

# HEALTH COMMITTEE



**Date: Thursday, 07 February 2019**

**Democratic and Members' Services**

Fiona McMillan

Monitoring Officer

**13:30hr**

Shire Hall

Castle Hill

Cambridge

CB3 0AP

**Kreis Viersen Room**

**Shire Hall, Castle Hill, Cambridge, CB3 0AP**

## AGENDA

Open to Public and Press

### CONSTITUTIONAL MATTERS

**1 Apologies for absence and declarations of interest**

*Guidance on declaring interests is available at*

<http://tinyurl.com/ccc-conduct-code>

**2 Minutes - 17th January 2019**

**5 - 12**

**3 Health Committee Action Log**

*To follow*

**4 Petitions and Public Questions**

### KEY DECISIONS

**5 Public Health England Sexual Health Services Commissioning Pilot**

**13 - 20**

**6 Re-Commissioning of the Healthy Child Programme**

**21 - 106**

**OTHER DECISIONS**

**7 Health Committee Forward Agenda**

**107 - 112**

The Health Committee comprises the following members:

Councillor Peter Hudson (Chairman) Councillor Chris Boden (Vice-Chairman)

Councillor David Connor Councillor Lynda Harford Councillor David Jenkins Councillor Linda Jones Councillor Kevin Reynolds Councillor Simone Taylor Councillor Peter Topping and Councillor Susan van de Ven

*For more information about this meeting, including access arrangements and facilities for people with disabilities, please contact*

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three working days before the meeting. Full details of arrangements for public speaking are set out in Part 4, Part 4.4 of the Council's Constitution <https://tinyurl.com/ProcedureRules>.

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**HEALTH COMMITTEE: MINUTES**

**Date:** Thursday 17 January 2019

**Time:** 1.30pm to 4.28pm

**Present:** Councillors C Boden (Vice Chairman), D Connor, L Harford, P Hudson (Chairman), D Jenkins, L Jones, K Reynolds, S Taylor and S van de Ven.

District Councillors M Cornwell, G Harvey, N Massey and J Tavener

**Apologies:** Councillor Topping.

**179. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**180. MINUTES AND ACTION LOG: 6TH DECEMBER 2018**

The minutes of the meeting held on 6th December 2018 were agreed as a correct record and signed by the Chairman.

The Action Log was noted including the following updates:

Minute 130 – A broader piece of work was being undertaken regarding active travel and road safety. Members noted that there were two sources of funding in place for the Bikeability scheme.

**181. PETITIONS**

There were no petitions.

**182. HINCHINGBROOKE HOSPITAL – CQC INSPECTION UPDATE**

Medical Director and Responsible Officer, North West Anglia NHS Foundation Trust (NWAFT) Dr Kanchan Rege addressed the Committee regarding the recent Care Quality Commission (CQC) inspection that had been undertaken at the Trust. Dr Rege explained that the merger of Hinchingsbrooke into NWAFT triggered an inspection by the CQC and that the methodology of inspections had altered with more targeted inspections based on risks attached to services gleaned from a pre-inspection questionnaire. All the services were inspected and the conclusion was that the hospital required improvement. Dr Rege drew attention to the number of good core service ratings that exceeded those that required improvement however the weighting applied by the CQC resulted in the overall inspection being rated as requires improvement.

During the course of discussion Members:

- Drew attention to inaccuracies within the final report and questioned whether there were issues within the methodology and process that should be fed back to the CQC. Throughout the report roles were often different and it appeared that

elements of the report had been reproduced from other inspections. Dr Rege explained that although it could not be said that the inaccuracies would material affect the assessment it was disappointing that following feedback, many of the inaccuracies remained unchanged in the final report.

- Highlighted case recording as an issue at the hospital that had been raised at liaison meetings attended by Members. The CQC report appeared to allude to poor case recording and Members questioned how resourcing affected case recording. Dr Rege accepted the concerns regarding case recording and emphasised the importance of thorough documentation. Following the merger of the hospital there had been a standardisation of paperwork across NWAFT which had resulted in some unfamiliarity in its completion. Snapshot audits were undertaken in order to ensure quality of recording and the result were relayed through performance meetings.
- Noted the positive feedback received from local residents.
- Noted the relatively high levels of staff turnover (16%) at the hospital when it merged with NWAFT.
- Noted the culture of Hinchingsbrooke Hospital which was more family orientated with a more informal approach that while well received by patients did not perform well under external inspections.
- Commented that there were a number of clear messages within the inspection report regarding compliance and accurate recording and highlighted the importance of staff training and development together with recruitment and retention of staff.
- Sought assurance regarding the treatment of mental health patients at the hospital. Dr Rege confirmed that there was a fully equipped mental health unit at the hospital that was inspected by the Royal Institute of Psychiatrists. Member concerns would be addressed further at the quarterly liaison meetings.
- Questioned whether if the hospital had been inspected the month following its merger within NWAFT the outcome would have been different. In response Dr Rege, explained it was unlikely that the outcome of the inspection would have been different as the methodology used when completing the assessment had changed and the inspection was more detailed than in 2016. Dr Rege explained further that the CQC methodology was to conduct an interview with a member of staff and then extrapolate the result to the entire hospital. An example was provided where a member of staff did not know the name of the Chief Executive and it was extrapolated to a lack of senior management visibility.
- Questioned whether the process of integration had led to a decline in standards. Dr Rege commented that the process had not in her view resulted in declining standards and that the quality of services had been maintained.
- Commented that a benefit of the inspection result was that it created the necessary environment for changes to be made.
- Noted that most areas that required improvement had improved since the inspection and sought clarification regarding actions that remained. Dr Rege explained that a particular challenge was ensuring that all staff were up to date in their mandatory training programme. If the trust was responding to particular

pressures through increased demand staff were stepped down from mandatory training in order that they could provide care.

- Questioned whether there was sufficient staff numbers to ensure planned shifts were covered. Members noted the pressures faced by the hospital were not dissimilar to other Trusts regarding the recruitment and retention of staff. Dr Rege assured Members that through a number of initiatives such as the nursing apprenticeship programme the Trust was doing as much as possible to retain staff.
- Questioned whether there was sufficient funding for services to be provided. Dr Rege commented that the CQC require a high level of staffing that was unable to be provided all the time due to budgetary pressures. Dr Rege drew attention to the Trust's Clinical Integration Strategy that sought to utilise resources and the Trust's estate to best effect.
- Expressed concern regarding the inspection process undertaken by the CQC. Dr Rege commented that the Trust had met with the CQC where concerns were raised.

It was resolved to:

- a) Note the contents of the report
- b) For the Chairman of the Health Committee to write to the Care Quality Commission (CQC) regarding the inspection

### **183. EATING DISORDERS SERVICE UPDATE**

Following previous attendances at Committee the Chief Executive, Cambridgeshire and Peterborough Foundation Trust (CPFT) provided an update to the Committee regarding the Eating Disorders service. The Chief Executive drew attention to the challenges in treating eating disorders highlighting the level of risk associated with the condition.

The Chief Executive explained to the Committee that a clear priority for the service was to provide more effective pathways within the acute sector for patients admitted with eating disorders. Discussions were beginning with regional medical directors with a view to certain hospital specialising in providing.

The Chief Executive drew attention to the service provided in Norfolk and the challenges faced by the service related to staffing due to maternity leave and sickness. Discussions were taking place with Norfolk commissioners in order to provide a more robust Eating Disorders Service for the area.

During discussion of the report Members:

- Drew attention to the prevalence of mental health issues affecting students at university.
- Noted the importance of continual monitoring of cases within the community and the risks posed if community monitoring does not operate effectively, question whether the issue required greater attention nationally. The Chief Executive commented that in Hertfordshire, monitoring was provided centrally which was inconvenient for

patients and expensive whereas Norfolk provided GPs with training and there was a backstop in order to provide full coverage. The development of primary care networks would enhance coverage for monitoring in the future. There was need for a regional approach that responded to the needs of the community.

- Confirmed that section 2.8 of the report provided complaints statistics for the organisation as a whole and not just the Eating Disorders Service.
- Noted that although the Community Eating Disorders Service was located in hospitals they did however, worked in the communities they covered.
- Sought further information regarding community based care. It was explained that therapy was provided in the community and that included family therapy. Patients were generally admitted to hospital because they required feeding or their physical condition had worsened.
- Noted the health risks associated with eating disorders which included young age heart failure. The Chief Executive drew attention to the benefits of early intervention in treating eating disorders with treatment within the first three years of the disease providing the greatest chance of recovery.
- Commented that it would have been helpful to have trend data included in the report. The Chief Executive confirmed that such data could be provided to Members.
- Noted that referrals to the Eating Disorders Service had to be made by the GP. A significant number did not receive specialist services because they did not meet the threshold. The Chief Executive informed Members that patients were presenting with increasingly complex needs and had other mental health conditions together with the eating disorder.

In concluding the item, the Chairman encouraged Members to attend quarterly liaison meeting and to visit the Phoenix Centre.

It was resolved to:

Note the update provided

#### **184. PROVISION OF 111 OUT OF HOURS SERVICE FOR WISBECH**

The Head of Urgent and Emergency Care, Clinical Commissioning Group (CCG) addressed the Committee regarding the provision of 111 Out of Hours Service for Wisbech. In presenting the report the Head of Urgent and Emergency Care explained that although Wisbech patients were excluded by default the patients were covered as a Wisbech patient who called 111 would be routed through to IC24 who were responsible for the provision of the local NHS 111 and Out of Hours services. Members noted that Norfolk CCG were beginning a procurement exercise and as part of that work discussions were taking place in order to potentially return Wisbech to the Cambridgeshire and Hertfordshire CCG.

During discussion Members:

- Noted that due to the telephony system no changes were able to be made before the new financial year once the procurement exercise had been completed.



- Noted that the delivery of the Local Urgent Care Hub would not be affected.
- Were provided assurance that the current arrangement for accessing out of hours services based on the statistics available did work and there was a seamless transfer and no loss of connection.
- Noted that there had been few complaints raised at provider assurance meetings.
- Welcomed the potential return of the Wisbech area to the Cambridgeshire and Hertfordshire CCG.

It was resolved to:

Note the contents of the report

## 185. FINANCE AND PERFORMANCE REPORT – NOVEMBER 2018

The Committee received the November 2018 iteration of the Finance and Performance Report. Officers informed the Committee that there had been no change in the forecast outturn since the October report. .

During discussion Members:

- Sought further clarity regarding Appendix 1- Public Health Budgetary Control Report which appeared to show a disparity relating to the Children 0-5 PH Programme. Officers undertook to investigate further. **ACTION**
- Questioned whether the invoice process would be changed for the new financial year regarding Smoking Cessation Services. Officers undertook to discuss invoicing processes and the timing of their issue with the NHS.
- Drew attention to the S75 agreement for HIV. Officers agreed to provide the Vice-Chairman with a briefing note regarding the matter. **ACTION**
- Sought further information regarding the establishment of Community Hubs as part of the Children's Centres programme detailed on page 17 of the report. **ACTION**
- Requested further information relating to the Ambulance Trust featured within C&CS Research. **ACTION**
- Drew attention to the Counting Every Adult (MEAM) service and questioned how long decisions had been pending for and commented that 'sofa surfing' and 'living with family' were not the same and should be separated for the purposes of the report. Officers undertook to report back the length of time that decisions had been pending. **ACTION**
- Requested that consideration be given to collating data relating to Health Visiting reported at items 6, 7 and 10 on page 13 of the report separately by area. Although there was a balance to be struck between collecting data that impacted upon staff resources, there were significant health inequalities that would be better reflected if the data was collated separately. **ACTION**

It was resolved to:

- a) Review and comment on the report and to note the finance and performance position as at the end of November 2018.
- b) To approve the formation of a working group to carry out a review of the Public Health Reserves and nominate Councillors Boden, Harford, Jones and van de Ven.

#### **186. PROGRESS REPORT: PROGRAMMES FUNDED FROM PUBLIC HEALTH RESERVES – HEALTHY FENLAND FUND**

Members were presented a report that updated Members on the Healthy Fenland Fund that was funded through Public Health reserves. The Healthy Fenland Fund was committed to improving health outcomes and inequalities in the Fenland area. The programme aimed to contribute to improvements in the health and wellbeing of communities through supporting the development of strong and resilient communities that were fully engaged in identifying and addressing their needs.

In discussing the report Members:

- Emphasised the importance of a thorough evaluation of the programme in order to fully understand the difficulty of community interventions of this nature and commented that resource was required in order to carry out the evaluation.
- Noted that within paragraph 8.2 of the report that 74% of groups had gone on to be self-sustaining, Members also confirmed that the groups were enduring.
- Confirmed that periodic reviews were undertaken to understand how long groups endured for.
- Commented that when programmes were developed in the future, assessment of evaluation was undertaken in order to determine whether it was necessary and to ensure its robustness.
- Noted with concern the health outcomes of areas with significant migration from eastern European countries where smoking and alcohol misuse were more prevalent.

It was resolved to:

Acknowledge the positive progress achieved by the Healthy Fenland Fund Programme

#### **187. ANNUAL PUBLIC HEALTH REPORT 2018**

The Director of Public Health presented the Annual Public Health Report 2018. Attention was drawn to the strong focus within the report on achieving the 'best start in life for babies and young children in Cambridgeshire and reviewing some key factors which affected health and development up to the age of five.

The International Global Burden of Disease (IBD) study which had been providing health statistics for national governments globally for the last twenty years had for the first time provided analysis of health and disease at English local authority level. The IBD highlighted smoking as the greatest cause of premature death and the impact of poor diet and high body mass index as a cause of both premature deaths and disabling health conditions.

Members noted the 2017 annual report that focussed on determinants of health and that the majority of the recommendations would be carried forward.

In discussing the report Members:

- Highlighted and expressed concern regarding the percentage of women smoking at time of delivery April – September 2018 for the North Fenland area. Members noted that the Clinical Commissioning Group (CCG) was making investment into smoking cessation during pregnancy. The position created by the funding would work within the Public Health team in order to ensure close partnership working with midwifery services.
- Drew attention to the recommendations contained within the report of the Chief Medical Officer and encouraged reflection on them highlighting the impact of obesity and weight issues in terms of cost to the health service and health outcomes.
- Commented that local authorities were barely mentioned within the report of the Chief Medical Officer.
- Confirmed that self-harm included suicide.
- Emphasised the importance of influencing other services and directorates to achieve better health outcomes.
- Noted the emphasis regarding fiscal disincentives to achieve health outcomes.
- Noted the work undertaken by Fenland District Council to introduce a health strategy that encompassed the whole local authority and suggested incorporating health outcomes into local plans.

It was resolved to:

To discuss and comment on the findings of the Cambridgeshire Annual Public Health Report and national Chief Medical Officer (England) Report

## **188. HEALTH COMMITTEE QUARTERLY LIAISON MEETINGS Q3 UPDATE**

Members received the quarter 3 update of the Health Committee quarterly liaison meetings. In presenting the report officers drew attention to the key items discussed at the meetings.

During the course of discussion Members:

- Emphasised the importance of the liaison meetings which provided a forum for matters to be discussed openly through which vital information was provided to

Members. A Member commented further that consideration needed to be given to how the discussions that took place at liaison meetings was fed back to the Committee.

- Noted the update provided by a Member regarding Doddington Minor Injuries Unit. Members appointed to the relevant liaison group undertook to raise the matter at the next meeting.

It was resolved to:

- a) Note the content of the quarterly liaison groups and consider recommendations that may need to be included in the forward agenda plan
- b) Note the forthcoming schedule of meetings.

## **189. TRAINING PROGRAMME**

Members received the Health Committee Training Programme and noted the updates provided at the meeting.

It was resolved to:

Note the Committee training programme

## **190. HEALTH COMMITTEE AGENDA PLAN AND APPOINTMENTS TO OUTSIDE BODIES**

The Committee examined its agenda plan.

It was resolved unanimously to:

Note the Forward Agenda Plan and the additional item added to the March meeting of the Committee – CGL Contract Novation.

**PUBLIC HEALTH ENGLAND SEXUAL HEALTH SERVICES COMMISSIONING PILOT**

**To:** Health Committee

**Meeting Date:** February 7<sup>th</sup> 2019

**From:** Director of Public Health

**Electoral division(s):** All

**Forward Plan ref:** 2019/029 **Key decision:** Yes

**Purpose:** This paper seeks the support and approval of the Health Committee to award an interim contract for the delivery of the Integrated Contraception and Sexual Health (iCaSH) service to the current provider, Cambridgeshire Community Services (CCS). The CCC interim contract will run for six months commencing October 1 2019 and terminating on the 31 March 2020

**Recommendation:** The Health Committee is requested:

1. Review the rationale for the request to award an interim contract.
2. Support the interim contract being awarded to CCS for the delivery of iCaSH services in Cambridgeshire.
3. Support the publication of a Voluntary Ex Ante Transparency Notice (VEAT) to mitigate any procurement risks.

If the request is supported:

4. Authorise the Director of Public Health, in consultation with the Chairman and Vice Chairman of the Health Committee, to formally award the contract subject to compliance with all required legal processes
5. Authorise the Director of Law, Property & Governance to approve and complete the necessary contract documentation.

<b>Officer Contact:</b>		<b>Chair Contact:</b>	
Name:	Val Thomas	Name:	Councillor
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## **1. BACKGROUND**

- 1.1 Since 1st April 2013, Local Authorities (LAs) have a statutory duty to commission a wide range of Sexual and Reproductive Health (SRH) services as part of their wider public health responsibilities.
- 1.2 The current iCaSH contracts held by CCC and Peterborough City Council (PCC) were awarded to Cambridgeshire Community Services (CCS) via separate competitive tender processes and both are due to expire in 2019. The two local authorities are working together to jointly re-commission iCaSH services for the two areas with the aim of having one contract. To enable the joint commissioning of these services there is a need to align the termination dates of the two contracts.
- 1.3 The two local authorities are one of two areas in the country that are part of a national Public Health England (PHE) feasibility study to develop collaborative cross sectoral commissioning approaches across LAs, Clinical Commissioning Groups (CCGs) and NHS England sexual and reproductive health services. This work follows a joint DHSS and PHE report describing the impact upon SRH services of the 2013 Health and Social Care Act which divided sexual and reproductive health commissioning between these three commissioning organisations. The reports found that commissioning of services was fragmented and consequently related pathways were unaligned. Participation in the Study was previously approved by the Health Committee and Joint Commissioning Board in May 2018. The work undertaken as part of the national study informs and is part of the re-commissioning process.

## **2. MAIN ISSUES**

- 2.1 The original CCC contract was awarded for a three year period from October 2014 to September 2017 with the option to extend for a further two years. The extension was granted and the contract will end on the 30th September 2019. Similarly the original PCC contract was awarded for a three year period from July 2014 to June 2017 with the option to extend for a further two years. Again the extension was granted and the contract is due to end on 30th June 2019.
- 2.2 There would not be any change in the annual value of the interim contract which will have the following pro rata value.
  - CCC: The contracted value for the 6 months interim contract between 1st October 19 and 31st March 20 is £1,615,209.
- 2.3 The current services are funded until June 2019 for PCC and September 2019 for CCC. There is dedicated funding for services within the two LA Public Health Grants that would be allocated to the interim contracts. However an objective for the re-commission is to identify savings in the new single contract.
- 2.4 The proposal to continue to commission CCS to provide iCaSH services across the two areas until March 30th 2020 is supported by CCS.
- 2.5 The proposal will require the agreement of both local authorities in addition to the provider. This paper has been reviewed and approved by the Joint Commissioning Board.

2.6 The re-commissioning commenced in the early summer of 2018 with an initial view to have a new service in place in by September 2019. All the possible contract extensions have been used but a three month contractual arrangement would have been sought for the PCC service to align it with the CCC service. However the rationale for having an interim direct award contract until March 2020 reflects not only the need to align dates but also other complexities and considerations that make for a longer procurement process.

- Nationally there are many new developments in the delivery of iCaSH services that have the potential to deliver efficiencies and these are being explored as options for both areas
- The areas are very different in terms of needs and patient profile which involves a wider range of consultation events
- The recommissioning also involves working with the CCG and NHSE which requires some alignment with their commissioning processes is desirable.
- CCS is the main provider of sexual health services across the region and the market will require stimulation if there is to be robust competitive process.

