting (or part of meeting) in the place of that member.
26. Confidentiality of proceedings	The Joint Committee is not subject to the Public Bodies (Admissions to Meetings) Act 1960. Admission to meetings of the Joint Committee is at the discretion of the Partners. All members in attendance at a Joint Committee are required to give due consideration to the possibility that the material presented to the meeting, and the content of any discussions, may be confidential or commercially sensitive, and to not disclose information or the content of deliberations outside of the meeting's membership, without the prior agreement of the Chair, in consultation with the Partners.
27. Publication of notices, minutes and papers	The Partners shall provide sufficient resources, administration and secretarial support to ensure the proper organisation and functioning of the Joint Committee. The Chair(s) (or in the absence of a Chair, the Partners themselves) shall see that notices of meetings of the Joint Working Committee,

	together with an agenda listing the business to be conducted and supporting documentation, is issued to the Partners three weeks (or, in the case of a special meeting, one week prior to the date of the meeting). The proceedings and decisions taken by the Joint Committee shall be recorded in minutes, and those minutes circulated in draft form within two weeks of the date of the meeting. The Joint Committee shall confirm those minutes at its next meeting.
28. Review of the Terms of Reference	29. These Terms of Reference will be reviewed annually.

SCHEDULE 4: COMMISSIONING TEAM ARRANGEMENTS

References to ICBs in this schedule shall be taken to mean the Principal Commissioner in respect of any services or functions which are otherwise delegated by the ICBs to a Principal Commissioner under this arrangement.

The Host ICB shall provide the following services under this Agreement:

1 General

- 1.1 The Host ICB will provide such services as it agrees with the ICBs as required for the ICBs to exercise the statutory functions as set out in the Delegation Agreement which shall include, but is not limited to, the services set out below.

2 Contract Management

- 2.1 The Commissioning Team shall provide contract management and support in respect of the Delegated Services to facilitate Partner ICB compliance with the Delegated Functions set out in Schedule 3 of the Delegation Agreement (*delegated functions*). Such support shall be in compliance with the agreed regional contracting strategy.

3 Finance

- 3.1 The Commissioning Team shall provide financial management and support in respect of the Delegated Services contracts, the Consolidated budgets, and the development of the financial plan for Joint Committee approval. Such support shall be in compliance with the Financial Standard Operating Procedure agreed with the ICBs.

4 Data Management and Analytics

[Note: this Agreement is specifically about how the data arrangements will work in relation to The Host ICB providing the Services to the ICBs in 2025/26.]

- 4.1 The Commissioning Team shall provide such data management and analytic services as the Host ICB considers necessary to ensure that the ICB meets its obligations under Schedule 3 (*Delegated Functions*) of the Delegation Agreement.

5 Freedom of Information and Parliamentary Requests

- 5.1 The Commissioning Team shall provide such reasonable support as required by an ICB to ensure the appropriate handling, management and response to all freedom of information and parliamentary correspondence relating to Delegated Services.

6 Incident Response and Management

- 6.1 The Commissioning Team shall provide such reasonable support as required by an ICB in relation to local incident management for Delegated Services.

7 Provider Selection and Procurement

- 7.1 The Commissioning Team shall act on instructions from the ICBs in relation to provider selection and procurement processes for the Delegated Services.

8 Quality

- 8.1 The Commissioning Team shall ensure appropriate arrangements for quality oversight are in place in respect of the provision of services

9 Complaints

- 9.1 For complaints via the commissioner, patients will contact their local ICB or their local Complaints Hub as appropriate. The Commissioning Team will support each ICB or Complaints Hub (as appropriate) in provision of appropriate responses, advice and guidance relating to Delegated Services.

10 Conflicts of Interest and Transparency on Gifts and Hospitality

- 10.1 The Host ICB must ensure that, in delivering obligations under this agreement, all staff comply with the Law, with Managing Conflicts of Interest in the NHS and other Guidance, and with Good Practice, in relation to gifts, hospitality and other inducements and actual or potential conflicts of interest.

11 Audit

- 11.1 It is anticipated that the Host ICB will ensure appropriate arrangements are in place for the provision of internal audits on the services they provide, thereby enabling ICBs to discharge their statutory duties. Additionally, the Host ICB will ensure evaluations are completed on the potential impact of ICBs' external auditor's requests for assurance; where required, the approach to assurance should be updated, agreed upon, and implemented to factor this in.
- 11.2 The Host ICB must work with the other partner ICBs to coordinate and minimise audit requirements.

SCHEDULE 5: SCHEME OF AUTHORITY FOR AGENCY ARRANGEMENT

(for use where the Host ICB and Principal Commissioner are different entities and a legal agency agreement is required)

- NOT USED -

SCHEDULE 6: FURTHER INFORMATION GOVERNANCE AND SHARING PROVISIONS

PART 1

1. Introduction

- 1.1. This Schedule sets out the scope for the secure and confidential sharing of information between the Partners on a Need To Know basis, in order to enable the Partners to exercise their functions in pursuance of this Agreement.
- 1.2. References in this Schedule (*Further Information Governance and Sharing Provisions*) to the Need to Know basis or requirement (as the context requires) should be taken to mean that the Data Controllers' Staff will only have access to Personal Data or Special Category Personal Data if it is lawful for such Staff to have access to such data for the Specified Purpose in paragraph 2.1 and the function they are required to fulfil at that particular time, in relation to the Specified Purpose, cannot be achieved without access to the Personal Data or Special Category Personal Data specified.
- 1.3. This Schedule and the Data Sharing Agreements entered into under this Schedule are designed to:
 - 1.3.1. provide information about the reasons why Relevant Information may need to be shared and how this will be managed and controlled by the Partners;
 - 1.3.2. describe the purposes for which the Partners have agreed to share Relevant Information;
 - 1.3.3. set out the lawful basis for the sharing of information between the Partners, and the principles that underpin the exchange of Relevant Information;
 - 1.3.4. describe roles and structures to support the exchange of Relevant Information between the Partners;
 - 1.3.5. apply to the sharing of Relevant Information relating to Specialised Services Providers and their Staff;
 - 1.3.6. apply to the sharing of Relevant Information whatever the medium in which it is held and however it is transmitted;
 - 1.3.7. ensure that Data Subjects are, where appropriate, informed of the reasons why Personal Data about them may need to be shared and how this sharing will be managed;
 - 1.3.8. apply to the activities of the Partners' Staff; and
 - 1.3.9. describe how complaints relating to Personal Data sharing between the Partners will be investigated and resolved, and how the information sharing will be monitored and reviewed.

2. Purpose

- 2.1. The Specified Purpose of the data sharing is to facilitate the exercise of the Joint Working Arrangements.
- 2.2. Each Partner must ensure that they have in place appropriate Data Sharing Agreements to enable data to be received from any third party organisations from which the Partners must obtain data in order to achieve the Specified Purpose. Where necessary specific and detailed purposes must be set out in a Data Sharing Agreement that complies with all relevant legislation and Guidance.

3. Benefits of information sharing

- 3.1. The benefits of sharing information are the achievement of the Specified Purpose, with benefits for service users and other stakeholders in terms of the improved delivery of the Services.

4. Lawful basis for sharing

- 4.1. The Partners shall comply with all relevant Data Protection Legislation requirements and Good Practice in relation to the processing of Relevant Information shared further to this Agreement.
- 4.2. The Partners shall ensure that there is a Data Protection Impact Assessment ("DPIA") that covers processing undertaken in pursuance of the Specified Purpose. The DPIA shall identify the lawful basis for sharing Relevant Information for each purpose and data flow.
- 4.3. Where appropriate, the Relevant Information to be shared shall be set out in a Data Sharing Agreement.