2.7 The following alternative options have been considered

- a) Do not award an interim contract but accelerate the commissioning process.  
If the commissioning process is accelerated the key complexities and issues described in section 4.1 above would undermine a robust commissioning process and the odds of securing the best possible service. In addition to avoid some form of exemption or interim contract the CCC contract would have to end in June 2019 to align it with the PCC contract.
- b) Contracts end as per schedule creating a break in service delivery until April 1 2020  
A gap in provision which would contravene the legal responsibilities of LAs to provide or make arrangements to secure open access sexual health service in their areas [Regulation 6, Part 2 of the Local Authorities Regulations 2013 (SI 2013/351)]. It would pose a serious threat to public health.
- c) Undertaking a competitive tender for an interim period.  
Completing a tender for a maximum contract length of 9 months raises a number of issues.
  - Competitive retendering within the short time frame would be very challenging, impacting upon the quality of the exercise and award result.
  - There is a distinct lack of other suitable providers in the market so the likelihood of a successful competitive tender exercise is low. Time for market development is limited within the short time scales.
  - Multiple short term procurements are discouraged due to the destabilising effect on service provision and staffing. iCaSH provision is acutely challenged by the lack of specialist nurses and any further losses would have a significant impact on the clinical capacity of any service model going forward. In addition it is a clinical service which requires a specialist environment that requires a level of investment that would not be attractive to providers of a short term contract.

- 2.8 The risks associated with this proposal reflect the legal position with regard to a direct award. Advice has been sought from the legal and procurement teams in both CCC and PCC and is summarised as follows.
- a) The value of the proposed “extensions” or “interim contracts” is over £1million per contract for a period of 6/9months. This sum is in excess of the PCR 2015 EU Schedule 3 limit and this flags the risk of being in breach of procurement law. To be fully compliant procurements must be undertaken for all service contracts which exceed the EU threshold. The Contract Rules stipulate that an exemption can never be used where the total value of the contract exceeds the EU threshold. There is nothing in law or contractually which would allow either Authority to reach such an agreement with their current provider, without risk, but the breach could be mitigated.
  - b) Whilst both Authorities have a statutory duty to provide the service and there is a reputational risk if services are not available, this is not in itself mitigation to any challenge from the EU. The service has to be provided, but it could have been provided compliantly had the procurement been carried out in time. The mitigating factors reflect the large scale nature of this re-commissioning project and the statutory services involved. It is a re-commission with complex arrangements which are taking time to plan and develop across a whole system commissioning landscape. These factors have made it difficult to re-commission prior to current contract expiry dates.
  - c) The aim is to secure delivery of the longer term strategy and objectives through a well-planned robust commissioning exercise that will achieve greater efficiencies and better delivery of the services.
  - d) The Authorities could issue a Voluntary Ex Ante Transparency Notice (VEAT) as a means of advertising the intention to let a contract without opening it up to formal competition. The VEAT notice would provide sufficient information for the justification of the decision and would allow potential providers the opportunity to challenge the approach. This reduces the risk of claims against a direct award of the contract by the Local Authorities being upheld and it does demonstrate transparency. In addition this is only a short term arrangement and the intention is to proceed with a procurement process during 2019.

### **3. ALIGNMENT WITH CORPORATE PRIORITIES**

Report authors should evaluate the proposal(s) in light of their alignment with the following three Corporate Priorities.

#### **3.1 Developing the local economy for the benefit of all**

The report above sets out the implications for this priority in **2.2, 2.3**

#### **3.2 Helping people live healthy and independent lives**

The report above sets out the implications for this priority in **2.6, 2.7**



### **3.3 Supporting and protecting vulnerable people**

The following bullet points set out details of significant implications identified by officers:

- The new commissioning model will enable any health inequalities or inequities in service provision to be addressed through identification of needs and the better alignment of sexual and reproductive services that target vulnerable high risk populations.

## **4. SIGNIFICANT IMPLICATIONS**

### **4.1 Resource Implications**

The report above sets out details of significant implications in

### **4.2 Procurement/Contractual/Council Contract Procedure Rules Implications**

The following bullet points set out details of significant implications identified by officers:

- Any implications for procurement/contractual/Council contract procedure rules will be considered with the appropriate officers from these Departments and presented to the Health Committee before proceeding.

### **4.3 Statutory, Legal and Risk Implications**

The following bullet points set out details of significant implications identified by officers:

- Any legal or risk implications will be considered with the appropriate officers from these Departments and presented to the Health Committee before proceeding.

### **4.4 Equality and Diversity Implications**

The following bullet points set out details of significant implications identified by officers:

- Any equality and diversity implications will be included in the pilot study; a Community Equality Impact Assessment will be completed.

### **4.5 Engagement and Communications Implications**

The following bullet points set out details of significant implications identified by officers:

- The pilot study will include consultation with service providers and users; a Community Impact Assessment will be completed.

### **4.6 Localism and Local Member Involvement**

The following bullet points set out details of significant implications identified by officers:

- The commissioning of sexual and reproductive health services will involve working with individuals and communities to identify how that can best protect and improve their sexual health.

#### 4.7 Public Health Implications

The following bullet points set out details of significant implications identified by officers:

- The re-commission will improve the sexual health of the population through ensuring that the different commissioned pathways and services are integrated and support the improvement of outcomes
- These service developments will need to include targeted actions that will address any inequalities and improve the outcomes for the most vulnerable and at risk populations.

Implications	Officer Clearance
<b>Have the resource implications been cleared by Finance?</b>	Yes Name of officer: Clare Andrews
<b>Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement?</b>	Yes Name of officer: Paul White
<b>Has the impact on statutory, legal and risk implications been cleared by LGSS Law?</b>	Yes Name of officer: Nicola Malloy
<b>Have the equality and diversity implications been cleared by your Service Contact?</b>	Yes Name of Officer: Liz Robin

<b>Have any engagement and communication implications been cleared by Communications?</b>	Yes Name of Officer: Matthew Hall
<b>Have any localism and Local Member involvement issues been cleared by your Service Contact?</b>	Yes Name of Officer: Liz Robin
<b>Have any Public Health implications been cleared by Public Health</b>	Yes Name of Officer: Liz Robin

### **SOURCE DOCUMENTS GUIDANCE**

<b>Source Documents</b>	<b>Location</b>
Public Health England: Making it work: A guide to whole system commissioning sexual health, reproductive health and HIV 2015	<a href="https://www.gov.uk/government/publications/commissioning-sexual-health-reproductive-health-and-hiv-services">https://www.gov.uk/government/publications/commissioning-sexual-health-reproductive-health-and-hiv-services</a>
Public Health England: Sexual Health, Reproductive Health and HIV: A Review of Commissioning 2017	<a href="https://www.gov.uk/government/publications/sexual-health-reproductive-health-and-hiv-commissioning-review">https://www.gov.uk/government/publications/sexual-health-reproductive-health-and-hiv-commissioning-review</a>



**RE-COMMISSIONING OF THE HEALTHY CHILD PROGRAMME**

*To:* **Health Committee**

*Meeting Date:* **7<sup>th</sup> February 2019**

*From:* **Director of Public Health**

*Electoral division(s):* **All**

*Forward Plan ref:* **2019/015** *Key decision:* **Yes**

*Purpose:* **What is the Committee being asked to consider?**

The purpose of this report is to ask the Committee to consider the re-commissioning options for the Healthy Child Programme.

*Recommendation:*

**What is the Committee being asked to agree?**

- a) Endorse an integrated commissioning approach for the Healthy Child Programme (HCP) across Cambridgeshire and Peterborough, with Cambridgeshire County Council (CCC) as the lead commissioner.**
- b) Approve one of the following options for the approach to be adopted for the re-commissioning of the Healthy Child Programme**

**Option 1:** A Section 75 Agreement with the current providers of the Healthy Child Programme which includes the following:

- Approval for the development and implementation of a revised Section 75 Agreement
- Approval for the development of a new service specification in collaboration with the Section 75 provider.
- Authorisation of the Director of Public Health in consultation with the Chair and Vice Chair of the Health Committee to complete the negotiation of the proposed Section 75 agreement, finalise arrangements and enter into the proposed agreement.
- Authorisation of LGSS Law to draft and complete the necessary documentation to enter into the agreement.

Or

**Option 2:** A Competitive Tender which includes the following:

- Extension of the current Section 75 Agreement to 31 March 2020 to enable services to continue, while a tendering process is undertaken
- Approval of the commencement of a competitive process
- Authorisation of the Director of Public Health, in consultation with the Chairman and Vice Chairman of the Health Committee to award a contract to the successful provider subject always to compliance with all required legal processes.
- Authorisation of LGSS Law to draft and complete the necessary contract documentation to enter into the agreement.

<b><i>Officer contact:</i></b>		<b><i>Member contacts:</i></b>	
Name:	<b>Raj Lakshman</b>	Names:	Peter Hudson
Post:	Consultant in Public Health	Post:	Chair
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## 1. BACKGROUND

**1.1** The Healthy Child Programme (HCP) is a national public health programme to achieve good outcomes for all children from pregnancy through to 19 years of age. The HCP 0-5, led by health visitors and their teams, offers every child a schedule of health and development reviews, screening tests, immunisations, health promotion guidance and support for parents tailored to their needs, with additional support when needed and at key times. Children of school age 5-19 are supported through the School Nurses and their teams who are accessible to school-aged children and provide support and signposting to additional services as required.

**1.2** Delivery of the Healthy Child Programme is mandated through the Public Health Grant, and therefore Local Authorities are subject to the Public Health Grant conditions. The conditions include:

- Prescribed functions – this includes the mandated elements of the 0-5 Healthy Child Programme
- Non-prescribed functions – Children's 0-5 non-mandated elements, and Children's 5-19 public health programmes

Regulation requires all families with babies to receive five health visitor checks before their child reaches 2 and a half years old as described in the Healthy Child Programme 0-5 years.

**1.3** In Cambridgeshire, the Healthy Child Programme is commissioned from Cambridgeshire Community Services NHS Trust (CCS). Services in Peterborough are commissioned by Peterborough City Council from Cambridgeshire and Peterborough Foundation Trust (CPFT)

**1.4** HCP services are currently commissioned via Section 75 Agreements in Peterborough and Cambridgeshire. These are due to expire on 31 March 2019, requiring both Authorities to enter into new agreements from 1 April 2019. The 2018/19 annual values of the Section 75s are £8,926,739 (Cambridgeshire) and £3,695,226 (Peterborough).

**1.5** Integration of the Healthy Child Programme is the first stage of the wider integration process for Children's Health and Wellbeing services in Cambridgeshire and Peterborough, which has been discussed with the Health Committee at the following meetings:

Date	Health Committee	Title of paper	Comments
14/6/17	Committee paper in public	0-19 Joint Commissioning of Children's Health and Wellbeing Services	Focus on the work of the children's health joint commissioning unit and integration of children's health services
14/12/17	Committee paper in public	Integrated commissioning of children's	Focus on the children's centre restructure and the links to health provision in children's centres



		HWB services	(midwives, health visiting etc)
17/5/18	Committee paper in public	Children's Health Joint Commissioning Unit Integration update	Focus on achievements of the children's health joint commissioning unit and progress towards integration of services
6/12/18	Committee paper in public	Healthy Child Programme Update	Proposed integrated service model for the 0-19 Health Child Programme

**1.6** Following joint work through the Children's Transformation Board to focus on integration, a paper was presented to the Health Committee in December 2018 seeking endorsement of the proposed HCP service model in Cambridgeshire and Peterborough. The model retains the universal offer across Cambridgeshire and Peterborough, including the 0-5 visits mandated through the public health grant conditions. Proposed innovations and changes include:

- Streamlining the management structure across Cambridgeshire and Peterborough to deliver a joint leadership and management structure, supported by locality teams.
- Changing the support for teenage parents through retaining the Family Nurse Partnership for those who are most vulnerable, but enhancing access for all teenage parents, to extend beyond the universal mandated offer.
- Change in workforce skill mix to deliver the service model, using a nationally accepted workforce tool to model the requirements.
- Redesigning access to advice by increasing access to immediate advice and support through an improved digital offer – Parentline and Chathealth.
- Improving access for families by the implementation of development review clinics on a Saturday, initially in a small number of locations.

This model for integration of HCP 0-19 is the first stage of the wider ambition to further integrate children's health and wellbeing services across Cambridgeshire and Peterborough, with joint working across the 2 health trusts currently delivering in the area. An overarching 'Best Start in Life' workstream is bringing together stakeholders from across the local system, to develop an overarching strategy for Early Years and design the new system offer.

**1.7** At its meeting on 6 December the Health Committee endorsed the proposed service model described at 1.5, within financial resources of £8,528,739 (Cambridgeshire) and £3,495,226 (Peterborough), giving total resources of £12,023,965. This paper sets out the options for re-commissioning of the services to deliver the model.

## **2. MAIN ISSUES**

### **2.1 Integration of commissioning across Cambridgeshire and Peterborough**

Consistent with the strategic direction of travel to integrate children's health and wellbeing services across Cambridgeshire and Peterborough, the two current providers have developed an integrated management structure and single service model. It is therefore proposed that a single commissioning arrangement would be the most efficient and effective commissioning approach to re-commissioning the services and managing and monitoring service delivery.

The implications of this are that both Authorities would need to agree which Authority would act as lead commissioner of the services. On this occasion it is proposed that Cambridgeshire County Council acts as lead Commissioner across Cambridgeshire and Peterborough. If this approach is endorsed by both Authorities, then a Delegation Agreement is required to enable a transfer of resources from Peterborough to Cambridgeshire for the duration of the commissioning agreement, which is proposed as 5 years.

Attached at Appendices 1 and 2 are:

- Draft Cabinet Member Decision Notice (CMDN) (Appendix 1) which approves the delegation of responsibility for commissioning the HCP in Peterborough to Cambridgeshire County Council (CCC) and approves the associated transfer to HCP funding to CCC for up to five years (April 2019 – March 2024).
- Draft Delegation Agreement (DA) (Appendix 2) which details the terms of the delegation of commissioning responsibility to Cambridgeshire.

These documents have the effect of:

- Limiting the transfer of resources from Peterborough to Cambridgeshire to the value of the commissioning agreement in place
- Limit the financial liability for Cambridgeshire.

Legal implications have been considered and addressed within the Delegation Agreement underpinning the transfer of commissioning authority to Cambridgeshire, in collaboration with both LA legal departments.

In order to ensure that the financial resources of each Authority are deployed on services in the appropriate locality, the respective current providers have agreed to separate financial schedules (which is current practice) and financial monitoring of those schedules. Performance indicators would also be monitored on a geographical basis.

Should the Committee decide to re-tender the HCP, then it is feasible to tender the service as a single tender, with separate financial schedules to reflect the accountability of each Authority.

## 2.2 Commissioning options

The establishment of a Section 75 Agreement whereby delegation of duties is assigned to a Health Authority is not required to be procured (in this case delegation from the Local Authority to an NHS Trust). This is one of the situations outlined in Article 12 of the Public Contracts Directive which excludes a number of contracts from the scope of the Directive. This issue is covered in more detail at Section 4.2, and in practice means that the Authorities have a choice either to renegotiate the current Section 75 Agreement, or to competitively tender for provision of the services.

Table 1 summarises the general advantages and disadvantages of adopting one of these two commissioning approaches.

In summary, a competitive tender could drive down costs and is associated with innovation and transformation, however collaborative partnership working between commissioners and providers can also deliver robust and innovative cost-effective services.

Locally, there are a number of reasons why a Section 75 agreement could be more appropriate for the recommissioning of the Healthy Child Programme.

- Both Authorities and (current) NHS Trusts have an ambition to further integrate children's services across Cambridgeshire and Peterborough. A Section 75 Agreement is more likely to support this service integration.
- Through the Children's Transformation Board, both providers have worked to develop a single model which delivers the Healthy Child Programme and also delivers significant financial savings to both Authorities.
- The most significant challenge to delivery of the HCP has been the availability of NHS clinical staff. This remains both a national and a local challenge, however the proposed model addresses this through changes to skill mix in order to maintain (and improve where required) service standards. There is a risk that a competitive tendering process could destabilise the current workforce further with consequent impact on service delivery.

**Table 1: Summary of Commissioning Approach Options**

Commissioning approach	Advantages	Disadvantages
Competitive Tender	<ul style="list-style-type: none"><li>• Provides an opportunity for innovation and transformation</li><li>• Potential for securing cost efficiencies</li></ul>	<ul style="list-style-type: none"><li>• Procurement processes require resources in terms of staff time and specialist support</li><li>• An extension to the current Section 75 would be required to allow time to undertake the procurement</li><li>• Potential for destabilisation of current service provision.</li></ul>

Section 75	<ul style="list-style-type: none"> <li>• Provides opportunity for greater local integration of service provision for children and young people</li> <li>• The proposed service offer supports the service model within a reduced cost base</li> <li>• Provides opportunity for innovation and transformation through partnership working</li> <li>• Removes the risk of destabilising the current workforce and consequent potential impact on current provision and pathways (for example the teenage pregnancy pathway)</li> <li>• Current provider has a good CQC rating overall, and for child health services specifically, providing services for a number of Local Authorities in the east of England</li> <li>• Enables joint working across Cambridgeshire and Peterborough – both providers and Local Authorities, to support improved integration</li> </ul>	<ul style="list-style-type: none"> <li>• A competitive tender could drive cost down</li> <li>• Innovation and transformation rely upon good effective partnership working</li> <li>• The current provider has delivered strongly in a number of areas, but there are ongoing challenges in relation to 1 and 2 year checks and antenatal visits in particular.</li> </ul>

### 2.3 Next steps and timescales

The proposed timeline will be dependent on Committee's decisions in relation to:

- Proposed joint commissioning arrangements across Cambridgeshire and Peterborough and
- The preferred commissioning model

If the option selected is a renegotiation of the Section 75, an agreement will be prepared to run from 1 April 2019 for a duration of 5 years. The agreement will reflect the agreed service model, with supporting service specification, performance indicators and monitoring arrangements. An annual review of the partnership arrangements, and an annual report from CCS and CPFT on the services provided will enable a review of the financial arrangements and enable and support service change through innovation and best practice. These documents will also reflect Internal Audit recommendations relating to the effectiveness of financial processes and performance monitoring arrangements.

In line with audit recommendations and established good practice the new performance monitoring regime will include:

- Revised and updated KPIs to reflect national standards and local service remodelling
- Incentives and penalties for performance and under performance respectively
- Greater focus on quality assurance via an increased range of quality metrics and audit
- Greater financial transparency via open book reporting against a detailed pricing schedule
- Setting of annual service objectives and service development planning to ensure momentum for transformation is maintained and continued service evolution to meet local needs
- Increased emphasis on staff and service user feedback
- Increased frequency of monitoring
- Annual review and report.

The enhanced performance monitoring regime is intended to provide the local authority with robust evidence of quality, effectiveness and value for money along with early warning signs of under-performance. Work is underway with both Providers to agree the Service Specification and KPIs and a draft of these will be sent to the Lead Members for comments before the Section 75 Agreement is signed.

If the option selected is a competitive tender of the services, a procurement strategy will be drawn up to tender the services for service commencement on 1 April 2020, either as a single tender across Cambridgeshire and Peterborough, or as two separate tenders for Cambridgeshire and Peterborough respectively. Given that the current agreements are due to expire on 31 March 2019, a twelve month extension would be required to ensure continuation of service delivery between 1 April 2019 and 31 March 2020.

### **3. ALIGNMENT WITH CORPORATE PRIORITIES**

(Alignment of the HCP to corporate priorities was set out in the HCP service model proposals discussed by the Health Committee at its meeting on 6 December 2018. The following evaluation therefore relates to the commissioning arrangements only).

#### **3.1 Developing the local economy for the benefit of all**

There are no significant implications for this priority.

#### **3.2 Helping people live healthy and independent lives**

There are no significant implications for this priority.

#### **3.3 Supporting and protecting vulnerable people**

There are no significant implications for this priority.

### **4. SIGNIFICANT IMPLICATIONS**

## **4.1 Resource Implications**

As detailed in Section 1.7, the 2019/20 total Cambridgeshire and Peterborough budget envelope for the 0-19 HCP would be £12,023,965.

Peterborough will be required to transfer its HCP budget to Cambridgeshire as part of this joint commissioning arrangement. Details regarding amounts, timeframes and 'claw back' will be covered in the Delegation Agreement to ensure Peterborough's position is protected and its financial investment is solely used for Peterborough residents. The Delegation Agreement will also ensure that CCC will only pick up costs related to Cambridgeshire residents.