5. Restrictions on use of the Shared Information

- 5.1. Each Partner shall only process the Relevant Information as is necessary to achieve the Specified Purpose and, in particular, shall not use or process Relevant Information for any other purpose unless agreed in writing by the Data Controller that released the information to the other. There shall be no other use or onward transmission of the Relevant Information to any third party without a lawful basis first being determined, and the originating Data Controller being notified.
- 5.2. Access to, and processing of, the Relevant Information provided by a Partner must be the minimum necessary to achieve the Specified Purpose. Information and Special Category Personal Data will be handled at all times on a restricted basis, in compliance with Data Protection Legislation requirements, and the Partners' Staff should only have access to Personal Data on a justifiable Need to Know basis.
- 5.3. Neither the provisions of this Schedule nor any associated Data Sharing Agreements should be taken to permit unrestricted access to data held by any of the Partners.
- 5.4. Neither Partner shall subcontract any processing of the Relevant Information without the prior consent of the other Partner. Where a Partner subcontracts its obligations, it shall do so only by way of a written agreement with the sub-contractor which imposes the same obligations as are imposed on the Data Controllers under this Agreement.
- 5.5. The Partners shall not cause or allow Data to be transferred to any territory outside the United Kingdom without the prior written permission of the responsible Data Controller.
- 5.6. Any particular restrictions on use of certain Relevant Information should be included in a Data Sharing Agreement.

6. Ensuring fairness to the Data Subject

- 6.1. In addition to having a lawful basis for sharing information, the UK GDPR generally requires that the sharing must be fair and transparent. In order to achieve fairness and transparency to the Data Subjects, the Partners will take the following measures as reasonably required:
 - 6.1.1. amendment of internal guidance to improve awareness and understanding among Staff;
 - 6.1.2. amendment of respective privacy notices and policies to reflect the processing of data carried out further to this Agreement, including covering

the requirements of articles 13 and 14 UK GDPR and providing these (or making them available to) Data Subjects;

- 6.1.3. ensuring that information and communications relating to the processing of data is clear and easily accessible; and
- 6.1.4. giving consideration to carrying out activities to promote public understanding of how data is processed where appropriate.
- 6.2. Each Partner shall procure that its notification to the Information Commissioner's Office, and record of processing maintained for the purposes of Article 30 UK GDPR, reflects the flows of information under this Agreement.
- 6.3. The Partners shall reasonably co-operate in undertaking any DPIA associated with the processing of data further to this Agreement, and in doing so engage with their respective Data Protection Officers in the performance by them of their duties pursuant to Article 39 UK GDPR.
- 6.4. Further provision in relation to specific data flows may be included in a Data Sharing Agreement between the Partners.

7. Governance: Staff

- 7.1. The Partners must take reasonable steps to ensure the suitability, reliability, training and competence, of any Staff who have access to Personal Data, and Special Category Personal Data, including ensuring reasonable background checks and evidence of completeness are available on request.
- 7.2. The Partners agree to treat all Relevant Information as confidential and imparted in confidence and must safeguard it accordingly. Where any of the Partners' Staff are not healthcare professionals (for the purposes of the Data Protection Act 2018) the employing Partners must procure that Staff operate under a duty of confidentiality which is equivalent to that which would arise if that person were a healthcare professional.
- 7.3. The Partners shall ensure that all Staff required to access Personal Data (including Special Category Personal Data) are informed of the confidential nature of the Personal Data. The Partners shall include appropriate confidentiality clauses in employment/service contracts of all Staff that have any access whatsoever to the Relevant Information, including details of sanctions for acting in a deliberate or reckless manner that may breach the confidentiality or the non-disclosure provisions of Data Protection Legislation requirements, or cause damage to or loss of the Relevant Information.
- 7.4. Each Partner shall provide evidence (further to any reasonable request) that all Staff that have any access to the Relevant Information whatsoever are adequately and appropriately trained to comply with their responsibilities under Data Protection Legislation and this Agreement.
- 7.5. The Partners shall ensure that:
 - 7.5.1. only those Staff involved in delivery of the Agreement use or have access to the Relevant Information;
 - 7.5.2. that such access is granted on a strict Need to Know basis and shall implement appropriate access controls to ensure this requirement is satisfied and audited. Evidence of audit should be made freely available on request by the originating Data Controller; and

- 7.5.3. specific limitations on the Staff who may have access to the Relevant Information are set out in any Data Sharing Agreement entered into in accordance with this Schedule.

8. Governance: Protection of Personal Data

- 8.1. At all times, the Partners shall have regard to the requirements of Data Protection Legislation and the rights of Data Subjects.
- 8.2. Wherever possible (in descending order of preference), only anonymised information, or, strongly or weakly pseudonymised information will be shared and processed by the Partners. The Partners shall co-operate in exploring alternative strategies to avoid the use of Personal Data in order to achieve the Specified Purpose. However, it is accepted that some Relevant Information shared further to this Agreement may be Personal Data or Special Category Personal Data.
- 8.3. Processing of any Personal Data or Special Category Personal Data shall be to the minimum extent necessary to achieve the Specified Purpose, and on a Need to Know basis.
- 8.4. If any Partner becomes aware of:
 - 8.4.1. any unauthorised or unlawful processing of any Relevant Information or that any Relevant Information is lost or destroyed or has become damaged, corrupted or unusable; or
 - 8.4.2. any security vulnerability or breach in respect of the Relevant Information, it shall promptly, within 48 hours, notify the other Partners. The Partners shall fully co-operate with one another to remedy the issue as soon as reasonably practicable, and in making information about the incident available to the Information Commissioner and Data Subjects where required by Data Protection Legislation.
- 8.5. In processing any Relevant Information further to this Agreement, the Partners shall process the Personal Data and Special Category Personal Data only:
 - 8.5.1. in accordance with the terms of this Agreement and otherwise (to the extent that it acts as a Data Processor for the purposes of Article 27-28 GDPR) only in accordance with written instructions from the originating Data Controller in respect of its Relevant Information;
 - 8.5.2. to the extent as is necessary for the provision of the Specified Purpose or as is required by Law or any regulatory body; and
 - 8.5.3. in accordance with Data Protection Legislation requirements, in particular the principles set out in Article 5(1) and accountability requirements set out in Article 5(2) UK GDPR; and not in such a way as to cause any other Data Controller to breach any of their applicable obligations under Data Protection Legislation.
- 8.6. The Partners shall act generally in accordance with Data Protection Legislation requirements. This includes implementing, maintaining and keeping under review appropriate technical and organisational measures to ensure and demonstrate that the processing of Personal Data is undertaken in accordance with Data Protection Legislation, and in particular to protect the Personal Data (and Special Category Personal Data) against unauthorised or unlawful processing, and against accidental loss, destruction, damage, alteration or disclosure. These measures shall:
 - 8.6.1. take account of the nature, scope, context and purposes of processing as well as the risks, of varying likelihood and severity for the rights and freedoms of Data Subjects; and

- 8.6.2. be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the Personal Data and Special Category Personal Data, and having the nature of the Personal Data (and Special Category Personal Data) which is to be protected.

8.7. In particular, each Partner shall:

- 8.7.1. ensure that only Staff as provided under this Schedule have access to the Personal Data and Special Category Personal Data;
- 8.7.2. ensure that the Relevant Information is kept secure and in an encrypted form, and shall use all reasonable security practices and systems applicable to the use of the Relevant Information to prevent and to take prompt and proper remedial action against, unauthorised access, copying, modification, storage, reproduction, display or distribution, of the Relevant Information;
- 8.7.3. obtain prior written consent from the originating Partner in order to transfer the Relevant Information to any third party;
- 8.7.4. permit any other Partner or their representatives (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the data processing activities carried out further to this Agreement (and/or those of its agents, successors or assigns) and comply with all reasonable requests or directions to enable each Partner to verify and/or procure that the other is in full compliance with its obligations under this Agreement; and
- 8.7.5. if requested, provide a written description of the technical and organisational methods and security measures employed in processing Personal Data.

The Partners shall adhere to the specific requirements as to information security set out in any Data Sharing Agreement entered into in accordance with this Schedule.

8.8. The Partners shall use best endeavours to achieve and adhere to the requirements of the NHS Digital Data Security and Protection Toolkit.

8.9. The Partners' Single Points of Contact set out in paragraph 13 will be the persons who, in the first instance, will have oversight of third party security measures.