## **4.2 Procurement/Contractual/Council Contract Procedure Rules Implications**

Advice has been sought from the Strategic Procurement Manager for Cambridgeshire (LGSS).

Under Section 75 of the NHS Act 2006 (as amended), the Secretary of State can make provision for local authorities and National Health Service (NHS) bodies to enter into partnership arrangements in relation to certain functions, where these arrangements are likely to lead to an improvement in the way in which those functions are exercised. The specific provision for these arrangements is set out in the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000. The regulations set out how partners can enter into arrangements whereby an NHS body may exercise the prescribed health-related functions of local authorities.

There are also a number of contracts that are excluded from the scope of the Public Contracts Directive. Article 12 of the Directive outlines situations whereby Public contracts between entities within the public sector are excluded. The establishment of a Section 75 whereby delegation of duties is assigned to the Health Authority is not required to be procured.

The risks of pursuing this option may be mitigated by issuing a Voluntary Ex-Ante Transparency Notice (VEAT) outlining the proposed arrangement. A VEAT notice is a means of advertising the intention to let a contract without opening it up to formal competition evidencing that under the "Duty of Best Value" the arrangements being proposed secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

## **4.3 Statutory, Legal and Risk Implications**

Since the value of the Cambridgeshire budget is higher, it is proposed that Cambridgeshire County Council (CCC) will act as the lead commissioner on behalf of CCC and Peterborough City Council (PCC). A Delegation Agreement is required between CCC and PCC.

Legal implications have been considered and addressed within the Delegation Agreement underpinning the transfer of commissioning authority to Cambridgeshire, in collaboration with both LA legal departments.

#### 4.4 Equality and Diversity Implications

There are no significant implications within this category

#### 4.5 Engagement and Communications Implications

There are no significant implications within this category

#### 4.6 Localism and Local Member Involvement

There are no significant implications within this category

#### 4.7 Public Health Implications

There are no significant implications within this category.

Implications	Officer Clearance
Have the resource implications been cleared by Finance?	Yes Name of Officer: Clare Andrews
Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement?	Yes Name of Officer: Paul White
Has the impact on statutory, legal and risk implications been cleared by LGSS Law?	Yes Name of Officer: Denise Lord
Have the equality and diversity implications been cleared by your Service Contact?	Yes or No Name of Officer: Liz Robin

Have any engagement and communication implications been cleared by Communications?	Yes Name of Officer: Matthew Hall
Have any localism and Local Member involvement issues been cleared by your Service Contact?	Yes or No Name of Officer: Liz Robin
Have any Public Health implications been cleared by Public Health	Yes or No Name of Officer: Liz Robin

Source Documents	Location
<p data-bbox="196 371 683 443"><b>Healthy Child Programme: Best Practice Guidance, 2009, DH</b></p> <p data-bbox="196 517 715 656"><b>Effectiveness of the Healthy Child Programme, an evidence update, June 2014, Early Intervention Foundation</b></p> <p data-bbox="196 730 783 835"><b>Health Committee paper – Healthy Child Programme Update, 6 December 2018</b></p>	<p data-bbox="813 371 1536 436"> <a href="#">Healthy Child Programme: Pregnancy and the first five years</a>  <a href="#">Healthy Child Programme: From 5-19 years old</a> </p> <p data-bbox="813 481 1536 546"> <a href="http://www.eif.org.uk/publication/what-works-to-enhance-the-effectiveness-of-the-healthy-child-programme-an-evidence-up">http://www.eif.org.uk/publication/what-works-to-enhance-the-effectiveness-of-the-healthy-child-programme-an-evidence-up</a> </p> <p data-bbox="813 741 1257 775"> <a href="https://tinyurl.com/ybjeubgm">https://tinyurl.com/ybjeubgm</a> </p>



<b>DECISION TITLE:</b> Delegation of authority to Cambridgeshire County Council to act as lead local authority in commissioning the Healthy Child Programme (HCP) across Peterborough and Cambridgeshire and for delivery of the function for the HCP to Cambridgeshire County Council.
<b>Councillor Lamb, Cabinet Portfolio holder for Public Health</b>
<b>February 2019</b>
<b>Deadline date:</b>

Cabinet portfolio holder: Responsible Director:	Councillor Lamb, Cabinet Portfolio holder for Public Health Liz Robin, Director of Public Health
Is this a Key Decision?	YES If yes has it been included on the Forward Plan: YES Unique Key decision Reference from Forward Plan: <b>KEY/26NOV18/03</b>
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	NO
Is this a project and if so has it been registered on Verto?	NO

<b>R E C O M M E N D A T I O N S</b>
The Cabinet Member is recommended to:
Approve the delegation of authority to Cambridgeshire County Council (CCC) to act as lead local authority in commissioning the Healthy Child Programme (HCP) across Peterborough and Cambridgeshire and for delivery of the function for the HCP to CCC, which shall include the associated transfer of HCP funding to CCC for up to five years (1st April 2019 - 31st March 2024)

<b>1.</b>	<b>PURPOSE OF THIS REPORT</b>
1.1	<p>1. This report is for (enter title of decision maker) to consider exercising delegated authority under paragraph ..... of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph .....</p> <p>2. <i>[Governance Team to complete this section following liaison with author]</i></p>
<b>2.</b>	<b>TIMESCALES</b> <i>[If this is not a Major Policy item, answer <b>NO</b> and delete the second line of boxes.]</i>


	<table><tr><td>Is this a Major Policy Item/Statutory Plan?</td><td><b>NO</b></td><td>If yes, date for Cabinet meeting</td><td></td></tr><tr><td>Date for relevant Council meeting</td><td></td><td>Date for submission to Government Dept. (Please specify which Government Dept.)</td><td></td></tr></table>	Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting		Date for relevant Council meeting		Date for submission to Government Dept. (Please specify which Government Dept.)	
Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting							
Date for relevant Council meeting		Date for submission to Government Dept. (Please specify which Government Dept.)							
3.	<b>BACKGROUND AND KEY ISSUES</b>								
3.1	<p><b>The Healthy Child Programme (HCP)</b></p> <p>The foundations for virtually every aspect of human development – physical, intellectual and emotional – are established in childhood. In 2009, the Department of Health set out an evidence-based programme of best practice, the Healthy Child Programme, with the ambition of making everywhere as good as the best by developing improvements in health and wellbeing for children and young people.</p> <p>The 0-19 HCP is a universal-progressive, needs-based service delivered at 4 levels: Community, Universal, Universal Plus (single agency involvement) and Universal Partnership Plus (multi-agency involvement). All children, young people and families are offered a core programme of evidence based, early intervention and preventative health care with additional care and support for those who need it.</p> <p>The six high impact areas for the <b>0-5 HCP</b> are</p> <ul style="list-style-type: none"><li>● <b>transition to parenthood</b> and the early weeks</li><li>● maternal (perinatal) <b>mental health</b></li><li>● <b>breastfeeding</b> (initiation and duration)</li><li>● <b>healthy weight</b> (including healthy nutrition and physical activity)</li><li>● managing minor illness and <b>reducing hospital attendance</b> and admission</li><li>● health, wellbeing and development of children aged 2 and <b>school readiness</b></li></ul> <p>The six high impact areas for the <b>5-19 HCP</b> are</p> <ul style="list-style-type: none"><li>● <b>building resilience</b> and supporting <b>emotional wellbeing</b> as highlighted in ‘Future in Mind’, working closely with schools, parents and local services</li><li>● <b>keeping safe</b>, managing risk and reducing harm including child sexual abuse and exploitation; sexual and domestic abuse; neglect; PREVENT; alcohol and substance misuse; mental health issues</li><li>● improving <b>healthy lifestyles</b> and health literacy including reducing childhood obesity and increasing physical activity; smoking prevention and cessation; healthy relationships and positive sexual health</li><li>● maximising <b>learning</b> and achievement -helping children to realise their potential and reducing inequalities</li><li>● supporting additional health and wellbeing needs supporting emotional wellbeing</li><li>● promotion of <b>immunisation and screening</b></li><li>● seamless <b>transition</b>- specifically entry into Reception Year (ages 4/5years); changing school, leaving school; supporting the transfer into further and higher education. Preparing for adulthood aligning with the NHS Five Year Forward View (self-care and prevention agenda)</li></ul>								
3.2	<p><b>Current commissioning arrangements for HCP</b></p> <p>School Nursing has been commissioned by the Local Authority since April 2013 when Public Health responsibilities transferred from the NHS to Local Authorities. Responsibility</p>								

	<p>for commissioning Health Visiting and Family Nurse Partnership transferred to the Local Authority later in October 2015.</p> <p>Currently Section 75 agreements are in place for Cambridgeshire and Peterborough Foundation Trust (CPFT) to deliver the HCP in Peterborough (and Cambridgeshire Community Services NHS Trust (CCS) to deliver the service in Cambridgeshire) due to expire on 31st March 2019.</p> <p>Internally, commissioning responsibility for the HCP transferred from the Children's Health Joint Commissioning Unit to the Public Health Joint Commissioning Unit on 1<sup>st</sup> October 2018.</p>
<b>3.3</b>	<p><b>Direction of travel</b></p> <p>The Child Health Joint Commissioning Unit is working strategically to align all child health provision commissioned by Cambridgeshire and Peterborough local authorities and the CCG in order to increase efficiency and improve outcomes for children and young people.</p> <p>The HCP is amongst the first child health service to be recommissioned within this strategic vision. In regards to HCP, the commissioning intentions are to:</p> <ul style="list-style-type: none"> <li>• jointly commission HCP across Cambridgeshire and Peterborough via a renegotiated section 75 agreement with the current providers</li> <li>• support the closer working of the 2 current providers (CPFT in Peterborough and CCS in Cambridgeshire)</li> <li>• utilise innovation to better manage demand, increase capacity, improve efficiency and address workforce shortages</li> <li>• realise a modest reduction in service cost (c.£200k pa in Peterborough)</li> </ul> <p>A revised service specification is being developed along with a financial review of service costs to ensure continued value for money for the local authority.</p> <p>It has been proposed on this occasion, Cambridgeshire County Council (CCC) act as the lead authority and therefore on Peterborough's behalf, hence approval is sought to delegate the council's authority to commission and deliver the function. The intended approach to recommissioning is via a renegotiation of the section 75 agreement. However, the full range of contract award mechanisms remain open to CCC in the event legal and procurement advice change. The renegotiation of the section 75 agreement will be undertaken by the Public Health Joint Commissioning Unit, comprised of officers from both local authorities.</p> <p>A Delegation and Partnering Agreement is in development at present detailing the terms of the delegation of commissioning responsibility to Cambridgeshire.</p> <p>Presently, Cambridgeshire and Peterborough work together in partnership in relation to identifying ways of working together through the combination, sharing and closer integration of services. In accordance with Cambridgeshire and Peterborough's Joint Working Agreement, both councils shall work together to ensure the HCP service is contract managed and monitored to develop and enhance service delivery, build resilience and achieve future efficiencies.</p>
<b>3.4</b>	<p><b>Timeframe &amp; Value</b></p> <p>The delegation of commissioning responsibility and associated funding is for a period of up to 5 years (April 2019 - March 2024).</p> <p>The total Peterborough 0-19 HCP budget for <b>2018/19 is £3,695,226</b>. A deferred saving of £200K approved in 2018/19 Peterborough Business Plan would take the budget for <b>19/20 to £3,495,226</b>. However this is subject to final service modelling and settlement of inflation</p>

	<p>pay awards for NHS staff. The exact annual transfer figure will be confirmed in the Delegation Agreement but will not exceed the current expenditure of £3,695,226.</p> <p>The total Cambridgeshire 0-19 HCP budget for <b>2018/19 is £8,926,739</b>. A saving proposal of £398K would take the budget for <b>19/20 to £8,528,739</b> (again, subject to final service modelling and settlement of inflation pay awards for NHS staff).</p> <p>Peterborough's 0-19 HCP funding will be transferred and added to the Cambridgeshire 0-19 HCP funding on an annual basis. Specific arrangements for open book reporting and financial monitoring will be built into the Delegation and Partnering Agreement to ensure appropriate spend of respective LA funds and facilitate return of any underspend to the appropriate LA.</p>
<b>4.</b>	<b>Outcomes</b>
4.1	<p>The intended outcomes of the proposed joint commissioning approach are to:</p> <ul style="list-style-type: none"> <li>• Improve and strengthen the service offer to children and families across Cambridgeshire and Peterborough</li> <li>• Reduce cost and increase efficiency through alignment and closer working between the two providers</li> <li>• Increase capacity, address workforce shortages and better manage increasing demand</li> <li>• Demonstrate greater transparency in terms of service cost and ensure value for money for both LAs</li> <li>• Improve outcomes at individual and population levels through the prevention and early identification of health issue</li> <li>• Reduce demand for health and social care economy in the long term</li> </ul>
<b>5.</b>	<b>ANTICIPATED OUTCOMES OR IMPACT</b>
5.1	Please refer to 4.1
<b>6.</b>	<b>REASON FOR THE RECOMMENDATION</b>
6.1	<p>The proposal to delegate commissioning responsibility to CCC is based on the following reasons:</p> <ul style="list-style-type: none"> <li>• Clarity of roles and responsibilities, making it easier for both local authorities and providers to progress the project</li> <li>• Reduction of duplication and therefore wasted financial and staff resources</li> <li>• Reduction in bureaucracy and simplified processes, allowing progress to be made more quickly</li> <li>• Facilitation of collaboration and shared working in a transparent way</li> </ul>
<b>7.</b>	<b>ALTERNATIVE OPTIONS CONSIDERED</b>
7.1	<p>Recommission HCP separately:</p> <p>This option was excluded as it goes against the strategic drive to align child health provision across Cambridgeshire and Peterborough. It would be a barrier to the development of true collaboration between the two providers and potentially lead to continued differences in service provision across the area. It is also less likely to yield financial efficiencies and quality improvement that come with joint working and collaboration.</p>
<b>8.</b>	<b>IMPLICATIONS</b>
	<b>Financial Implications</b>

8.1	<p>Peterborough will be required to transfer it's HCP budget to Cambridgeshire as part of this joint commissioning arrangement. Details regarding amounts, timeframes and 'claw back' will be covered in the Delegation Agreement to ensure Peterborough's position is protected and it's financial investment is solely used for Peterborough residents.</p> <p>Performance monitoring of the HCP delivery will include quarterly open book reporting, clearly identifying expenditure of PCC budget.</p>
	<b>Legal Implications</b>
8.2	<p>Legal implications have been considered and addressed within the Delegation and Partnering Agreement underpinning the transfer of commissioning authority to Cambridgeshire.</p> <p>The council shall delegate its commissioning responsibility and delivery of the function for the Healthy Child Programme (HCP) to Cambridgeshire County Council (CCC) and shall transfer HCP funding to Cambridgeshire accordingly. CCC shall therefore act as lead commissioner and enter into contractual arrangements on the council's behalf.</p> <p>Once commissioned, in accordance with Cambridgeshire and Peterborough's Joint Working Agreement and the S113 Agreement in place for the Public Health Joint Commissioning Unit, both councils shall work together to ensure the HCP service is contract managed and monitored to develop and enhance service delivery, build resilience and achieve future efficiencies.</p> <p>The Parties shall enter into a Delegation and Partnering Agreement in reliance on their powers and the exclusive rights given to local authorities to undertake administrative arrangements of this nature in sections 101 and 113 of the Local Government Act 1972, and sections 19 and 20 of the Local Government Act 2000 and the regulations made under these Acts; together with the general power within section 2 of the Local Government Act 2000 and the supporting provisions within section 111 Local Government Act 1972.</p> <p>The Delegation and Partnering Agreement shall set out clear roles and responsibilities for both councils, including (but not limited to) liabilities, financial arrangements, information governance and performance management.</p>
	<b>Equalities Implications</b>
8.3	None anticipated
<b>9.</b>	<b>DECLARATIONS / CONFLICTS OF INTEREST &amp; DISPENSATIONS GRANTED</b>
9.1	<p><i>Declarations by any cabinet member consulted by the decision maker and any dispensation granted by the Audit Committee or Head of Paid Service (Chief Executive). Note, the Audit Committee grants dispensations where the member concerned has a pecuniary interest, whereas the Chief executive may grant a dispensation for these purposes to any cabinet member consulted on these proposals whether by an officer or another individual cabinet member where there is a common law conflict of interest that may not amount to a pecuniary interest under the Regulations.</i></p>
<b>10.</b>	<b>BACKGROUND DOCUMENTS</b>
	Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
10.1	Draft Healthy Child Programme Update to Cambridgeshire Health Committee v4 (6th Dec 2018)

<b>11.</b>	<b>APPENDICES</b>
11.1	<i>None</i>

Consultation	Section	Name	Outcome	Date
<b>Shared Service?</b> If you are writing a report as an officer from a shared service authority, all approvals will need to be provided by Peterborough City Council officers.	<b>Ward Councillors</b> (if decision is ward specific)			
	<b>Legal</b>	Amy Brown	Yes	24.01.2019
	<b>Finance</b>	Peter Carpenter	Yes	16.01.2019
	<b>Democratic Services</b>	Philippa Turvey/Dan Kalley	Yes	29.01.2019
	<b>Communications</b>	Emma Rogers/Stuart Tarbuck	Yes	25.01.2019
	<b>Procurement Project Director</b> (if decision is contract/procurement related)	Darren Ford	N/A	N/A
	<b>Head of Strategic Property</b> (if decision is property related)		N/A	N/A
	<b>Other Officers / Members</b> (if the proposals will have an impact on their service area)		N/A	N/A
<p style="text-align: center;"><b>Is your decision urgent?</b></p> <p>If you think your decision may need to invoke urgency procedures, please read through <a href="#">this urgency guidance</a> and contact Democratic Services as soon as possible.</p>				
<b>Director's Approval</b> Directors are requested not to sign if the above section is incomplete				<b>Date</b> 30/1/2019
<p style="text-align: center;"><b>Once signed by Director, please pass to Democratic Services. We will contact the Cabinet Member and arrange for signature.</b></p>				
<b>Cabinet Member Approval</b>				<b>Date</b>
<b>Cabinet Member Comment</b> (if any)				





Dated

2019

## **Delegation and Partnering Agreement**

**between**

**Peterborough City Council**

**And**

**Cambridgeshire County Council**

Head of Legal Services  
Sand Martin House  
Bittern Way  
Fletton Quays  
Peterborough  
PE2 8TY

This Agreement is made the                      day of                      2019

**BETWEEN:**

- (1) **PETERBOROUGH CITY COUNCIL** of the Sand Martin House, Bittern Way, Fletton Quays, Peterborough, PE2 8TY ("PCC")
- (2) **CAMBRIDGESHIRE COUNTY COUNCIL** of Shire Hall, Castle Hill, Cambridge, CB3 0AP ("CCC")

**WHEREAS:**

- A. The Parties are local authorities for the purposes of the Local Government Act 1972 and best value authorities for the purposes of the Local Government Act 1999.
- B. PCC and CCC currently commission the Healthy Child Programme (HCP) separately. As part of a wider strategic drive to join up child health provision across Cambridgeshire and Peterborough, PCC and CCC shall commission a single HCP across both local authorities. PCC shall delegate its commissioning responsibility and delivery of the function for the HCP to CCC. PCC shall transfer HCP funding to CCC, enabling CCC to act as lead commissioner and enter into contractual arrangements on PCC's behalf. The commissioning of the HCP shall be undertaken by the Joint Commissioning Unit comprising of officers from both local authorities.
- C. PCC shall delegate the commissioning and delivery of its Healthy Child Programme to CCC as outlined in Schedule A.
- D. In accordance with PCC and CCC's Joint Working Agreement dated [insert date ], which is attached at Schedule [insert schedule reference], CCC and PCC shall work together to ensure the HCP service is contract managed and monitored to develop and enhance service delivery, build resilience and achieve future efficiencies
- E. The Parties have entered into this agreement in reliance on their powers and the exclusive rights given to local authorities to undertake administrative arrangements of this nature in sections 101 and 113 of the Local Government Act 1972, and sections 19 and 20 of the Local Government Act 2000 and the regulations made under these Acts; together with the general power within section 2 of the Local Government Act 2000 and the supporting provisions within section 111 Local Government Act 1972.
- F. In reliance on the powers set out in Recital D above, PCC shall delegate the commissioning and delivery of its Healthy Child Programme to CCC on the terms set out in this agreement and CCC has agreed to undertake Delegated Activities on the basis set out herein.