9. Governance: Transmission of Information between the Partners

- 9.1. This paragraph supplements paragraph 8 of this Schedule.
- 9.2. Transfer of Personal Data between the Partners shall be done through secure mechanisms including use of the N3 network, encryption, and approved secure (NHS.net or gcsx) e-mail.
- 9.3. Wherever possible, Personal Data should be transmitted and held in pseudonymised form, with only reference to the NHS number in 'clear' transmissions. Where there are significant consequences for the care of the patient, then additional data items, such as the postcode, date of birth and/or other identifiers should also be transmitted, in accordance with good information governance and clinical safety practice, so as to ensure that the correct patient record and/or data is identified.
- 9.4. Any other special measures relating to security of transfer should be specified in a Data Sharing Agreement entered into in accordance with this Schedule.
- 9.5. Each Partner shall keep an audit log of Relevant Information transmitted and received during the course of this Agreement.

- 9.6. The Partners' Single Point of Contact notified pursuant to paragraph 13 will be the persons who, in the first instance, will have oversight of the transmission of information between the Partners.

10. Governance: Quality of Information

- 10.1. The Partners will take steps to ensure the quality of the Relevant Information and to comply with the principles set out in Article 5 UK GDPR.

11. Governance: Retention and Disposal of Shared Information

- 11.1. A non-originating Partner shall securely destroy or return the Relevant Information once the need to use it has passed or, if later, upon the termination of this Agreement, howsoever determined. Where Relevant Information is held electronically, the Relevant Information will be deleted and formal notice of the deletion sent to the that shared the Relevant Information. Once paper information is no longer required, paper records will be securely destroyed or securely returned to the Partner they came from.
- 11.2. Each Partner shall provide an explanation of the processes used to securely destroy or return the information, or verify such destruction or return, upon request and shall comply with any request of the Data Controllers to dispose of data in accordance with specified standards or criteria.
- 11.3. If a Partner is required by any Law, regulation, or government or regulatory body to retain any documents or materials that it would otherwise be required to return or destroy in accordance with this Schedule, it shall notify the other Partners in writing of that retention, giving details of the documents or materials that it must retain.
- 11.4. Retention of any data shall comply with the requirements of Article 5(1)(e) GDPR and with all Good Practice including the Records Management NHS Code of Practice, as updated or amended from time to time.
- 11.5. The Partners shall set out any special retention periods in a Data Sharing Agreement where appropriate.
- 11.6. The Partners shall ensure that Relevant Information held in paper form is held in secure files, and, when it is no-longer needed, destroyed using a cross cut shredder or subcontracted to a confidential waste company that complies with European Standard EN15713.
- 11.7. Each Partner shall ensure that, when no longer required, electronic storage media used to hold or process Personal Data are destroyed or overwritten to current policy requirements.
- 11.8. Electronic records will be considered for deletion once the relevant retention period has ended.

In the event of any bad or unusable sectors of electronic storage media that cannot be overwritten, the Partner shall ensure complete and irretrievable destruction of the media itself in accordance with policy requirements.

12. Governance: Complaints and Access to Personal Data

- 12.1. The Partners shall assist each other in responding to any requests made under Data Protection Legislation made by persons who wish to access copies of information held about them ("Subject Access Requests"), as well as any other exercise of a Data Subject's rights under Data Protection Legislation or complaint to or investigation undertaken by the Information Commissioner.

- 12.2. Complaints about information sharing shall be reported to each Partner. Complaints about information sharing shall be routed through each Partner's own complaints procedure unless otherwise provided for in the Joint Working.
- 12.3. The Partners shall use all reasonable endeavours to work together to resolve any dispute or complaint arising under this Schedule or any data processing carried out further to it.
- 12.4. Basic details of the Agreement shall be included in the appropriate log under each Partner's publication scheme.

13. Governance: Single Points of Contact

- 13.1. The Partners each shall appoint a Single Point of Contact to whom all queries relating to the particular information sharing should be directed in the first instance.

14. Monitoring and review

- 14.1. The Partners shall monitor and review on an ongoing basis the sharing of Relevant Information to ensure compliance with Data Protection Legislation and best practice. Specific monitoring requirements must be set out in the relevant Data Sharing Agreement.

Classification: Official

Publication reference: Public Board paper (BM/24/45(Pu))



Annex a - list of agreed specialised services for delegation

Agenda item: 8 (public session)
5 December 2024

PSS manual line	PSS manual line description	Service line code	Service line description
2	Adult congenital heart disease services	13X	Adult congenital heart disease services (non-surgical)
		13Y	Adult congenital heart disease services (surgical)
3	Adult specialist pain management services	31Z	Adult specialist pain management services
4	Adult specialist respiratory services	29M	Interstitial lung disease (adults)
		29S	Severe asthma (adults)
		29L	Lung volume reduction (adults)
		29V*	Complex home ventilation (adults)
5	Adult specialist rheumatology services	26Z	Adult specialist rheumatology services
6	Adult secure mental health services	22S(a)*	Secure and specialised mental health services (adult) (medium and low) – excluding LD/ASD/WEMS/ABI/DEAF
		22S(c)*	Secure and specialised mental health services (adult) (Medium and low) – ASD MHLDA PC
		22S(d)*	Secure and specialised mental health services (adult) (Medium and low) – LD MHLDA PC
7	Adult Specialist Cardiac Services	13A	Complex device therapy
		13B	Cardiac electrophysiology and ablation
		13C	Inherited cardiac conditions
		13E	Cardiac surgery (inpatient)
		13F	PPCI for ST- elevation myocardial infarction
		13H	Cardiac magnetic resonance imaging
		13T	Complex interventional cardiology
		13Z	Cardiac surgery (outpatient)
8	Adult specialist eating disorder services	22E*	Adult specialist eating disorder services MHLDA PC
9	Adult specialist endocrinology services	27E	Adrenal Cancer (adults)
		27Z	Adult specialist endocrinology services
11	Adult specialist neurosciences services	08O	Neurology (adults)
		08P	Neurophysiology (adults)
		08R	Neuroradiology (adults)
		08S	Neurosurgery (adults)
		08T	Mechanical Thrombectomy
		58A	Neurosurgery LVHC national: surgical removal of clival chordoma and chondrosarcoma
		58B	Neurosurgery LVHC national: EC-IC bypass (complex/high flow)
		58C	Neurosurgery LVHC national: transoral excision of dens
		58D	Neurosurgery LVHC regional: anterior skull based tumours
		58E	Neurosurgery LVHC regional: lateral skull based tumours
		58F	Neurosurgery LVHC regional: surgical removal of brainstem lesions
		58G	Neurosurgery LVHC regional: deep brain stimulation
		58H	Neurosurgery LVHC regional: pineal tumour surgeries - resection
		58I	Neurosurgery LVHC regional: removal of arteriovenous malformations of the nervous system
		58J	Neurosurgery LVHC regional: epilepsy
		58K	Neurosurgery LVHC regional: insula glioma's/complex low grade glioma's
		58L	Neurosurgery LVHC local: anterior lumbar fusion
		58M	Neurosurgery LVHC local: removal of intramedullary spinal tumours
		58N	Neurosurgery LVHC local: intraventricular tumours resection
		58O	Neurosurgery LVHC local: surgical repair of aneurysms (surgical clipping)
		58P	Neurosurgery LVHC local: thoracic discectomy
		58Q	Neurosurgery LVHC local: microvascular decompression for trigeminal neuralgia
		58R	Neurosurgery LVHC local: awake surgery for removal of brain tumours
		58S	Neurosurgery LVHC local: removal of pituitary tumours including for Cushing's and acromegaly
	Adult specialist neurosciences services (continued)		