**IT IS AGREED** as follows:

**1 GENERAL PROVISIONS**

1.1 Definitions:

In the agreement unless the context otherwise requires the following provisions shall have the meanings given to them below:

"Agreement"	means this written Delegation Agreement between PCC and CCC including the Schedules
"Approval"	means prior written consent such consent not to be

	unreasonably withheld or delayed
"Assets"	means the information and communications technology equipment including but not limited to routers, servers, computer lap tops, hand held devices, all computing accessories, PCC Software, PCC System and other assets used in the delivery of the Delegated Activities by PCC or its Contractors prior to the Commencement Date
"Auditor"	means the auditor appointed by CCC or CCC's internal or external auditor as the context requires.
"Delivery Continuity Plan"	A plan to ensure the Delegated Activities will continue to be provided by CCC in the event of disruption to CCC' operations and those of its Contractors (including disruption to information technology systems) howsoever caused
"Change in Law"	the coming into effect after the date of this Agreement of: (a) Law other than any Law which on the date of this Agreement has been published: (i) in a bill; (ii) in a draft statutory instrument; or (iii) as a proposal in the Official Journal of the European Union;  (b) any guidance; or (c) any applicable judgment of a relevant court of law which changes a binding precedent;
"Code"	means the Department of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000
"Commencement Date"	Means ;
"Commercially Sensitive Information"	means information of a commercially sensitive nature relating to CCC, its IPR or its business or which CCC has indicated to PCC that, if disclosed by PCC, would cause CCC significant commercial disadvantage or material financial loss;
"Confidential Information"	means any information, however conveyed or presented, that relates to the business, affairs, operations, customers, processes, budgets, pricing policies, product information, strategies, developments, trade secrets, know-how, personnel and suppliers of the disclosing party, together with all information derived by the receiving party from any such information and any other information clearly designated by a party as being confidential to it (whether or not it is marked "confidential"), or which ought reasonably be considered to be confidential.
"Data Protection Legislation"	shall mean all applicable data protection and privacy Law (including the GDPR, the LED and the Data Protection Act 2018 and all applicable Laws about the processing of personal data and privacy) and any relevant national implementing Laws and regulatory requirements, as amended from time to time, to which the Council and the Contractor are subject, and any related guidance or codes

	of practice issued by the relevant supervisory authorities.
(Controller , Processor , Data Subject , Personal Data, Personal Data Breach, Data Protection Officer	shall each take the meaning given in the Data Protection Legislation.)
(Agreed Purposes	shall mean the delivery of [.....] as referred to within Schedule A.)
(Data Discloser	shall mean a party that discloses Shared Personal Data to the other party.)
(Permitted Recipients	means the parties to this agreement, the employees of each party, and any third parties engaged to perform obligations in connection with this agreement.)
(Shared Personal Data	shall mean the personal data to be shared between the parties under clause 20 of this agreement. Shared Personal Data shall be confined to the following categories of information relevant to the following categories of data subject:  [insert details]
"Data Loss Event"	any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under the Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of the Agreement, including any Personal Data Breach
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
"Data Subject Request"	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to exercise the Data Subjects rights under the Data Protection Legislation (or any of them).
"Default"	means any material breach of the obligations of the relevant Party (including but not limited to fundamental breach);
"Default Notice"	means a notice in writing served by one Party on the other in accordance with clause 27.3 setting out the details of any Default and the steps required to remedy the Default;
"Delegated Activities"	means the services to be supplied by CCC to PCC in accordance with the Specification for each part of the Delegated Activities as set out in Schedule A;
"Disrupting Party"	means either CCC or PCC causing a disruption to the performance of the other Party's obligations under this Agreement;
"Dispute"	means any dispute arising out of or in connection with this Agreement or the performance, validity or enforceability of it;
"Dispute Notice"	written notice of a Dispute setting out its nature and full particulars;
"Dispute Resolution Protocol"	means the dispute resolution protocol set out in clause 10
"Due Date"	means thirty ( 30 ) Working Days from the receipt of an

	undisputed invoice from CCC;
"Eligible Person"	means the person(s) for whom PCC are responsible by statute for providing the delegated activities
"EIR"	means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;
"Equipment"	means any equipment supplied and used by CCC (but not hired, leased or loaned from PCC in the performance of its obligations under the Agreement;
"Exit Plan"	the plan set out in Schedule C
"Expiry Date"	
"FOIA"	means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation;
"Force Majeure"	means any event or occurrence which is outside the reasonable control of the Party concerned (which is not attributable to any act or failure to take preventative action by that Party) including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man made, but excluding: (a) any industrial action occurring within CCC' or any Contractor's organisation; and (b) the failure by any Contractor to perform its obligations under any Contract; (c) any event or occurrence which is attributable to the wilful act, neglect or failure to take reasonable precautions against the event or occurrence by the Party concerned;
"Fraud"	means any offence under any Laws creating offences in respect of fraudulent acts or in relation to the Misrepresentation Act 1967 or at common law in respect of fraudulent acts in relation to the Agreement or defrauding or attempting to defraud or conspiring to defraud a Contracting Authority or PCC
"ICT"	means information and communications technology;
"Information"	has the meaning given under section 84 of the FOIA;
"Intellectual Property Rights" and "IPRs"	means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, semi conductor topography rights, domain names and website addresses, trade or business names, rights in Know How and Confidential Information, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off;
"Know How"	means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in

	the nature of know how relating to the Delegated Activities but excluding know how already in CCC' or PCC's possession before the Commencement Date;
"Law"	means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body (which, in respect of the latter, the Parties are bound to comply with);
"CCC"	means Cambridgeshire County Council;
"CCC' Confidential Information"	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know how, personnel and providers of CCC, including CCC's rates and pricing information and IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential, including the Commercially Sensitive Information;
"CCC Software"	means software which is proprietary to CCC
"CCC System"	means the information and communications technology system used by CCC in performing the Delegated Activities including the Equipment and any communications links between the Equipment and PCC System.
"Mediator"	a neutral adviser or mediator
"Minimum Insurance Period"	means 6 years after the Expiry Date;
"Month"	means calendar month;
"PCC Data"	means: a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (i) supplied to CCC by or on behalf of PCC; and (ii) which CCC is required to generate, process, store or transmit pursuant to this Agreement; and b) any Personal Data for which PCC is the Data Controller;
PCC's Facilities	means any materials, plant or equipment owned or held by the PCC and provided by PCC (PCC's Premises and Facilities) to enable CCC to perform its obligations under this agreement and for the provision of services to CCC Partners
"PCC's Premises"	means the premises owned or leased by PCC from which CCC' Staff shall provide the Delegated Activities or any part of the Delegated Activities (PCC's Premises and Facilities)
"PCC Representative"	the representative appointed in accordance with clauses 15 and 10 to act as the main point of contact for CCC on all

	matters relating to this Agreement and for all matters relating day to day operational activities arising out of the Delegated Activities.
"PCC Software"	means software which is owned by or licensed to CCC
"PCC System"	the Customer's computing environment (consisting of the hardware and telecommunications networks) that is to be used by PCC in connection with its use of the Delegated Activities and which interfaces with the CCC System in order for PCC to receive the Delegated Activities, but excluding PCC Software
"Party"	means CCC or PCC and "Parties" shall be construed accordingly;
"Payment Default Notice"	written notice that any payment has become overdue for payment in accordance with the terms of this Agreement
"Personal Data"	shall have the same meaning as set out in the GDPR and Data Protection Act 2018
"Process"	has the meaning given to it under the Data Protection Legislation but, for the purposes of this Agreement, it shall include both manual and automatic processing;
"Regulatory Bodies"	means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Agreement or any other affairs of [PCC];
"Replacement Services"	means any activities which are identical or substantially similar to any of the Delegated Activities and which PCC receives in substitution for any of the Delegated Activities following the termination of this Agreement, whether those services are provided by PCC internally or by any Replacement Partner.
"Replacement Partner"	means any third party to whom CCC delegates responsibility for Delegated Activities from time to time;
"Request for Information"	means a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations (as the context requires);
"Requesting Party"	means the Party in receipt of Request for Information
"Delivery Failure"	A failure by CCC to deliver any part of the Delegated Activities in accordance with Schedule
"Sites"	means any premises from which the Delegated Activities are provided or from which CCC manages, organises or otherwise directs the provision or the use of the Delegated Activities or where any part of CCC System is situated or where any physical interface with PCC System takes place;
"Specification"	means the activities generally described and specified in Schedule A;
"Staff"	means all persons employed or engaged by CCC and/or any Contractor to perform CCC' obligations under the

	Agreement together with CCC's and/or any Contractor's servants, consultants, agents, providers and Contractors used in the performance of its obligations under the Agreement;
SVGA 2006	means the Safeguarding of Vulnerable Groups Act 2006
Service User	means any child, young person or parent or carer accessing or eligible to access the Services
Services	Provision of Healthy Child Programme 0-5, Healthy Child Programme 5-19 and Family Nurse Partnership
"Term"	means the period of 1 April 2019 to 31 March 2024.
"Third Party Materials"	means any materials, documentation, information, programs and codes, the IPR in which are: a) owned by a third Party; and b) used by CCC to provide the Delegated Activities;
"Transitional Assistance"	means such support and assistance as is reasonably necessary to implement the Exit Plan and in order to achieve a smooth transfer of the Delegated Activities to PCC or Replacement Partner
"Transparency Code"	Local Government Transparency Code 2015
"TUPE"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any amendment thereto;
"Variation"	Means any variation to this Agreement including to any of the Delegated Activities.
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"Working Day"	means any day other than a Saturday or Sunday or public holiday in England;

## 1.2 Interpretation

The interpretation and construction of the Agreement shall be subject to the following provisions:

- 1.2.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- 1.2.2 words importing the masculine include the feminine and the neuter;
- 1.2.3 the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
- 1.2.4 references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- 1.2.5 references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- 1.2.6 headings are included in the Agreement for ease of reference only and shall not affect the interpretation or construction of the Agreement;



- 1.2.7 the Schedules form part of this Agreement and shall have effect as if set out in the full body of this Agreement any reference to this Agreement includes the Schedules
- 1.2.8 references to clauses and Schedules are to the clauses and Schedules of this Agreement; references to paragraphs are to paragraphs of the relevant Schedule.
- 1.2.9 a clause is a reference to the whole of that clause unless stated otherwise;
- 1.2.10 in the event of and only to the extent of any conflict between the clauses of the Agreement and any document referred to therein the conflict shall be resolved in accordance with the following order of precedence:
- 1.2.10.1 the clauses of the Agreement; and
- 1.2.10.2 the Schedules and
- 1.2.10.3 any other document referred to in the clauses of the Agreement.
- 1.2.11 any obligation not to do something includes an obligation not to allow that thing to be done;
- 1.2.12 any reference to costs in this Agreement shall be deemed to be a reference to costs reasonably incurred.

## **2 TERM**

- 2.1 This Agreement shall take effect on the Commencement Date and shall continue for the Term, unless terminated earlier in accordance with this Agreement.
- 2.2 The Term shall commence on 1st April 2019 and end on 31st March 2024.

## **3 AGREEMENT, REPRESENTATIONS AND WARRANTIES**

- 3.1 Each of the Parties warrants and represents to the others that:
- 3.1.1 it has full capacity and authority and all necessary consents, complied with all internal procedural and constitutional requirements and taken all steps required by statute to enable it to enter into this Agreement and to perform its obligations under the Agreement;
- 3.1.2 the Agreement is executed by a duly authorised representative of the Party;
- 3.1.3 in entering into the Agreement it has not committed any Fraud; and
- 3.1.4 not in use
- 3.1.5 the Parties agree to act openly and transparently in relation to each other in carrying out their obligations under this Agreement and in particular where circumstances arise which may have a material impact upon delivery of the Delegated Activities.

## **4 DELEGATED ACTIVITIES**

- 4.1 Subject to clause 4.2, PCC shall delegate to CCC the responsibility for delivering the Delegated Activities specified in Schedule A, pursuant to the terms and conditions of this Agreement.
- 4.2 PCC shall delegate its commissioning responsibility and delivery of the function for the HCP to CCC and CCC shall commission a single HCP across both local authorities. The commissioning of the HCP shall remain within the Joint Commissioning Unit comprising of officers from both local authorities. PCC shall transfer HCP funding to CCC, enabling CCC to act as lead commissioner and enter into contractual arrangements on PCC's behalf. Once the service has been commissioned by CCC, in accordance with PCC and CCC's Joint Working Agreement, which is attached at Schedule [insert schedule reference], CCC and PCC shall work together to ensure the HCP service is contract managed and monitored according to the Performance Framework set out in the Section 75 Agreement.

4.3 CCC agrees that PCC relies on the skills and judgement of CCC in the supply of the Delegated Activities and the performance of its obligations under this Agreement.

4.4 CCC shall ensure that:

- 4.4.1 All Staff involved in the delivery of the Delegated Activities shall do so with reasonable skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Delegated Activities;
- 4.4.2 The Delegated Activities are provided in accordance with the laws of England and Wales and the European Union and any other laws, regulations, policies;
- 4.4.3 The Delegated Activities are provided in accordance with the requirements set out in Schedule A;
- 4.4.4 Sufficient resources are allocated to the provision of the Delegated Activities in accordance with the terms of this Agreement; and
- 4.4.5 CCC and its Staff shall at all times comply with the provisions of the Human Rights Act 1998.

## **5 AUTHORITY'S PREMISES, FACILITIES AND THE ASSETS**

- 5.1 PCC shall, subject to clauses 20 and 20A, provide CCC and its Staff access to such parts of PCC's Premises and use of PCC Facilities and of the Assets as CCC reasonably requires for the purpose of properly performing its obligations under this Agreement.
- 5.2 PCC's Premises shall be made available to CCC in accordance with clause 5.1 on the basis of a non-exclusive licence and free of charge for the duration of the Term or which is otherwise agreed by the Parties from time to time in writing.

## **6 STAFF AND TUPE (*section to be revised*)**

### The Employees

- 6.1 The Parties acknowledge and agree that CCC's Staff involved directly or indirectly in the provision of the Delegated Activities will remain employed by CCC, and that the provisions of the TUPE are not relevant and shall not apply to this Agreement.
- 6.2 It is agreed between the Parties that the Fee will not be varied after the commencement of this Agreement on the grounds that TUPE does or does not apply, irrespective of the belief of either Party prior to the time the Agreement commenced.
- 6.3 In the event of any future Transfer to PCC or any Replacement Provider or sub-contractor on the expiry or early termination of this Agreement or as a consequence of part of the Delegated Activities not being provided by CCC (or, in relation to 6.3.2, at such additional times during the Term as PCC requests) CCC will (and will use all reasonable endeavours to produce that any sub-contractor will):-
  - 6.3.1 comply with the obligations under TUPE; and
  - 6.3.2 upon request provide to the PCC, as soon as reasonably practicable, a list containing details of the transferring employees and such other appropriate information reasonably required by the PCC, to disclose as appropriate to third parties invited to tender/quote for any subsequent contract(s) relating to the provision of the Delegated Activities, or part thereof. This list and details to be provided to the PCC is to contain the following in respect of each transferring employee:-
    - nature of job/job description;
    - current salary;
    - length of service;
    - contracted hours and percentage of those contracted hours spent on the contract;
    - retirement age;
    - arrangements for overtime and whether this is contractual;
    - any factors that may affect redundancy entitlement;

- any outstanding industrial injury claims or other claims or actions;
- whether any probationary period is current;
- period of notice to terminate employment;
- current pay agreement and any agreed settlement or pay agreement yet to come into effect;
- age;
- annual leave entitlement;
- sick leave entitlement;
- maternity and paternity leave arrangements;
- special leave entitlement;
- other benefits eg. season tickets, loans, car provision;
- whether they are a member of a company pension scheme;
- location and contractual provisions relating to this;
- terms and conditions of employment;
- details of the company pension scheme; and
- any other information reasonably requested by the PCC.

6.4 CCC warrants and undertakes that the above information under clause 6.3.2, when provided to the PCC, will be accurate and complete in all respects as far as it is aware or should reasonably be aware, and that it will, as soon as reasonably practicable, inform the PCC in writing of any changes to that information between the date provided and the date of any relevant transfer under TUPE.

6.5 CCC warrants to the PCC and any Replacement Provider that it shall take all reasonable steps to ensure that, otherwise than in the bona fide course of business, it (and/or its sub-contractor) will not, without the consent of the PCC, during the twelve months prior to the expiry of the Term (or where notice to terminate this Agreement (or any part of it) for whatever reason has been given) or in any period between the date on which the information under clause 6.3.2 is provided and any expiry or termination of the Agreement.

6.6 CCC will use its reasonable endeavours to procure (and likewise that any sub-contractor procures) that no Transferring Employees are dismissed for a reason connected to any relevant transfer under TUPE, and will indemnify and keep indemnified the PCC and any Replacement Provider against direct or indirect loss, damages, claims, costs and expenses (included legal expenses) suffered or incurred by the PCC and/or any Replacement Provider:-

6.6.1 in relation to the employment or termination of employment of any employee prior to or upon a transfer under TUPE;

6.6.2 in relation to a breach or non-observance by the CCC of any collective agreement, custom, practice or arrangement (whether legally binding or not) with a trade union or staff association in respect of any Transferring Employees;

6.6.3 in relation to any failure by the CCC (or any sub-contractor) to comply with their obligations under TUPE in respect of transferring employees;

6.6.4 any claim by any person who transfers or alleges that they have transferred under TUPE to the PCC or a Replacement Provider whose details were not included in the details provided by the CCC under clause 6.3.2; and

6.6.5 in relation to vicarious liability owed to third parties arising or connected with any Transferring Employee's contract of employment which arises from any act or omission on the part of the Transferring Employee prior to the transfer under TUPE.

6.7 In the event of any future transfer under TUPE to the PCC or any Replacement Provider or sub-contractor on the expiry or early termination of this Agreement or as a consequence of part of the Services not being provided by the CCC the following shall

apply:-

- 6.7.1 CCC shall comply with its obligations under TUPE and the EC Acquired Rights Directive 2001/23/EC;
- 6.7.2 if, and to the extent that the relevant transfer under TUPE is to PCC, PCC shall comply with its obligations under TUPE and the EC Acquired Rights Directive 2001/23/EC;
- 6.7.3 the CCC shall indemnify and keep indemnified PCC and any Replacement Provider from and against all Liabilities in connection with or as a result of any claim by any trade union or staff association or employee representative (whether or not recognised by the CCC) in respect of any of the transferring employees arising from or connected with any failure by the CCC to comply with any legal obligation to such trade union, staff association or other employee representative under TUPE and/or the EC Acquired Rights Directive 2001/23/EC;
- 6.7.4 if, and to the extent that the relevant transfer under TUPE is to PCC, PCC shall indemnify and keep indemnified CCC from and against all Liabilities in connection with or as a result of any claim by any trade union or staff association or employee representative (whether or not recognised by PCC) in respect of any of the Transferring Employees entitled to transfer under TUPE to PCC, arising from or connected with any failure by PCC to comply with any legal obligation to such trade union, staff association or other employee representative under TUPE and/or the EC Acquired Rights Directive 2001/23/EC;
- 6.7.5 CCC shall be responsible for (and shall pay in the ordinary course prior to the relevant transfer under TUPE), and shall indemnify and keep indemnified PCC and any Replacement Provider from and against all Liabilities in connection with or as a result of all emoluments and outgoings in respect of all Transferring Employees (including without limitation, all wages, remuneration, holiday pay, benefits, bonuses, commission, payment of PAYE, national insurance contributions, pension contributions, provision of benefits and deductions and otherwise) for which it is responsible, which are attributable in whole or in part to the period prior to the relevant transfer under TUPE;
- 6.7.6 if, and to the extent that the relevant transfer under TUPE is to PCC, PCC shall be responsible for, and shall indemnify and keep indemnified the CCC from and against all liabilities in connection with or as a result of all emoluments and outgoings in respect of all transferring employees who transfer under TUPE to PCC (including without limitation, all wages, remuneration, holiday pay, benefits, bonuses, commission, payment of PAYE, national insurance contributions, pension contributions, provision of benefits and deductions and otherwise) for which it is responsible, which are attributable in whole or in part to the period from the relevant transfer under TUPE to PCC;
- 6.7.7 CCC shall indemnify and keep indemnified PCC and any Replacement Provider from and against all liabilities in connection with or as a result of any Employment Claims by any transferring employee or former Staff member arising directly or indirectly from any act, fault or omission of CCC in respect of any transferring employee or former Staff member employed by CCC immediately prior to the relevant transfer under TUPE, relating to the period before the relevant transfer under TUPE (and for the avoidance of doubt, this indemnity shall not apply to the extent that the Liabilities in connection with or as a result of the Employment claim arise or are attributable to an act or omission of PCC or the Replacement Provider whether occurring or having its origin before, on or after the relevant transfer date including any Liabilities arising from PCC or Replacement Provider's failure to comply with its obligations under TUPE. and
- 6.7.8 if, and to the extent that the relevant transfer under TUPE is to PCC, PCC shall indemnify and keep indemnified the CCC from and against all Liabilities in connection with or as a result of any Employment Claims by any Transferring Employees who transfer to PCC under TUPE, arising directly or indirectly from any act, fault or omission of PCC in respect of any transferring employee who transfers to PCC under TUPE, relating to the period from the relevant transfer under TUPE to PCC.
- 6.7.9 If to the extent that the relevant transfer under TUPE is to a Replacement Provider, PCC shall procure that any Replacement Provider shall:

- (i) Indemnify and keep indemnified the CCC against any failure to meet all remuneration, benefits, entitlements and outgoings for the Transferring Employees including without limitations all wages, holiday pay, bonuses, commissions, payments of PAYE National Insurance contributions, pension contributions, termination costs and otherwise arising in relation to the Transferring Employees and from including the date of any transfer.
- (ii) Indemnify and keep indemnified the CCC against any direct or indirect loss damages cost and expenses (including legal expenses) suffered or incurred by the CCC in relation to the Transferring Employees and the Liabilities which arises out of any act or omission of the Replacement Provider from including the date of any transfer.
- (iii) Provide details on such request of any measures that any view Replacement Provider envisages it will take in relation to any Transferring Employees including but not limited to any proposed changes to terms and conditions of employment. If there are no such measures then procure that any Replacement Provider shall confirm that fact and shall indemnify CCC against all Liabilities resulting from any failure to comply with this obligation.”

6.8 CCC shall indemnify and keep indemnified PCC and any Replacement Provider from and against all liabilities in connection with, or as a result of, any breach by CCC of its obligations under this clause 6.

6.9 PCC shall indemnify and keep indemnified the CCC from and against all liabilities in connection with, or as a result of, any breach by PCC of its obligations under this clause 6.

## **6A. SAFEGUARDING**

6A.1 CCC will comply with the requirements of the SVG Act 2006 in respect of their Staff.

6A.2 CCC acknowledges that where it provides Delegated Activities which are classed as Regulated Activities (because the nature of the Delegated Activities falls within the definition of a regulated activity relating to children and/or to vulnerable adults in Part 1 and/or Part 2 of Schedule 4 of the SVG Act (“Regulated Activities”)) CCC shall have ultimate responsibility for the management and control of the Regulated Activities provided under this Agreement and for the purposes of the SVG Act.

6A.3 CCC shall ensure that all individuals and Staff engaged in the provision of the Delegated Activities are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service (“DBS”) (previously the Criminal Records Bureau) including a check against the Adults’ Barred List and the Children’s Barred List and CCC shall monitor the level and validity of the DBS checks under this clause for each member of Staff.

6A.4 CCC warrants that, at all times for the purposes of this Agreement, it will use best endeavours to ensure that members of Staff who are or will be employed or engaged in the provision of the Delegated Activities are not barred from any activity comprised in the Delegated Activities in accordance with the provisions of the SVG Act.

6A.5 CCC shall immediately notify PCC of any information required by PCC to satisfy itself that the obligations of this clause have been met. In addition, CCC shall:

6A.5.1 on the engagement of any person or Staff member who is or will be employed or engaged in the provision of the Services; and

6A.5.2 on the third anniversary of the previous disclosure in respect of any such person certify in writing to PCC that all necessary checks with the DBS have been made and that the result of each check is satisfactory.

6A.6 CCC shall refer information about any person or Staff member carrying out the Delegated Activities to the Independent Safeguarding Authority where it removes permission for such person to carry out the Delegated Activities (or would have, if such person had not otherwise

ceased to carry out the Delegated Activities) because, in its opinion, such person has harmed or poses a risk of harm to Services Users, children or vulnerable adults.

6A.7 Without prejudice to the above, CCC shall not employ or use the services of any person who:

6A.7.1 is barred from, or whose previous conduct or records indicate that they would not be suitable to carry out Regulated Activities or who may otherwise present a risk to Eligible persons;

6A.7.2 is in the reasonable opinion of either Party, unsuitable to work with children or vulnerable adults; or

6A.7.3 does not have the right to work in the United Kingdom and CCC shall comply immediately with any instruction by PCC that such a person shall cease to be engaged in or associated directly or indirectly with the delivery of the Delegated Activities.

6A.8 CCC will comply with the Multi Agency Policy and Procedure as amended from time to time latest revised 2017) available from the following link:

<http://www.llradultsafeguarding.co.uk/contents/> and will have clear protocols and training for Staff so that they are aware of safeguarding issues and in particular CCC will:

6A.8.1 Ensure that all Staff are aware of the possibility of abuse, the possible signs and symptoms of abuse and know their responsibilities to respond to and report allegations of abuse;

6A.8.2 Ensure that all Staff have access to an up-to-date version of the Multi Agency Safeguarding Procedure;

6A.8.3 Include Safeguarding Adults and Safeguarding Children procedures in induction and training at a level appropriate to roles of Staff members in the protection process;

6A.8.4 Ensure that all Staff are aware of the actions that the Parties and their Staff must take when a safeguarding issue is suspected; and

6A.8.5 Ensure that all Staff know the requirements to make accurate and factual records at the time of safeguarding concerns arising and to date and sign all written records.

6A.9 CCC will monitor the training of its Staff and the details of any safeguarding actions, plans outcomes as part of the governance and quality monitoring of the Delegated Activities.

## **6B. SECURITY**

6B.1 CCC shall ensure that its Staff, when engages within the boundaries of any of PCC's premises, shall comply with such rules, regulations and requirements (including maintaining the security of premises) as may be in force from time to time for the conduct of personnel when in, at or outside the premises. PCC's decision shall be final as to whether to refuse any of CCC's Staff access to its premises.

6B.2 CCC shall comply with the security regulations of PCC including any made for the purposes of the DPA.

## **7 PCC'S DATA**

7.1 In accordance with the provisions of clause 7, CCC acknowledges that the PCC's Data is the property of PCC and PCC reserves all IPRs which may, at any time, subsist in the PCC Data.

7.2 CCC shall:

7.2.1 not delete or remove any proprietary notices or other notices contained within or relating to PCC Data;

7.2.2 not alter, store, copy, disclose or use the PCC Data, except as necessary for the performance

by CCC of its obligations under this Agreement or as otherwise expressed authorised by this Agreement in compliance with the provisions of this Agreement;

- 7.2.3 preserve so far as possible, the integrity of PCC's Data and prevent any loss, disclosure, theft, manipulation or inception of the PCC's Data;
  - 7.2.4 in handling PCC Data, take, all precautions necessary to preserve the security and integrity of PCC Data and to prevent any corruption or loss of PCC Data;
  - 7.2.5 make secure backup copies of PCC Data on such regular basis as is reasonable for the particular data concerned as required by the Business Continuity Plan or as otherwise instructed by PCC; and
  - 7.2.6 immediately notify PCC if any of the PCC Data is lost, becomes corrupted, is damaged or is deleted accidentally.
- 7.3 CCC shall not:
- 7.3.1 modify, amend, alter, remove, delete or enhance the PCC Data without the prior written consent of PCC; or
  - 7.3.2 make any copies of the PCC Data without the prior written permission of PCC.
- 7.4 To the extent that any of PCC's Data is held or processed by CCC, CCC shall supply such PCC Data to PCC as may be reasonably requested by PCC from time to time in such format as is agreed between the Parties.

## **8 FEE & PAYMENT PLAN**

- 8.1 In consideration of CCC undertaking the Delegated Activities, PCC shall pay to CCC the fixed Fee of £            per annum in accordance with this clause 8 and the Payment Plan in Schedule B.
- 8.1A In the event that either PCC shall be required to reduce their Fee to CCC, or that CCC seeks to reduce their contribution to the HCP below the amount agreed in schedule B, this will require a 3 month notice period to the other Party and the provider with whom CCC shall have entered into contractual arrangements for the delivery of HCP. Where permitted, this shall trigger a variation of contractual arrangements and specification accordingly.
- 8.1B PCC shall be reimbursed, or have the equivalent sum reduced from the following year's Fee, any underspend in the current contract year associated with the delivery of the Delegated Activity by CCC or payments withheld by CCC in the current contract year due to underperformance by the provider with whom CCC have entered into contractual arrangements for the delivery of HCP.
- 8.2 CCC shall invoice PCC for payment of the Fee at the time the Fee is expressed to be payable in accordance with the Payment Plan. CCC shall send all invoices via email as a PDF attachment to [payments@peterborough.gov.uk](mailto:payments@peterborough.gov.uk) and PCC's Representative until advised otherwise by the Council.
- 8.3 PCC shall pay the Fee which has become payable in accordance with the Payment Plan on the Due Date.

### Disputed Invoice

- 8.4 If PCC receives an invoice for the Fee which it reasonably believes includes a sum which is not valid and properly due:
  - 8.4.1 PCC shall notify CCC in writing as soon as reasonably practicable;
  - 8.4.2 PCC's failure to pay the disputed Fee shall not be deemed to be a breach of this Agreement;
  - 8.4.3 PCC shall pay the balance of the invoice which is not in dispute by the Due Date;
  - 8.4.4 to the extent that PCC is obliged, following resolution of the dispute, to pay an amount, then CCC may charge interest in accordance with clause 10 from the original Due Date until the

date of payment;

- 8.4.5 to the extent that CCC is obliged to refund an amount to PCC, interest shall be added to that amount in accordance with clause 10; and
- 8.4.6 once the dispute has been resolved, where either Party is required to make a balancing payment, it shall do so within thirty (30) Working Days and, where CCC is required to issue a credit note, it shall do so within thirty (30) Working Days.
- 8.5 CCC shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to PCC pursuant to this Agreement. Such records shall be retained for inspection by PCC for 7 years from the end of the contract year to which the records relate.

## VAT

- 8.6 The Fee payments are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by PCC following delivery of a valid VAT invoice. CCC shall indemnify PCC against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on PCC at any time in respect of CCC's failure to account for, or to pay, any VAT relating to payments made to CCC under this Agreement.

## **9 CHANGE IN LAW**

- 9.1 If a Change in Law occurs or is anticipated to occur, CCC shall notify PCC of its likely effects such notice should include:
  - 9.1.1 Any required changes to the Delegated Activities (including the cessation of any part of the Delegated Activities);
  - 9.1.2 Any required change to the terms of this Agreement to deal with any Change in Law; and
  - 9.1.3 Whether relief from compliance with either Party's duties is required whilst any change in Law is implemented.
- 9.2 For the avoidance of doubt, the Parties acknowledge that any Change in Law which affects the Fee shall be dealt with in accordance with clause 29 and Change Protocol.
- 9.3 As soon as practicable after receipt of any notice the CCC and PCC's Representatives (or such other representatives as the Parties may agree) shall meet to discuss and agree the best practicable means for dealing with the Changes in Law and any way in which the impact of such changes on the Delegated Activities can be mitigated.
- 9.4 If PCC becomes aware of a Change in Law but has not yet received a notice from CCC, PCC shall notify CCC of such a change.

## **10 DISPUTE RESOLUTION**

- 10.1 If a dispute arises between the Parties in connection with the Agreement, the Parties shall each use reasonable endeavours to resolve such dispute by means of prompt discussion at an appropriate managerial level within 10 days of written notice of dispute being served by one or on the other without recourse to legal proceedings.
- 10.2 If a dispute is not resolved within fourteen (14) days of referral under clause 10.1 then either Party may refer it to senior representatives of each Party for resolution who shall meet for discussion within 14 days or longer period as the Parties may agree.
- 10.3 Provided that both Parties consent, a dispute not resolved in accordance with clauses 10.1 and 10.2, shall first be referred to mediation or other alternative dispute resolution procedure as agreed between the Parties, each acting in good faith. If the Parties are unable to agree a procedure or any aspect of a procedure they will seek assistance from the Centre of Dispute Resolution at Exchange Tower, 1 Harbour Exchange Square, London, E14 9GB. Unless otherwise agreed the Parties will share equally the costs of mediation and the use of mediation will be without prejudice to the rights of the Parties in all respects if the mediation does not achieve an agreed resolution of the dispute within 60 days (or such longer period as the parties may agree) of the notice of dispute being



served.

- 10.4 Unless the Agreement shall have already been determined or abandoned CCC shall in every case continue to proceed with the Delegated Activities accordance with this Agreement.

## **11 EXIT PLANNING**

- 11.1 CCC shall no later than ten (10) calendar months after the Commencement Date produce the Exit Plan in accordance with the principles in Schedule C to achieve an orderly transition of the Delegated Activities from CCC to PCC and/or a Replacement Partner in the event of termination (for whatever reason) of the whole or any part of this Agreement.

## **12 CONTRACT MONITORING**

### Reporting

- 12.1 If there is a Delivery Failure, CCC shall:
- 12.1.1 notify PCC immediately of the Delivery Failure;
- 12.1.2 provide PCC with a plan detailing how the Delivery Failure is going to be rectified and shall carry out the actions identified in that plan; and
- 12.1.3 deploy reasonable resources and take all remedial action that is necessary to rectify or to prevent the Delivery Failure from recurring.
- 12.2 CCC and PCC's Representatives shall hold regular meetings at a time to be agreed by both Parties to monitor and review the performance of this Agreement, the achievement and the provision of the Delegated Activities. These meetings will be at least every six months.
- 12.3 CCC shall commit to PCC that during the Term of this Agreement that CCC shall comply with the principle of Open Book accounting and transparency in pricing in performing its obligations in accordance with this Agreement.

## **13 DISRUPTION**

- 13.1 Both Parties shall take reasonable care to ensure that in the performance of its obligations under this Agreement it does not disrupt the operations of the other Party, its employees or any other contractor they engage.
- 13.2 If a Party becomes aware of an event which may affect the other Party's ability to perform its obligations under this Agreement it shall immediately notify the other Party in writing of the same.
- 13.3 If a Party is temporarily unable to fulfil the requirements of the Agreement owing to disruption of normal business caused by the Disrupting Party, an appropriate allowance by way of an extension of time shall be made by the Disrupting Party. In addition, the Disrupting Party shall reimburse any additional expense reasonably incurred by the other Party as a direct result of such disruption.

## **14 BUSINESS CONTINUITY**

- 14.1 CCC shall maintain a robust Delivery Continuity Plan and shall ensure that it is able to implement the provisions of the Delivery Continuity Plan at any time in accordance with its terms.

## **15 LIMITATION OF LIABILITIES**

- 15.1 Nothing in the Agreement shall be construed to limit or exclude a Party's liability for:
- 15.1.1 death or personal injury caused by its negligence or that of its Staff;
- 15.1.2 fraud or fraudulent misrepresentation by it or its Staff;

- 15.1.3 any breach of any obligations implied under section 2 Supply of Good and Services Act 1982;
  - 15.1.4 any claim under the indemnity in clause 6;
  - 15.1.5 any other matter which by Law may not be excluded or limited;
  - 15.1.6 any liability in respect of any and all enforcement costs and expenses associated with any action taken by the other Party; or
  - 15.1.7 any liability in relation to default interest payable in accordance with the terms of this Agreement.
- 15.2 Subject to clause 15.1, PCC's total liability arising under, or in connection with, this Agreement, whether in tort (including negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise, shall be limited as follows:
- 15.2.1 for non-payment of invoices for the Fixed Fee , to the amount unpaid; or
  - 15.2.2 for any other type of liability, to the amount of Fee paid for the Delegated Activities under the Agreement.

## **16 INSURANCE**

- 16.1 As a best value authority within the meaning of part 1 of the Local Government Act 1999, CCC warrants that it has the necessary consents, authority and insurances in place to be able to perform its obligations under this Agreement.
- 16.2 CCC shall ensure that all agents, professional consultants and Contractors involved in the supply of the Delegated Activities effect and maintain appropriate professional indemnity insurance during the Term.

## **17 HEALTH AND SAFETY**

- 17.1 CCC and all persons engaged in providing the Delegated Activities shall comply fully with the requirements of the Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations, all health and safety policies of PCC and any other Acts, Regulations and Approved Codes of Practice relating to the health and safety of employees and others who may be affected by CCC's work activities.
- 17.2 While on PCC's Premises, CCC shall comply with any health and safety measures or policies implemented by PCC in respect of staff and other persons working on PCC's Premises and notified to CCC from time to time.
- 17.3 CCC shall notify PCC immediately in the event of any incident occurring in the performance of the Agreement on PCC's Premises where that incident causes any personal injury or damage to property that could give rise to personal injury.

## **18 FREEDOM OF INFORMATION**

- 18.1 The Parties acknowledge that they are subject to the requirements of the FOIA, Transparency Order and EIR and shall assist and cooperate with each other to enable each other to comply with Information disclosure obligations.
- 18.2 Each Party shall:
  - 18.2.1 Advise the other Party of all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;
  - 18.2.2 Provide the Requesting Party with a copy of all Information in its possession, or control in the form that the Requesting Party may reasonably require within five (5) Working Days (or such other period as the Requesting Party may specify) of the Requesting Party's request; and
  - 18.2.3 Provide all necessary assistance as reasonably requested by the Requesting Party to enable the Requesting Party to respond to the Request for Information within the time for compliance set out in section 10 FOIA or regulation 5 EIR.
- 18.3 The Requesting Party shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other Agreement whether

the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA, Transparency Code or the Environmental Information Regulations.

18.4 The Parties acknowledge that (notwithstanding the provisions of clause 18) they may, acting in accordance with the Code be obliged under the FOIA, or the EIR to disclose information concerning CCC, PCC or the Delegated Activities:

18.4.1 in certain circumstances without consulting any other Party;

18.4.2 or following consultation with the other Party and having taken its views into account, provided always that where clause 18.4 applies each Party shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the other Party advanced notice, or failing that, to draw the disclosure to the other Party's attention after any such disclosure.

18.4.3 the Parties shall ensure that all Information is retained for disclosure in accordance with the provisions of this Agreement and shall permit the other Party to inspect such records as requested from time to time.

## **19 CONFIDENTIALITY**

19.1 Except to the extent set out in this clause 19, or where disclosure is expressly permitted elsewhere in this Agreement, each Party shall:

19.1.1 treat the other Party's Confidential Information as confidential; and

19.1.2 not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.

19.1.3 Clause 19.1 shall not apply to the extent that:

19.1.4 such information was in the possession of the Party making the disclosure, without obligation of confidentiality, prior to its disclosure; or

19.1.5 such information was obtained from a third party without obligation of confidentiality; or

19.1.6 such information was already in the public domain at the time of disclosure otherwise than through a breach of this agreement; or

19.1.7 such information was independently developed without access to the other Party's Confidential Information.

19.2 CCC may only disclose PCC's Confidential Information to CCC's Staff who are directly involved in the provision of the Delegated Activities and who need to know the information. CCC shall ensure that such CCC's Staff are aware of, and comply with, these confidentiality obligations.

19.3 CCC shall not, and shall procure that CCC's Staff do not, use any of PCC's Confidential Information received otherwise than for the purposes of this Agreement.

19.4 Nothing in this Agreement shall prevent PCC from disclosing CCC's Confidential Information:

19.4.1 for the purpose of the examination and certification of PCC's accounts; or

19.4.2 for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which PCC has used its resources.

19.5 PCC shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Contractor to whom CCC's Confidential Information is disclosed pursuant to clause 19 is made aware of PCC's obligations of confidentiality.

19.6 Nothing in this clause 19 shall prevent any Party from using any techniques, ideas or Know-How gained during the performance of this Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the Party's Confidential Information or an infringement of IPR.