2 | Annex a - list of agreed specialised services for delegation

PSS manual line	PSS manual line description	Service line code	Service line description
12	Adult specialist ophthalmology services	37C	Artificial Eye Service
		37Z	Adult specialist ophthalmology services
13	Adult specialist orthopaedic services	34A	Orthopaedic surgery (adults)
		34R	Orthopaedic revision (adults)
15	Adult specialist renal services	11B	Renal dialysis
		11C	Access for renal dialysis
		11T*	Renal Transplantation
16	Adult specialist services for people living with HIV	14A	Adult specialised services for people living with HIV
17	Adult specialist vascular services	30Z	Adult specialist vascular services
18	Adult thoracic surgery services	29B	Complex thoracic surgery (adults)
		29Z	Adult thoracic surgery services: outpatients
29	Haematopoietic stem cell transplantation services (adults and children)	02Z*	Haematopoietic stem cell transplantation services (adults and children)
		ECP*	Extracorporeal photopheresis service (adults and children)
30	Bone conduction hearing implant services (adults and children)	32B	Bone anchored hearing aids service
		32D	Middle ear implantable hearing aids service
32	Children and young people's inpatient mental health service	23K*	Tier 4 CAMHS (general adolescent inc. eating disorders) MHLDA PC
		23L*	Tier 4 CAMHS (low secure) MHLDA PC
		23O*	Tier 4 CAMHS (PICU) MHLDA PC
		23U*	Tier 4 CAMHS (LD) MHLDA PC
		23V*	
35	Cleft lip and palate services (adults and children)	15Z	Cleft lip and palate services (adults and children)
36	Cochlear implantation services (adults and children)	32A	Cochlear implantation services (adults and children)
40	Complex spinal surgery services (adults and children)	06Z	Complex spinal surgery services (adults and children)
		08Z	Complex neuro-spinal surgery services (adults and children)
45	Cystic fibrosis services (adults and children)	10Z*	Cystic fibrosis services (adults and children)
54	Fetal medicine services (adults and adolescents)	04C	Fetal medicine services (adults and adolescents)
58	Specialist adult gynaecological surgery and urinary surgery services for females	04A	Severe Endometriosis
		04D	Complex urinary incontinence and genital prolapse
58A	Specialist adult urological surgery services for men	41P	Penile implants
		41S	Surgical sperm removal
		41U	Urethral reconstruction
59	Specialist allergy services (adults and children)	17Z	Specialist allergy services (adults and children)
61	Specialist dermatology services (adults and children)	24Z	Specialist dermatology services (adults and children)
62	Specialist metabolic disorder services (adults and children)	36Z	Specialist metabolic disorder services (adults and children)
63	Specialist pain management services for children	23Y	Specialist pain management services for children
64	Specialist palliative care services for children and young adults	E23	Specialist palliative care services for children and young adults
65	Specialist services for adults with infectious diseases	18A	Specialist services for adults with infectious diseases

3 | Annex a - list of agreed specialised services for delegation

PSS manual line	PSS manual line description	Service line code	Service line description
		18E	Specialist Bone and Joint Infection (adults)
72	Major trauma services (adults and children)	34T	Major trauma services (adults and children)
78	Neuropsychiatry services (adults and children)	08Y	Neuropsychiatry services (adults and children)
83	Paediatric cardiac services	23B	Paediatric cardiac services
94	Radiotherapy services (adults and children)	01R	Radiotherapy services (Adults)
		51R	Radiotherapy services (Children)
		01S	Stereotactic Radiosurgery / radiotherapy
98	Specialist secure forensic mental health services for young people	24C*	FCAMHS MHLDA PC
103A	Specialist adult haematology services	03C*	Castleman disease
105	Specialist cancer services (adults) Specialist cancer services (adults) (continued)	01C	Chemotherapy
		01J	Anal cancer (adults)
		01K	Malignant mesothelioma (adults)
		01M	Head and neck cancer (adults)
		01N	Kidney, bladder and prostate cancer (adults)
		01Q	Rare brain and CNS cancer (adults)
		01U	Oesophageal and gastric cancer (adults)
		01V	Biliary tract cancer (adults)
		01W	Liver cancer (adults)
		01X*	Penile cancer (adults)
		01Y	Cancer Outpatients (adults)
		01Z	Testicular cancer (adults)
		04F	Gynaecological cancer (adults)
		19V	Pancreatic cancer (adults)
		19C	Biliary tract cancer surgery (adults)
		19M	Liver cancer surgery (adults)
		19Q	Pancreatic cancer surgery (adults)
		24Y	Skin cancer (adults)
		29E*	Management of central airway obstruction (adults)
		51A	Interventional oncology (adults)
		51B	Brachytherapy (adults)
		51C	Molecular oncology (adults)
		61M	Head and neck cancer surgery (adults)
		61Q	Ophthalmic cancer surgery (adults)
		61U	Oesophageal and gastric cancer surgery (adults)
		61Z	Testicular cancer surgery (adults)
		33C	Transanal endoscopic microsurgery (adults)
		33D	Distal sacrectomy for advanced and recurrent rectal cancer (adults)
106	Specialist cancer services for children and young adults	01T	Teenage and young adult cancer
		23A	Children's cancer
106A	Specialist colorectal surgery services (adults)	33A	Complex surgery for faecal incontinence (adults)
		33B	Complex inflammatory bowel disease (adults)
107	Specialist dentistry services for children	23P	Specialist dentistry services for children
108	Specialist ear, nose and throat services for children	23D	Specialist ear, nose and throat services for children
109	Specialist endocrinology services for children	23E	Specialist endocrinology and diabetes services for children
110	Specialist gastroenterology, hepatology and nutritional support services for children	23F	Specialist gastroenterology, hepatology and nutritional support services for children
112	Specialist gynaecology services for children	73X	Specialist paediatric surgery services - gynaecology