- 19.7 From the date of this Agreement CCC shall be liable for and shall indemnify PCC, its officers, employees and agents against any direct losses whatsoever incurred by PCC arising from the acts or omissions of CCC in respect of any breach of the Data Protection Legislation, duty of confidentiality or any other associated statutory or common law duty.
- 19.8 From the date of this Agreement PCC shall be liable for and shall indemnify CCC its officers, employees and agents against any direct losses whatsoever incurred by CCC arising from the acts or omissions of PCC in respect of any breach of the Data Protection Legislation, duty of confidentiality or any other associated statutory or common law duty.

## **20 DATA PROTECTION**

- 20.1 Shared Personal Data. This clause sets out the framework for the sharing of personal data between the parties as Data Controllers.
- 20.2 Effect of non-compliance with Data Protection Legislation. Each party shall comply with all the obligations imposed on a Controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate this agreement with immediate effect.
- 20.3 Particular obligations relating to data sharing. Each party shall:
- (a) ensure that it has all necessary notices and consents in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;
  - (b) give full information to any data subject whose personal data may be processed under this agreement of the nature such processing. This includes giving notice that, on the termination of this agreement, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;
  - (c) process the Shared Personal Data only for the Agreed Purposes;
  - (d) not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
  - (e) ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this agreement;
  - (f) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
  - (g) not transfer any personal data received from the Data Discloser outside the EEA unless the transferor:
    - (i) complies with the provisions of Articles 26 of the GDPR (in the event the third party is a joint controller); and
    - (ii) ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 GDPR; or (iii) one of the derogations for specific situations in Article 49 GDPR applies to the transfer.
- 20.4 Mutual assistance. Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:
- (a) consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;

- (b) promptly inform the other party about the receipt of any data subject access request;
- (c) provide the other party with reasonable assistance in complying with any data subject access request;
- (d) not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party wherever possible;
- (e) assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation;
- (g) at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this agreement unless required by law to store the personal data;
- (h) use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;
- (i) maintain complete and accurate records and information to demonstrate its compliance with this clause 20 and allow for audits by the other party or the other party's designated auditor; and
- (j) provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Data Protection Legislation.

20.5 Indemnity. Each party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other [reasonable] professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of the Data Protection Legislation by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.

## **20A DATA SHARING**

20A.1 The Parties shall enter into a Data Sharing Agreement setting out the framework for the sharing of personal data between them as Data Controllers for the Agreed Purposes.

## **21 ENVIRONMENTAL REQUIREMENTS**

21.1 CCC shall consider, so far as is reasonably possible, sustainability issues when delivering the Delegated Activities. CCC shall also comply with PCC's sustainability and corporate social responsibility policies, standards, targets when delivering the Delegated Activities and may recover the costs of doing so from PCC.

## **22 PREVENTION OF CORRUPTION**

- 22.1 No Party shall offer or give, or agree to give, to any employee, agent, servant or representative of any other Party or person employed by or on behalf of that other Party any gift or consideration of any kind which could act as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the Agreement or any other contract with that other Party or any other public body or person employed by or on behalf of that other Party or for showing or refraining from showing favour or disfavour to any person in relation to any such contract.
- 22.2 No Party shall commit an offence under the Bribery Act 2010.
- 22.3 Each Party warrants that it has not paid commission or agreed to pay commission to any other Party or any other public body or any person employed by or on behalf of any other Party or a public body in connection with the Agreement.
- 22.4 If any Party (the “Breaching Party”), its employees or any person acting on that Party’s behalf, engages in conduct prohibited by clauses 22.1, 22.2, 22.3 above or any other contract with any other Party or person employed by or on behalf of any other Party, the other Party (the “Non-Breaching Party”) may:
- 22.4.1 terminate the Agreement with immediate effect by giving notice in writing to the Breaching Party and recover from the Breaching Party the amount of any loss suffered by the Non-Breaching Party resulting from the termination; and/or
- 22.4.2 recover in full from the Breaching Party any other loss sustained by the Non-Breaching Party in consequence of any breach of those clauses.

## **23 PREVENTION OF FRAUD**

- 23.1 All Parties shall take reasonable steps to prevent Fraud.
- 23.2 To the extent permitted by Law, each Party shall notify the others and/or any appropriate Regulatory Body immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- 23.3 In the event of any Party establishing that an event of Fraud has been committed in relation to this Agreement the Parties shall discuss in good faith:
- 23.3.1 the steps to be taken in relation to ensuring the continued provision of the Delegated Activities:
- 23.3.1.1 agree any measures to be taken against the relevant member of Staff or if the individual responsible for the Fraud is an employee, agent or contractor of PCC, the measures to be taken against such individual; and
- 23.3.1.2 agree any remedial measures required to ensure that the circumstances which resulted in the Fraud are not repeated and a timescale for implementing such measures.

## **24 PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES**

- 24.1 Neither CCC nor PCC shall do anything or permit to cause anything to be done, which may damage the reputation of the other or bring the other into disrepute.

## **25 EQUALITIES DUTY**

- 25.1 The Parties shall not (and shall procure that its Staff do not) unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination in employment.

## **26 AUDIT & RECORDS**

- 26.1 CCC shall during the Term and for six (6) years after the Expiry Date:
- 26.1.1 keep and maintain full and accurate records and accounts of the operation of the Agreement including the Delegated Activities provided under it, and the amounts paid by PCC and for the avoidance of doubt records subject to a statutory minimum retention period shall be retained by CCC until CCC receives:

- 26.1.1.1 notice that such records have been transferred to PCC; or
- 26.1.1.2 Authority to destroy such records.
- 26.1.2 on reasonable request afford PCC, its representatives and/or its Auditor access to such records and accounts (which may include working papers if reasonably requested) as may be required from time to time.
- 26.2 Subject to PCC's rights in respect of Confidential Information as set out in clause 19, CCC shall on demand provide the Auditors with reasonable cooperation and assistance in relation to each audit, including:
- 26.2.1 all information requested by PCC within the scope of the audit;
- 26.2.2 reasonable access to Sites controlled by CCC and to Equipment used in the provision of the Delegated Activities; and
- 26.2.3 access to the Staff.
- 26.3 Except where an audit is imposed on PCC by a regulatory body, PCC may not conduct an audit under this clause 26 more than twice in any calendar year.
- 26.4 PCC shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt CCC or delay the provision of the Delegated Activities.
- 26.5 If an audit identifies that:
- 26.5.1 CCC has failed to perform its obligations under this agreement in any material manner, the Parties shall agree and implement a remedial plan.
- 26.6 CCC may commission, at their own cost, an internal audit review from a third party provider other than PCC. Copies of all such reviews and the responses provided by CCC shall be provided to PCC upon completion.
- 26.7 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 26.

## **27 TERMINATION**

### Termination on notice

- 27.1 In accordance with clause 2, this Agreement shall continue until expiry.
- 27.2 Either Party may at any time terminate this Agreement or any part or parts of the Delegated Activities by serving at least twelve (12) months' written notice on the other Party such notice shall specify the date on which the Agreement shall terminate.

### Termination on Default

- 27.3 In the event that either Party commits a Default, the non-defaulting Party may serve on the other Party a Default Notice.
- 27.4 Either Party may terminate the Agreement, or terminate the provision of any part of the Agreement or any part or parts of the Delegated Activities by written notice to the other party with immediate effect if that other Party commits a material breach and if:
- 27.4.1 The material breach is not remedied within 30 days, or such other period as may be agreed between the Parties, after issue of a written notice specifying the material breach and requesting it to be remedied; or
- 27.4.2 The material breach is not, in the opinion of the non-defaulting Party, capable of remedy.

## **28 CONSEQUENCES OF TERMINATION**

- 28.1 On termination of this Agreement for any part of the Delegated Activities for any reason, the Exit Plan shall be implemented in accordance with Schedule C.
- 28.2 Save as otherwise expressly provided in the Agreement:
- 28.2.1 termination or expiry of the Agreement shall be without prejudice to any rights, remedies or

obligations accrued under the Agreement prior to termination and nothing the Agreement shall prejudice the right of any Party to recover any amount outstanding at the time of such termination.

## **29 VARIATION**

- 29.1 Except as otherwise expressly provided by this Agreement, any requirement for a Variation shall be agreed by Parties in writing.

## **30 FORCE MAJEURE**

- 30.1 If an event of Force Majeure prevents any Party from performing its material obligations under the Agreement it shall immediately notify the other Party by the most expeditious method available and shall inform the other of the estimated duration of such failure or delay.
- 30.2 If any Party reasonably determines that the event of Force Majeure is likely to extend for any period beyond a week, the Parties shall discuss in good faith any action to be taken to resolve the impact of such event.
- 30.3 If the event of Force Majeure has a material impact on any Party and its ability to perform its obligations under this Agreement, the Parties shall discuss in good faith the termination of the Agreement and if terminated, neither Party will be liable to the other except that any rights and liabilities accrued prior to termination will continue to exist.

## **31 WAIVER**

- 31.1 A waiver of any right or remedy under this Agreement or by Law is only effective if given in writing and communicated in accordance with clause 35 (Notices) and shall not be deemed a waiver of any subsequent breach or default.
- 31.2 A failure or delay by a Party to exercise any right or remedy provided under this Agreement or by Law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by Law shall prevent or restrict the further exercise of that or any other right or remedy.

## **32 NO PARTNERSHIP OR AGENCY**

- 32.1 Except as expressly set out in this Agreement, nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party.

## **33 CUMULATIVE REMEDIES**

- 33.1 Except as expressly provided by this Agreement, all remedies available to any Party for breach of the Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

## **34 CONFLICTS OF INTEREST**

- 34.1 CCC shall take appropriate steps to ensure that neither CCC nor any Staff are placed in a position where (in the reasonable opinion of PCC), there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of CCC or Staff and the duties owed to PCC under the provisions of the Agreement.
- 34.2 CCC shall promptly notify PCC and provide PCC with full particulars or as much detail as it is able to in circumstances where any conflict referred to in clause 34.1 above arises or is reasonably foreseeable.
- 34.3 This clause 34 shall apply during the Term and for 6 months following the Expiry Date.

## **35 NOTICE**

- 35.1 Except as otherwise expressly provided within the Agreement, no notice or other



communication from one Party to another shall have any validity under the Agreement unless made in writing.

35.2 Any notice or other communication which is to be given by a Party to another shall be given by letter (sent by hand, post, registered post or by the recorded delivery service) or electronic mail. Provided that the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail or sooner where the other Party acknowledges receipt of such letters or item of electronic mail.

35.3 Any Party may change its address for service by serving a notice in accordance with this clause.

## **36 ENTIRE AGREEMENT**

36.1 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter, except that this clause 36 shall not exclude liability in respect of any fraudulent misrepresentation.

36.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

## **37 THIRD PARTY RIGHTS**

37.1 No term of this Agreement is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this Agreement. Nothing in this Agreement shall create any rights for third parties under the Contracts (Rights of third Parties) Act 1999. No variation of this Agreement and no supplemental or ancillary agreement to this Agreement shall create any such rights unless expressly so stated in any such agreement by the parties.

## **38 GOVERNING LAW AND JURISDICTION**

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

38.2 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

## **39 RECOVERY OF SUMS**

39.1 If any sum of money shall at any time have been, or becomes, recoverable from, or payable by CCC to PCC, PCC is entitled to deduct that money from any moneys due under this Agreement or any other contract between PCC and CCC, irrespective of when such money shall have been or becomes payable or recoverable.

## **40 SURVIVAL**

40.1 The following clauses will survive termination or expiry of the Agreement: Clause 28 (Consequences of Termination), Clause 16 (Insurance), Clause 19 (Confidentiality), Clause 20 (Data Protection), Clause 18 (Freedom of Information), Clause 26 (Audit and Records), Clause 41 (Severance), Clause 38 (Governing Law and Jurisdiction).

## **41 SEVERANCE**

41.1 If any provision of the Agreement shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity shall not

impair or affect any other provision all of which shall remain in full force and effect.

## **42 COSTS AND EXPENSES**

- 42.1 Each of the parties will pay their own costs and expenses incurred in connection with the negotiation, preparation, execution, completion and implementation of this Agreement.

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## SCHEDULE A

### DELEGATED ACTIVITIES

CCC will act as lead commissioner in procuring 0-19 HCP service across Cambridgeshire and Peterborough, undertaking the specific delegated activities below on behalf of PCC:

#### Delegated activities

1. Secure 0-19 Healthy Child Programme provision (based on the commissioning approach and supply plan developed jointly by both PCC and CCC) via either
  - entering a Section 75 arrangement with appropriate provider(s) on behalf of PCC and CCC or
  - leading a competitive tender process and contracting directly with provider(s) on behalf of PCC and CCC
2. Responsibility for transferring PCC's contribution to the 0-19 HCP to the provider(s)
3. Comply with CCC internal governance and democratic processes of CCC in place of PCC's processes
4. Enact appropriate clauses from the terms and conditions agreed with the provider(s) during the term as jointly agreed by commissioners from both PCC and CCC

#### Non-delegated activities

The commissioning activities shown in the diagram below are not delegated activities and remain the responsibility of both PCC and CCC to be shared and undertaken together through a joint commissioning function:

Fig 1: Commissioning Cycle, Social Care Institute for Excellence



## SCHEDULE B

### FEE AND PAYMENT PLAN

The contributions of CCC and PCC towards the 0-19 Healthy Child Programme are set out below.

	CCC	PCC
0-5 HCP (Health Visiting provision)	£xxx pa	£xxx pa
5-19 HCP (School Nursing provision)	£xxx pa	£xxx pa
Family Nurse Partnership provision	£xxx pa	£xxx pa
Total 0-19 HCP	£xxx pa	£xxx pa
Grand total	£xxxx pa	

PCC will raise an annual PO during April of each year for CCC to invoice against, split against cost centres where appropriate.

CCC will make payment to the provider(s), clearly identifying PCC and CCC monies and invoice PCC in accordance with the payment schedule in the terms and conditions in the subsequent Section 75 agreement or contract award. CCC will first pay the provider(s) and then invoice PCC for its contribution to the HCP.

## SCHEDULE C EXIT PLAN

### EXIT STRATEGY

#### 1. PRINCIPLES AND OBJECTIVES

- 1.1 This Schedule sets out the principles and objectives of the Exit Strategy to be agreed between CCC and PCC which will apply when the Delegated Activities or part of the Delegated Activities are terminated or at the Expiry Date (whichever is sooner).
- 1.2 For the purposes of this Schedule C, the period between the date when a valid termination notice is served by either party and the Expiry Date shall be known as the “**Termination Transfer Period**”.
- 1.3 If there is a partial termination, the provisions of this Schedule C shall apply only to those assets, information, rights and employees to the extent that they are no longer required by CCC for the provision of the Delegated Activities.
- 1.4 The objectives of the Exit Strategy (the “**Objectives**”) are to:
  - 1.4.1 ensure CCC stops supplying the Delegated Activities or such part of the Delegated Activities which are to be terminated;
  - 1.4.2 allow PCC to perform the Replacement Delegated Activities; and
  - 1.4.3 eliminate or minimise any disruption or deterioration of the Delegated Activities or failure to provide the Delegated Activities in accordance with the Specification as a result of the termination to include the Termination Transfer Period.
- 1.5 CCC shall take all such reasonable steps as shall be necessary or desirable for the orderly hand-over of the Delegated Activities to PCC to assist in achieving the Objectives.

#### 2. PLANNING

- 2.1 CCC shall develop a generic plan for the transfer of the Delegated Activities and the steps to be taken upon termination of the Delegated Activities by CCC to assist in achieving the Objectives (the “**Exit Plan**”). This Exit Plan will be agreed between the PCC and CCC prior to the commencement of the contract.
- 2.2 The Exit Plan will be reviewed in accordance with paragraph 2.4.3. below.
- 2.3 The level of detail required by PCC shall be reasonable but should provide as a minimum the procedures and responsibilities necessary for an orderly and effective transfer of the Delegated Activities to PCC and the achievement of the Objectives.
- 2.4 In addition CCC shall:
  - 2.4.1 maintain the Exit Plan throughout the Term to ensure that it is updated to reflect any changes made to the Delegation Agreement, Specification or Changes in Law;
  - 2.4.2 provide all information and assistance reasonably necessary to effect the termination in accordance with the Exit Plan as efficiently and effectively as reasonably possible; and
  - 2.4.3 review and verify the Exit Plan with PCC at least once each year during the Term and following such review and verification by PCC. If PCC identify any aspect of the Exit Plan which each considers to be inadequate or out of date CCC shall promptly make improvements or changes and submit the revised Exit Plan to PCC for approval.

- 2.5 The Exit Plan shall include, amongst other things:
- 2.5.1 details of employees to include any original transferring employees, contracts, sub-contracts, licences, properties and any other resources which CCC will continue to provide during the Termination Transfer Period; and
  - 2.5.2 an outline timetable, process, outline schedule of responsibilities and other critical criteria for effecting the orderly hand-over of the Delegated Activities.
- 3. TRANSFER DELEGATED ACTIVITIES**
- 3.1 At the start of the Transfer Period, CCC shall comply with its obligations in the Exit Plan in order to provide the Delegated Activities during the Termination Transfer Period (the “**Transfer Delegated Activities**”).
  - 3.2 PCC shall identify which of the Transfer Delegated Activities CCC should continue to deliver during the Transfer Period and which if any may be discontinued.
  - 3.3 If PCC identifies any Transfer Delegated Activities which may be discontinued it shall specify when during the Transfer Period they may be discontinued, such changes to be agreed through the Variation process.
  - 3.4 CCC shall not reduce the resources which it has committed to the Transfer Delegated Activities without the prior written consent of PCC.
- 4. DATA AND KNOWLEDGE**
- 4.1 CCC shall, to the extent that it is entitled to do so, supply all Data to the PCC in such formats and by such methods as PCC may reasonably specify.
  - 4.2 CCC shall provide for the transfer of all necessary knowledge reasonably required for the provision of the Replacement Delegated Activities (“**Necessary Information**”) which may, as appropriate, include information, records and documents required pursuant to this Agreement and the provision of the Delegated Activities. To allow the transfer of knowledge from CCC to PCC CCC shall explain the relevant procedures and operation of the Delegated Activities to the employees and or other nominees of PCC.
  - 4.3 The Necessary Information during the Termination Transfer Period which CCC shall provide to PCC includes:
    - 4.3.1 a list of third party suppliers of Delegated Activities which are likely to be the subject of a Transfer setting out:
      - 4.3.1.1 key support contact details;
      - 4.3.1.2 contract termination provisions;
      - 4.3.1.3 key term dates; and
      - 4.3.1.4 contract values
    - 4.3.2 details of work in progress, including how any risks to successful completion of this work may be mitigated;
    - 4.3.3 details of any negotiations with Third Party suppliers;
    - 4.3.4 details of any litigation, disputes, arbitration, mediations or administrative or criminal proceedings to which CCC has been a party in connection with the Delegated Activities in the 3 years prior to the Expiry Date;
    - 4.3.5 details of any Customer Complaints received by CCC in the 3 years prior to the Expiry Date;
    - 4.3.6 details of any insurance claims made by CCC in connection with the Delegated Activities in the 3 years prior to the Expiry Date; and
    - 4.3.7 details of any proceedings which have been instigated in relation to any other matter which may adversely affect PCC’s ability to perform the Replacement Delegated Activities.

## 5 STAFF AND TUPE

### 5.1 CCC shall ensure that CCCs Personnel are available to assist PCC:

5.1.1 during the Transfer Period; and

5.1.2 for a minimum of 32 hours each month for the first six months after or before the Expiry Date at times reasonably required by PCC and at the cost of PCC as detailed in the Exit Plan to allow PCC to familiarise itself with the Delegated Activities, to the extent necessary to enable it to provide the Replacement Delegated Activities.

5.2 PCC shall be entitled to place with CCC such number of PCC employees and consultants as it reasonably requires ("**PCC Personnel**") during the Transfer Period to enable PCC to gain further information and knowledge in relation to the Delegated Activities. CCC shall provide all necessary co-operation and assistance to PCC Personnel to facilitate this. CCC shall not be entitled to use PCC Personnel in the actual performance of the Delegated Activities.