4 | Annex a - list of agreed specialised services for delegation

PSS manual line	PSS manual line description	Service line code	Service line description
113	Specialist haematology services for children	23H	Specialist haematology services for children
114	Specialist haemoglobinopathy services (adults and children)	38S*	Sickle cell anaemia (adults and children)
		38T*	Thalassemia (adults and children)
115	Specialist immunology services for adults with deficient immune systems	16X*	Specialist immunology services for adults with deficient immune systems
115A	Specialist immunology services for children with deficient immune systems	16Y*	Specialist immunology services for children with deficient immune systems
115B	Specialist maternity care for adults diagnosed with abnormally invasive placenta	04G	Specialist maternity care for women diagnosed with abnormally invasive placenta
118	Neonatal critical care services	NIC	Specialist neonatal care services
119	Specialist neuroscience services for children	23M	Specialist neuroscience services for children
		07Y	Paediatric neurorehabilitation
		08J	Selective dorsal rhizotomy
120	Specialist ophthalmology services for children	23N	Specialist ophthalmology services for children
121	Specialist orthopaedic services for children	23Q	Specialist orthopaedic services for children
122	Paediatric critical care services	PIC	Specialist paediatric intensive care services
124	Specialist perinatal mental health services (adults and adolescents)	22P*	Specialist perinatal mental health services (adults and adolescents) MHLDA PC
125	Specialist plastic surgery services for children	23R	Specialist plastic surgery services for children
126	Specialist rehabilitation services for patients with highly complex needs (adults and children)	07Z	Specialist rehabilitation services for patients with highly complex needs (adults and children)
127	Specialist renal services for children	23S	Specialist renal services for children
128	Specialist respiratory services for children	23T	Specialist respiratory services for children
129	Specialist rheumatology services for children	23W	Specialist rheumatology services for children
130	Specialist services for children with infectious diseases	18C	Specialist services for children with infectious diseases
131	Specialist services for complex liver, biliary and pancreatic diseases in adults	19L	Specialist services for complex liver diseases in adults
		19P	Specialist services for complex pancreatic diseases in adults
		19Z	Specialist services for complex liver, biliary and pancreatic diseases in adults
		19B	Specialist services for complex biliary diseases in adults
132	Specialist services for haemophilia and other related bleeding disorders (adults and children)	03X	Specialist services for haemophilia and other related bleeding disorders (Adults)
		03Y	Specialist services for haemophilia and other related bleeding disorders (Children)
134	Specialist services to support patients with complex physical disabilities (excluding wheelchair services) (adults and children)	05C*	Specialist augmentative and alternative communication aids (adults and children)
		05E*	Specialist environmental controls (adults and children)
		05P	Prosthetics (adults and children)
135	Specialist paediatric surgery services	23X	Specialist paediatric surgery services - general surgery
136	Specialist paediatric urology services	23Z	Specialist paediatric urology services
139A	Specialist morbid obesity services for children	35Z	Specialist morbid obesity services for children
139AA	Termination services for patients with medical complexity and or significant co-morbidities requiring treatment in a specialist hospital	04P	Termination services for patients with medical complexity and or significant co-morbidities requiring treatment in a specialist hospital
ACC	Adult Critical Care	ACC	Adult critical care

* Agreed additional specialised service for delegation from April 2025

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