## 6 CCC UNDERTAKINGS

6.1 If PCC issues a notice of termination to CCC, CCC undertakes, during the period between the receipt of the termination notice and the Expiry Date, except with the prior written consent of PCC, such consent not to be unreasonably withheld or delayed, not to:

6.1.1 enter into any long-term, unusual or abnormal contracts or commitments;

6.1.2 other than in the ordinary course of business vary the terms of any contracts with the providers of Delegated Activities supplied in connection with the Delegated Activities;

6.1.3 other than in the ordinary course of business vary the terms of any contracts with CCC Sub-CCCs;

6.1.4 grant or issue or agree to grant or issue any mortgages, charges, debentures or other securities for money or redeem or agree to redeem any such securities or give or agree to give any guarantees or indemnities;

6.1.5 permit any of its insurance policies required under this Delegation Agreement to lapse or do anything which would make any such policy of insurance void or voidable;

6.1.6 in any way depart from the ordinary course of its day to day business either as regards the nature or scope or the manner of conducting the same;

6.1.7 release waive or modify any warranty or guarantee given by any supplier of Delegated Activities supplied in connection with the provision of the Delegated Activities;

6.1.8 cause or permit any item comprised in the records to be removed or destroyed or any programs or data on PCC's and CCC's computer systems relating to the Delegated Activities to be removed or deleted except for the deletion of Personal Data where required to ensure compliance with data protection legislation or for the efficient running of the computer system after satisfactory back-up codes have been made and securely stored off-site;

6.1.9 take any action if the reasonably foreseeable consequence would be to materially and adversely affect the operation of the Delegated Activities;

6.1.10 other than in the ordinary course of business terminate the employment of any of CCC's employees employed in the provision of the Delegated Activities ("**Employees**");

6.1.11 relocate or assign to new duties any of the Employees;

6.1.12 make any other alterations to the structure or composition of the Employees which are intended to or which may preclude the application of TUPE upon the start of

the Replacement Delegated Activities; and

- 6.1.13 other than in the ordinary course of business make any additional payments to Employees outside of the terms and conditions set out in their employment contract, statute or any other contractual document.

**7 COSTS**

- 7.1 CCC shall provide the Termination Delegated Activities at its cost save where expressly stated in this Schedule. CCC has assumed that the Termination Delegated Activities shall be delivered by its staff normally allocated to service delivery. Where this is not reasonably possible CCC shall notify PCC and seek to agree appropriate provisions including agreeing a mechanism to provide relief from performance where relevant, provided that both parties in agreeing this mechanism act reasonably.

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EXECUTED under the Common Seal of  
**PETERBOROUGH CITY COUNCIL**  
In the presence of

.....  
Duly Authorised Officer

EXECUTED under the Common Seal of  
**CAMBRIDGESHIRE COUNTY COUNCIL**  
In the presence of

.....  
Duly Authorised Officer

Dated

2019

## **Delegation and Partnering Agreement**

**between**

**Peterborough City Council**

**and**

**Cambridgeshire County Council**

Head of Legal Services  
Sand Martin House  
Bittern Way  
Fletton Quays  
Peterborough  
PE2 8TY

This Agreement is made the                      day of                      2019

**BETWEEN:**

- (1) **PETERBOROUGH CITY COUNCIL** of the Sand Martin House, Bittern Way, Fletton Quays, Peterborough, PE2 8TY ("PCC")
- (2) **CAMBRIDGESHIRE COUNTY COUNCIL** of Shire Hall, Castle Hill, Cambridge, CB3 0AP ("CCC")

**WHEREAS:**

- A. The Parties are local authorities for the purposes of the Local Government Act 1972 and best value authorities for the purposes of the Local Government Act 1999.
- B. PCC and CCC currently commission the Healthy Child Programme (HCP) separately. As part of a wider strategic drive to join up child health provision across Cambridgeshire and Peterborough, PCC and CCC shall commission a single HCP across both local authorities. PCC shall delegate its commissioning responsibility and delivery of the function for the HCP to CCC. PCC shall transfer HCP funding to CCC, enabling CCC to act as lead commissioner and enter into contractual arrangements on PCC's behalf. The commissioning of the HCP shall be undertaken by the Public Health Joint Commissioning Unit (PHJCU) which is made up of Public Health Commissioners from both CCC and PCC.
- C. PCC shall delegate the commissioning and delivery of its Healthy Child Programme to CCC as outlined in Schedule A.
- D. CCC and PCC work together in partnership in relation to identifying ways of working together through the combination, sharing and closer integration of services. In accordance with PCC and CCC's Joint Working Agreement dated [insert date ], which is attached at Schedule [insert schedule reference], CCC and PCC shall work together to ensure the HCP Services are contract managed and monitored in order to develop and enhance service delivery, build resilience and achieve future efficiencies.
- E. The Parties have entered into this agreement in reliance on their powers and the exclusive rights given to local authorities to undertake administrative arrangements of this nature in sections 101 and 113 of the Local Government Act 1972, and sections 19 and 20 of the Local Government Act 2000 and the regulations made under these Acts; together with the general power within section 2 of the Local Government Act 2000 and the supporting provisions within section 111 Local Government Act 1972.
- F. In reliance on the powers set out in Recital E above, PCC shall delegate the commissioning and delivery of its Healthy Child Programme to CCC on the terms set out in this agreement and CCC has agreed to undertake Delegated Activities on the basis set out herein.

**IT IS AGREED** as follows:

**1 GENERAL PROVISIONS**

**1.1 Definitions:**

In the agreement unless the context otherwise requires the following provisions shall have the meanings given to them below:

"Agreed Purposes"	shall mean the procuring and contract management of the 0-19 Healthy Child Programme as referred to within
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	Schedule A.)
"Agreement"	means this written Delegation Agreement between PCC and CCC including the Schedules
"Assets"	means the information and communications technology equipment including but not limited to routers, servers, computer lap tops, hand held devices, all computing accessories, PCC software, PCC System and other assets used in the delivery of the Delegated Activities by PCC or its Contractors prior to the Commencement Date
"Auditor"	means the auditor appointed by CCC or CCC's internal or external auditor as the context requires.
"CCC System"	means the information and communications technology system used by CCC in performing the Delegated Activities including the Equipment and any communications links between the Equipment and PCC System.
"Change in Law"	the coming into effect after the date of this Agreement of: (a) Law other than any Law which on the date of this Agreement has been published: (i) in a bill; (ii) in a draft statutory instrument; or (iii) as a proposal in the Official Journal of the European Union;  (b) any guidance; or (c) any applicable judgment of a relevant court of law which changes a binding precedent;
"Commencement Date"	Means 1 April 2019.
"Commercially Sensitive Information"	means information of a commercially sensitive nature relating to CCC, its IPR or its business or which CCC has indicated to PCC that, if disclosed by PCC, would cause CCC significant commercial disadvantage or material financial loss;
"Confidential Information"	means any information, however conveyed or presented, that relates to the business, affairs, operations, customers, processes, budgets, pricing policies, product information, strategies, developments, trade secrets, know-how, personnel and suppliers of the disclosing party, together with all information derived by the receiving party from any such information and any other information clearly designated by a party as being confidential to it (whether or not it is marked "confidential"), or which ought reasonably be considered to be confidential.
"Data Discloser"	shall mean a party that discloses Shared Personal Data to the other party.
"Data Protection Legislation"	shall mean: (i) the Data Protection Act 2018(ii) the General Data Protection Regulation ((EU) 2016/679) (GDPR) and any national implementing laws, regulations and secondary legislation, for so long as the GDPR is effective in the UK, and (iii) any successor legislation to the Data Protection Act 2018 and the GDPR, in particular the Data Protection Act

(“Controller , Processor , Data Subject , Personal Data, Personal Data Breach, Data Protection Officer	2018, and any statutory guidance or codes of practice or conduct issued pursuant to the above.  shall each take the meaning given in the Data Protection Legislation”).
"Default"	means any material breach of the obligations of the relevant Party (including but not limited to fundamental breach);
"Default Notice"	means a notice in writing served by one Party on the other in accordance with clause 27.3 setting out the details of any Default and the steps required to remedy the Default;
"Delegated Activities"	means the Services to be supplied by CCC to PCC in accordance with the Specification for each part of the Delegated Activities as set out in Schedule A;
"Delivery Continuity Plan"	means a plan to ensure the Delegated Activities will continue to be provided by CCC in the event of disruption to CCC' operations and those of its Contractors (including disruption to information technology systems) howsoever caused.
"Delivery Failure"	shall mean a failure by CCC to deliver any part of the Delegated Activities in accordance with Schedule A.
"Due Date"	means thirty ( 30 ) Working Days from the receipt of an undisputed invoice from CCC;
"Eligible Person(s)"	means the person(s) for whom PCC are responsible by statute for providing the delegated activities
"EIR"	means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;
"Equipment"	means any equipment supplied and used by CCC (but not hired, leased or loaned from PCC in the performance of its obligations under the Agreement;
"Exit Plan"	the plan set out in Schedule C
"Expiry Date"	To be confirmed
"FOIA"	means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation;
"Force Majeure"	means any event or occurrence which is outside the reasonable control of the Party concerned (which is not attributable to any act or failure to take preventative action by that Party) including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding: (a) any industrial action occurring within CCC' or any Contractor's organisation; and

	<p>(b) the failure by any Contractor to perform its obligations under any Contract;</p> <p>(c) any event or occurrence which is attributable to the wilful act, neglect or failure to take reasonable precautions against the event or occurrence by the Party concerned;</p>
"Fraud"	means any offence under any Laws creating offences in respect of fraudulent acts or in relation to the Misrepresentation Act 1967 or at common law in respect of fraudulent acts in relation to the Agreement or defrauding or attempting to defraud or conspiring to defraud a Contracting Authority or PCC
"Information"	has the meaning given under section 84 of the FOIA;
"Intellectual Property Rights" and "IPRs"	means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, semi conductor topography rights, domain names and website addresses, trade or business names, rights in Know How and Confidential Information, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off;
"Know How"	means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know how relating to the Delegated Activities but excluding know how already in CCC' or PCC's possession before the Commencement Date;
"Law"	means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body (which, in respect of the latter, the Parties are bound to comply with);
"Month"	means calendar month;
"PCC Data"	<p>means:</p> <p>a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p>(i) supplied to CCC by or on behalf of PCC; and</p> <p>(ii) which CCC is required to generate, process, store or transmit pursuant to this Agreement; and</p> <p>b) any Personal Data for which PCC is the Data Controller;</p>
PCC's Facilities	means any materials, plant or equipment owned or held by the PCC and provided by PCC to enable CCC to perform its obligations under this agreement and for the provision of Services to CCC Partners
"PCC's Premises"	means the premises owned or leased by PCC from which CCC' Staff shall provide the Delegated Activities or any part

	of the Delegated Activities.
"PCC System"	the computing environment (consisting of the hardware and telecommunications networks) that is to be used by PCC in connection with the Delegated Activities and which interfaces with the CCC System.
"Party"	means CCC or PCC and "Parties" shall be construed accordingly;
"Permitted Recipients"	means the parties to this agreement, the employees of each party, and any third parties engaged to perform obligations in connection with this agreement.
"Replacement Partner"	means any third party to whom CCC delegates responsibility for Delegated Activities from time to time;
"Representative"	means the person duly appointed by PCC and CCC respectively to act as the representative for the purpose of the Agreement or as amended from time to time.
"Request for Information"	means a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations (as the context requires);
"Requesting Party"	means the Party in receipt of Request for Information
"Services"	shall mean the provision of the Healthy Child Programme 0-5, Healthy Child Programme 5-19 and Family Nurse Partnership in accordance with the Delegated Activities outlined within Schedule A.
"Shared Personal Data"	shall mean the personal data to be shared between the parties under clause 20 of this agreement. Shared Personal Data shall be confined to the following categories of information relevant to the following categories of data subject: - [insert details]
"Sites"	means any premises from which the Delegated Activities are provided or from which CCC manages, organises or otherwise directs the provision or the use of the Delegated Activities or where any part of CCC System is situated or where any physical interface with PCC System takes place;
"Specification"	means the activities generally described and specified in Schedule A;
"Staff"	means all persons employed or engaged by CCC and/or any Contractor to perform CCC's obligations under the Agreement together with CCC's and/or any Contractor's servants, consultants, agents, providers and Contractors used in the performance of its obligations under the Agreement;
"Term"	means the period of 1 April 2019 to TBC.
"Transparency Code"	Local Government Transparency Code 2015
"TUPE"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any amendment thereto;



"Variation"	Means any variation to this Agreement including to any of the Delegated Activities.
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"Working Day"	means any day other than a Saturday or Sunday or public holiday in England;

## 1.2 Interpretation

The interpretation and construction of the Agreement shall be subject to the following provisions:

- 1.2.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- 1.2.2 words importing the masculine include the feminine and the neuter;
- 1.2.3 the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
- 1.2.4 references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- 1.2.5 references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- 1.2.6 headings are included in the Agreement for ease of reference only and shall not affect the interpretation or construction of the Agreement;
- 1.2.7 the Schedules form part of this Agreement and shall have effect as if set out in the full body of this Agreement any reference to this Agreement includes the Schedules
- 1.2.8 references to clauses and Schedules are to the clauses and Schedules of this Agreement; references to paragraphs are to paragraphs of the relevant Schedule.
- 1.2.9 a clause is a reference to the whole of that clause unless stated otherwise;
- 1.2.10 in the event of and only to the extent of any conflict between the clauses of the Agreement and any document referred to therein the conflict shall be resolved in accordance with the following order of precedence:
  - 1.2.10.1 the clauses of the Agreement; and
  - 1.2.10.2 the Schedules and
  - 1.2.10.3 any other document referred to in the clauses of the Agreement.
- 1.2.11 any obligation not to do something includes an obligation not to allow that thing to be done;
- 1.2.12 any reference to costs in this Agreement shall be deemed to be a reference to costs reasonably incurred.

## 2 TERM

- 2.1 This Agreement shall take effect on the Commencement Date and shall continue for the Term, unless terminated earlier in accordance with this Agreement.
- 2.2 The Term shall commence on 1st April 2019 and end on 31st March 2024.

## 3 AGREEMENT, REPRESENTATIONS AND WARRANTIES

- 3.1 Each of the Parties warrants and represents to the others that:

- 3.1.1 it has full capacity and authority and all necessary consents, complied with all internal procedural and constitutional requirements and taken all steps required by statute to enable it to enter into this Agreement and to perform its obligations under the Agreement;
- 3.1.2 the Agreement is executed by a duly authorised representative of the Party;
- 3.1.3 in entering into the Agreement it has not committed any Fraud; and
- 3.1.4 not in use
- 3.1.5 the Parties agree to act openly and transparently in relation to each other in carrying out their obligations under this Agreement and in particular where circumstances arise which may have a material impact upon delivery of the Delegated Activities.

#### **4 DELEGATED ACTIVITIES**

- 4.1 Subject to clause 4.2, PCC shall delegate to CCC the responsibility for delivering the Delegated Activities specified in Schedule A, pursuant to the terms and conditions of this Agreement.
- 4.2 PCC shall delegate its commissioning responsibility and delivery of the function for the HCP to CCC and CCC shall commission a single HCP across both local authorities. The commissioning of the HCP shall remain within the PHJCU comprising of officers from both local authorities. PCC shall transfer HCP funding to CCC, enabling CCC to act as lead commissioner and enter into contractual arrangements on PCC's behalf. Once the Services have been commissioned by CCC, in accordance with PCC and CCC's Joint Working Agreement, which is attached at Schedule [insert schedule reference], CCC and PCC shall work together to ensure the HCP Service is contract managed and monitored in order to develop and enhance service delivery, build resilience and achieve future efficiencies.

##### Quality and Standards

- 4.3 CCC agrees that PCC relies on the skills and judgement of CCC in the supply of the Delegated Activities and the performance of its obligations under this Agreement.
- 4.4 CCC shall ensure that:
  - 4.4.1 All Staff involved in the delivery of the Delegated Activities shall do so with reasonable skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Delegated Activities;
  - 4.4.2 The Delegated Activities are provided in accordance with the laws of England and Wales and the European Union and any other laws, regulations, policies;
  - 4.4.3 The Delegated Activities are provided in accordance with the requirements set out in Schedule A;
  - 4.4.4 Sufficient resources are allocated to the provision of the Delegated Activities in accordance with the terms of this Agreement; and
  - 4.4.5 CCC and its Staff shall at all times comply with the provisions of the Human Rights Act 1998.

#### **5 AUTHORITY'S PREMISES, FACILITIES AND THE ASSETS**

- 5.1 PCC shall, subject to clauses 20 and 20A, provide CCC and its Staff access to such parts of PCC's Premises and use of PCC's Facilities and of the Assets as CCC reasonably requires for the purpose of properly performing its obligations under this Agreement.
- 5.2 PCC's Premises shall be made available to CCC in accordance with clause 5.1 on the basis of a non-exclusive licence and free of charge for the duration of the Term or which is otherwise agreed by the Parties from time to time in writing.

#### **6 STAFF AND TUPE**

##### The Employees

- 6.1 The Parties acknowledge and agree that CCC's Staff involved directly or indirectly in the provision of the Delegated Activities will remain employed by CCC, and that the provisions of TUPE are not relevant and shall not apply to this Agreement.
- 6.2 It is agreed between the Parties that the Fee will not be varied after the commencement of this Agreement on the grounds that TUPE does or does not apply, irrespective of the belief of either Party prior to the time the Agreement commenced.
- 6.3 In the event of any future transfer to PCC of the Delegated Activities or any Replacement Provider or sub-contractor on the expiry or early termination of this Agreement or as a consequence of part of the Delegated Activities not being provided by CCC, CCC will (and will use all reasonable endeavours to produce that any Replacement Provider or sub-contractor will):-
- 6.3.1 comply with the obligations under TUPE; and
- 6.3.2 upon request provide to PCC, as soon as reasonably practicable, a list containing details of the transferring employees and such other appropriate information reasonably required by PCC, to disclose as appropriate to third parties invited to tender/quote for any subsequent contract(s) relating to the provision of the Delegated Activities, or part thereof. This list and details to be provided to the PCC is to contain the following in respect of each transferring employee:-
- nature of job/job description;
  - current salary;
  - length of service;
  - contracted hours and percentage of those contracted hours spent on the contract;
  - retirement age;
  - arrangements for overtime and whether this is contractual;
  - any factors that may affect redundancy entitlement;
  - any outstanding industrial injury claims or other claims or actions;
  - whether any probationary period is current;
  - period of notice to terminate employment;
  - current pay agreement and any agreed settlement or pay agreement yet to come into effect;
  - age;
  - annual leave entitlement;
  - sick leave entitlement;
  - maternity and paternity leave arrangements;
  - special leave entitlement;
  - other benefits e.g. season tickets, loans, car provision;
  - whether they are a member of a company pension scheme;
  - location and contractual provisions relating to this;
  - terms and conditions of employment;
  - details of the company pension scheme; and
  - any other information reasonably requested by the PCC.
- 6.4 CCC warrants and undertakes that the above information under clause 6.3.2, when provided to the PCC, will be accurate and complete in all respects as far as it is aware or should reasonably be aware, and that it will, as soon as reasonably practicable, inform the PCC in writing of any changes to that information between the date provided and the date of any relevant transfer under TUPE.
- 6.5 CCC will use its reasonable endeavours to procure (and likewise that any Replacement Provider or sub-contractor procures) that no Transferring Employees are dismissed for a reason connected to any relevant transfer under TUPE, and will indemnify and keep

indemnified the PCC and any Replacement Provider against direct or indirect loss, damages, claims, costs and expenses (included legal expenses) suffered or incurred by the PCC and/or any Replacement Provider:-

- 6.5.1 in relation to the employment or termination of employment of any employee prior to or upon a transfer under TUPE;
  - 6.5.2 in relation to a breach or non-observance by the CCC of any collective agreement, custom, practice or arrangement (whether legally binding or not) with a trade union or staff association in respect of any Transferring Employees;
  - 6.5.3 in relation to any failure by the CCC (or any sub-contractor) to comply with their obligations under TUPE in respect of transferring employees;
  - 6.5.4 any claim by any person who transfers or alleges that they have transferred under TUPE to the PCC or a Replacement Provider whose details were not included in the details provided by the CCC under clause 6.3.2; and
  - 6.5.5 in relation to vicarious liability owed to third parties arising or connected with any Transferring Employee's contract of employment which arises from any act or omission on the part of the Transferring Employee prior to the transfer under TUPE.
- 6.6 CCC shall indemnify and keep indemnified PCC and any Replacement Provider from and against all liabilities in connection with, or as a result of, any breach by CCC of its obligations under this clause 6.
- 6.7 PCC shall indemnify and keep indemnified the CCC from and against all liabilities in connection with, or as a result of, any breach by PCC of its obligations under this clause 6.

#### **6A. SAFEGUARDING**

- 6A.1 CCC will comply with the requirements of the Safeguarding Vulnerable Groups Act 2006 in respect of their Staff.
- 6A.2 CCC acknowledges that where it provides Delegated Activities which are classed as Regulated Activities (because the nature of the Delegated Activities falls within the definition of a regulated activity relating to children and/or to vulnerable adults in Part 1 and/or Part 2 of Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 ("Regulated Activities")) CCC shall have ultimate responsibility for the management and control of the Regulated Activities provided under this Agreement and for the purposes of the Safeguarding Vulnerable Groups Act 2006.
- 6A.3 CCC shall ensure that all individuals and Staff engaged in the provision of the Delegated Activities are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service ("DBS") a check against the Adults' Barred List and the Children's Barred List and CCC shall monitor the level and validity of the DBS checks under this clause for each member of Staff.
- 6A.4 CCC warrants that, at all times for the purposes of this Agreement, it will use best endeavours to ensure that members of Staff who are or will be employed or engaged in the provision of the Delegated Activities are not barred from any activity comprised in the Delegated Activities in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006.
- 6A.5 CCC shall immediately notify PCC of any information required by PCC to satisfy itself that the obligations of this clause have been met. In addition, CCC shall:
- 6A.5.1 on the engagement of any person or Staff member who is or will be employed or engaged in the provision of the Services; and
  - 6A.5.2 on the third anniversary of the previous disclosure in respect of any such person certify in writing to PCC that all necessary checks with the DBS have been made and that the result of each check is satisfactory.

- 6A.6 CCC shall refer information about any person or Staff member carrying out the Delegated Activities to the Independent Safeguarding Authority where it removes permission for such person to carry out the Delegated Activities (or would have, if such person had not otherwise ceased to carry out the Delegated Activities) because, in its opinion, such person has harmed or poses a risk of harm to Services Users, children or vulnerable adults.
- 6A.7 Without prejudice to the above, CCC shall not employ or use the services of any person who:
- 6A.7.1 is barred from, or whose previous conduct or records indicate that they would not be suitable to carry out Regulated Activities or who may otherwise present a risk to Eligible Persons;
  - 6A.7.2 is in the reasonable opinion of either Party, unsuitable to work with children or vulnerable adults; or
  - 6A.7.3 does not have the right to work in the United Kingdom and CCC shall comply immediately with any instruction by PCC that such a person shall cease to be engaged in or associated directly or indirectly with the delivery of the Delegated Activities.
- 6A.8 CCC will comply with the Multi Agency Policy and Procedure as amended from time to time latest revised 2017) available from the following link:  
<http://www.llradultsafeguarding.co.uk/contents/> and will have clear protocols and training for Staff so that they are aware of safeguarding issues and in particular CCC will:
- 6A.8.1 Ensure that all Staff are aware of the possibility of abuse, the possible signs and symptoms of abuse and know their responsibilities to respond to and report allegations of abuse;
  - 6A.8.2 Ensure that all Staff have access to an up-to-date version of the Multi Agency Safeguarding Procedure;
  - 6A.8.3 Include Safeguarding Adults and Safeguarding Children procedures in induction and training at a level appropriate to roles of Staff members in the protection process;
  - 6A.8.4 Ensure that all Staff are aware of the actions that the Parties and their Staff must take when a safeguarding issue is suspected; and
  - 6A.8.5 Ensure that all Staff know the requirements to make accurate and factual records at the time of safeguarding concerns arising and to date and sign all written records.
- 6A.9 CCC will monitor the training of its Staff and the details of any safeguarding actions, plans outcomes as part of the governance and quality monitoring of the Delegated Activities.
- 6B. SECURITY**
- 6B.1 CCC shall ensure that its Staff, when engaged within the boundaries of any of PCC's Premises, shall comply with such rules, regulations and requirements (including maintaining the security of premises) as may be in force from time to time for the conduct of personnel when in, at or outside the premises. PCC's decision shall be final as to whether to refuse any of CCC's Staff access to its premises.
- 6B.2 CCC shall comply with the security regulations of PCC including any made for the purposes of the DPA.

## **7 PCC'S DATA**

- 7.1 In accordance with the provisions of clause 7, CCC acknowledges that the PCC's Data is the property of PCC and PCC reserves all IPRs which may, at any time, subsist in the PCC Data.
- 7.2 CCC shall:

- 7.2.1 not delete or remove any proprietary notices or other notices contained within or relating to PCC Data;
- 7.2.2 not alter, store, copy, disclose or use the PCC Data, except as necessary for the performance by CCC of its obligations under this Agreement or as otherwise expressed authorised by this Agreement in compliance with the provisions of this Agreement;
- 7.2.3 preserve so far as possible, the integrity of PCC's Data and prevent any loss, disclosure, theft, manipulation or inception of the PCC's Data;
- 7.2.4 in handling PCC Data, take, all precautions necessary to preserve the security and integrity of PCC Data and to prevent any corruption or loss of PCC Data;
- 7.2.5 make secure backup copies of PCC Data on such regular basis as is reasonable for the particular data concerned as required by the Business Continuity Plan or as otherwise instructed by PCC; and
- 7.2.6 immediately notify PCC if any of the PCC Data is lost, becomes corrupted, is damaged or is deleted accidentally.
- 7.3 CCC shall not:
  - 7.3.1 modify, amend, alter, remove, delete or enhance the PCC Data without the prior written consent of PCC; or
  - 7.3.2 make any copies of the PCC Data without the prior written permission of PCC.
- 7.4 To the extent that any of PCC's Data is held or processed by CCC, CCC shall supply such PCC Data to PCC as may be reasonably requested by PCC from time to time in such format as is agreed between the Parties.

## **8 FEE & PAYMENT PLAN**

- 8.1 In consideration of CCC undertaking the Delegated Activities, PCC shall pay to CCC the fixed Fee of £ [REDACTED] per annum in accordance with this clause 8 and the Payment Plan in Schedule B.
- 8.1A In the event that either PCC shall be required to reduce their Fee to CCC, or that CCC seeks to reduce their contribution to the HCP below the amount agreed in schedule B, this shall require a 3 month notice period to the other Party and the provider with whom CCC shall have entered into contractual arrangements for the delivery of HCP. Where permitted, this shall trigger a Variation of contractual arrangements and the Specification accordingly.
- 8.1B PCC shall be reimbursed, or have the equivalent sum reduced from the following year's Fee, any underspend in the current contract year associated with the delivery of the Delegated Activity by CCC or payments withheld by CCC in the current contract year due to underperformance by the provider with whom CCC have entered into contractual arrangements for the delivery of HCP.
- 8.2 CCC shall invoice PCC for payment of the Fee at the time the Fee is expressed to be payable in accordance with the Payment Plan. CCC shall send all invoices via email as a PDF attachment to [payments@peterborough.gov.uk](mailto:payments@peterborough.gov.uk) and PCC's Representative until advised otherwise by the Council.
- 8.3 PCC shall pay the Fee which has become payable in accordance with the Payment Plan on the Due Date.

### Disputed Invoice

- 8.4 If PCC receives an invoice for the Fee which it reasonably believes includes a sum which is not valid and properly due:
  - 8.4.1 PCC shall notify CCC in writing as soon as reasonably practicable;
  - 8.4.2 PCC's failure to pay the disputed Fee shall not be deemed to be a breach of this Agreement;

- 8.4.3 PCC shall pay the balance of the invoice which is not in dispute by the Due Date;
  - 8.4.4 to the extent that PCC is obliged, following resolution of the dispute, to pay an amount, then CCC may charge interest in accordance with clause 10 from the original Due Date until the date of payment;
  - 8.4.5 to the extent that CCC is obliged to refund an amount to PCC, interest shall be added to that amount in accordance with clause 10; and
  - 8.4.6 once the dispute has been resolved, where either Party is required to make a balancing payment, it shall do so within thirty (30) Working Days and, where CCC is required to issue a credit note, it shall do so within thirty (30) Working Days.
- 8.5 CCC shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to PCC pursuant to this Agreement. Such records shall be retained for inspection by PCC for 7 years from the end of the contract year to which the records relate.

#### VAT

- 8.6 The Fee payments are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by PCC following delivery of a valid VAT invoice. CCC shall indemnify PCC against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on PCC at any time in respect of CCC's failure to account for, or to pay, any VAT relating to payments made to CCC under this Agreement.

### **9 CHANGE IN LAW**

- 9.1 If a Change in Law occurs or is anticipated to occur, CCC shall notify PCC of its likely effects such notice should include:
- 9.1.1 Any required changes to the Delegated Activities (including the cessation of any part of the Delegated Activities);
  - 9.1.2 Any required change to the terms of this Agreement to deal with any Change in Law; and
  - 9.1.3 Whether relief from compliance with either Party's duties is required whilst any change in Law is implemented.
- 9.2 For the avoidance of doubt, the Parties acknowledge that any Change in Law which affects the Fee shall be dealt with in accordance with clause 29.
- 9.3 As soon as practicable after receipt of any notice the CCC and PCC's Representatives (or such other representatives as the Parties may agree) shall meet to discuss and agree the best practicable means for dealing with the Changes in Law and any way in which the impact of such changes on the Delegated Activities can be mitigated.
- 9.4 If PCC becomes aware of a Change in Law but has not yet received a notice from CCC, PCC shall notify CCC of such a change.

### **10 DISPUTE RESOLUTION**

- 10.1 If a dispute arises between the Parties in connection with the Agreement, the Parties shall each use reasonable endeavours to resolve such dispute by means of prompt discussion at an appropriate managerial level within 10 days of written notice of dispute being served by one or on the other without recourse to legal proceedings.
- 10.2 If a dispute is not resolved within fourteen (14) days of referral under clause 10.1 then either Party may refer it to senior representatives of each Party for resolution who shall meet for discussion within 14 days or longer period as the Parties may agree.
- 10.3 Provided that both Parties consent, a dispute not resolved in accordance with clauses 10.1 and 10.2, shall first be referred to mediation or other alternative dispute resolution procedure as agreed between the Parties, each acting in good faith. If the Parties are unable to agree a procedure or any aspect of a procedure they will seek assistance from the Centre of Dispute Resolution at Exchange Tower, 1 Harbour Exchange Square,

London, E14 9GB. Unless otherwise agreed the Parties will share equally the costs of mediation and the use of mediation will be without prejudice to the rights of the Parties in all respects if the mediation does not achieve an agreed resolution of the dispute within 60 days (or such longer period as the parties may agree) of the notice of dispute being served.

- 10.4 Unless the Agreement shall have already been determined or abandoned CCC shall in every case continue to proceed with the Delegated Activities in accordance with this Agreement.

## **11 EXIT PLANNING**

- 11.1 CCC shall no later than ten (10) calendar months after the Commencement Date produce the Exit Plan in accordance with the principles in Schedule C to achieve an orderly transition of the Delegated Activities from CCC to PCC and/or a Replacement Partner in the event of termination (for whatever reason) of the whole or any part of this Agreement.

## **12 CONTRACT MONITORING**

### Reporting

- 12.1 If there is a Delivery Failure, CCC shall:
- 12.1.1 notify PCC immediately of the Delivery Failure;
  - 12.1.2 provide PCC with a plan detailing how the Delivery Failure is going to be rectified and shall carry out the actions identified in that plan; and
  - 12.1.3 deploy reasonable resources and take all remedial action that is necessary to rectify or to prevent the Delivery Failure from recurring.
- 12.2 CCC and PCC's Representatives shall hold regular meetings at a time to be agreed by both Parties to monitor and review the performance of this Agreement, the achievement and the provision of the Delegated Activities. These meetings will be at least every six months.
- 12.3 CCC shall commit to PCC that during the Term of this Agreement that CCC shall comply with the principle of Open Book accounting and transparency in performing its obligations in accordance with this Agreement.

## **13 DISRUPTION**

- 13.1 Both Parties shall take reasonable care to ensure that in the performance of its obligations under this Agreement it does not disrupt the operations of the other Party, its employees or any other contractor they engage.
- 13.2 If a Party becomes aware of an event which may affect the other Party's ability to perform its obligations under this Agreement it shall immediately notify the other Party in writing of the same.
- 13.3 If a Party is temporarily unable to fulfil the requirements of the Agreement owing to disruption of normal business that falls outside of Force Majeure, an appropriate allowance by way of a reasonable extension of time shall be considered by both Parties. In addition, the party affected shall be reimbursed of any additional expense reasonably incurred as a direct result of such disruption.

## **14 BUSINESS CONTINUITY**

- 14.1 CCC shall maintain a robust Delivery Continuity Plan and shall ensure that it is able to implement the provisions of the Delivery Continuity Plan at any time in accordance with its terms.



## **15 LIMITATION OF LIABILITIES**

15.1 Nothing in the Agreement shall be construed to limit or exclude a Party's liability for:

- 15.1.1 death or personal injury caused by its negligence or that of its Staff;
- 15.1.2 fraud or fraudulent misrepresentation by it or its Staff;
- 15.1.3 any breach of any obligations implied under section 2 Supply of Good and Services Act 1982;
- 15.1.4 any claim under the indemnity in clause 6;
- 15.1.5 any other matter which by Law may not be excluded or limited;
- 15.1.6 any liability in respect of any and all enforcement costs and expenses associated with any action taken by the other Party; or
- 15.1.7 any liability in relation to default interest payable in accordance with the terms of this Agreement.

15.2 Subject to clause 15.1, PCC's total liability arising under, or in connection with, this Agreement, whether in tort (including negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise, shall be limited as follows:

- 15.2.1 for non-payment of invoices for the Fixed Fee , to the amount unpaid; or
- 15.2.2 for any other type of liability, to the amount of Fee paid for the Delegated Activities under the Agreement.

## **16 INSURANCE**

- 16.1 As a best value authority within the meaning of part 1 of the Local Government Act 1999, CCC warrants that it has the necessary consents, authority and insurances in place to be able to perform its obligations under this Agreement.
- 16.2 CCC shall ensure that within any Section 75 entered into for delivery of the Services, or any contractual arrangements entered into with a third party for the delivery of the Services, the delivering party shall effect and maintain appropriate professional indemnity insurance during the Term.

## **17 HEALTH AND SAFETY**

- 17.1 CCC and all persons engaged in providing the Delegated Activities shall comply fully with the requirements of the Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations, all health and safety policies of PCC and any other Acts, Regulations and Approved Codes of Practice relating to the health and safety of employees and others who may be affected by CCC's work activities.
- 17.2 While on PCC's Premises, CCC shall comply with any health and safety measures or policies implemented by PCC in respect of staff and other persons working on PCC's Premises and notified to CCC from time to time.
- 17.3 CCC shall notify PCC immediately in the event of any incident occurring in the performance of the Agreement on PCC's Premises where that incident causes any personal injury or damage to property that could give rise to personal injury.

## **18 FREEDOM OF INFORMATION**

- 18.1 The Parties acknowledge that they are subject to the requirements of the FOIA, Transparency Code and EIR and shall assist and cooperate with each other to enable each other to comply with Information disclosure obligations.
- 18.2 Each Party shall:
  - 18.2.1 Advise the other Party of all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;
  - 18.2.2 Provide the Requesting Party with a copy of all Information in its possession, or control in the form that the Requesting Party may reasonably require within five (5) Working Days (or such

- other period as the Requesting Party may specify) of the Requesting Party's request; and
- 18.2.3 Provide all necessary assistance as reasonably requested by the Requesting Party to enable the Requesting Party to respond to the Request for Information within the time for compliance set out in section 10 FOIA or regulation 5 EIR.
- 18.3 The Requesting Party shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other Agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA, Transparency Code or the EIR.
- 18.4 The Parties acknowledge that (notwithstanding the provisions of clause 18) they may, be obliged under the FOIA, Transparency Code or the EIR to disclose information concerning CCC, PCC or the Delegated Activities:
- 18.4.1 in certain circumstances without consulting any other Party;
- 18.4.2 or following consultation with the other Party and having taken its views into account, provided always that where clause 18.4 applies each Party shall, take reasonable steps, where appropriate, to give the other Party advanced notice, or failing that, to draw the disclosure to the other Party's attention after any such disclosure.
- 18.4.3 the Parties shall ensure that all Information is retained for disclosure in accordance with the provisions of this Agreement and shall permit the other Party to inspect such records as requested from time to time.

## **19 CONFIDENTIALITY**

- 19.1 Except to the extent set out in this clause 19, or where disclosure is expressly permitted elsewhere in this Agreement, each Party shall:
- 19.1.1 treat the other Party's Confidential Information as confidential; and
- 19.1.2 not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.
- 19.1.3 Clause 19.1 shall not apply to the extent that:
- 19.1.4 such information was in the possession of the Party making the disclosure, without obligation of confidentiality, prior to its disclosure; or
- 19.1.5 such information was obtained from a third party without obligation of confidentiality; or
- 19.1.6 such information was already in the public domain at the time of disclosure otherwise than through a breach of this agreement; or
- 19.1.7 such information was independently developed without access to the other Party's Confidential Information.
- 19.2 CCC may only disclose PCC's Confidential Information to CCC's Staff who are directly involved in the provision of the Delegated Activities and who need to know the information. CCC shall ensure that such CCC's Staff are aware of, and comply with, these confidentiality obligations.
- 19.3 CCC shall not, and shall procure that CCC's Staff do not, use any of PCC's Confidential Information received otherwise than for the purposes of this Agreement.
- 19.4 Nothing in this Agreement shall prevent PCC from disclosing CCC's Confidential Information:
- 19.4.1 for the purpose of the examination and certification of PCC's accounts; or
- 19.4.2 for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which PCC has used its resources.
- 19.5 PCC shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Contractor to whom CCC's Confidential Information is disclosed pursuant to clause 19 is made aware of PCC's obligations of

confidentiality.

19.6 Nothing in this clause 19 shall prevent any Party from using any techniques, ideas or Know-How gained during the performance of this Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the Party's Confidential Information or an infringement of IPR.

19.7 From the date of this Agreement CCC shall be liable for and shall indemnify PCC, its officers, employees and agents against any direct losses whatsoever incurred by PCC arising from the acts or omissions of CCC in respect of any breach of the Data Protection Legislation, duty of confidentiality or any other associated statutory or common law duty.

19.8 From the date of this Agreement PCC shall be liable for and shall indemnify CCC its officers, employees and agents against any direct losses whatsoever incurred by CCC arising from the acts or omissions of PCC in respect of any breach of the Data Protection Legislation, duty of confidentiality or any other associated statutory or common law duty.

## **20 DATA PROTECTION**

20.1 **Shared Personal Data.** This clause sets out the framework for the sharing of personal data between the parties as Data Controllers. Each party acknowledges that it (the Data Discloser) will regularly disclose to the other (the Data Recipient) Shared Personal Data held by the Data Discloser for the Agreed Purposes pursuant to the Agreement.

20.2 **Effect of non-compliance with Data Protection Legislation.** Each Party shall comply with all the obligations imposed on a controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by one Party shall, if not remedied within 30 days of written notice from the other Party, entitle the other Party to terminate this agreement with immediate effect.

20.3 **Particular obligations relating to data sharing.** Each Party shall:

- (a) ensure that it has all necessary notices and consents in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;
- (b) give full information to any data subject whose personal data may be processed under this agreement of the nature of such processing. This includes giving notice that, on the termination of this agreement, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;
- (c) process the Shared Personal Data only for the Agreed Purposes;
- (d) not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
- (e) ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this Agreement;
- (f) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of the Shared Personal Data and against accidental loss or destruction of, or damage to, the Shared Personal Data.
- (g) not transfer any personal data received from the Data Discloser outside the European Union unless the transferor:
  - (i) complies with the provisions of Articles 26 of the GDPR (in the event the third party is a joint controller); and
  - (ii) ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45

GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 GDPR; or (iii) one of the derogations for specific situations in Article 49 GDPR applies to the transfer.

20.4 **Mutual assistance.** Each Party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each Party shall:

- (a) promptly inform the other Party of the receipt of any requests from data subjects to exercise their rights under GDPR in relation to the Shared Personal Data;
- (b) provide the other Party with reasonable assistance in complying with any such requests;
- (c) not disclose or release any of the Shared Personal Data in response to a data subject access request without first consulting the other Party wherever possible;
- (d) assist the other Party in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (e) notify the other Party without undue delay on becoming aware of any breach of the Data Protection Legislation in relation to the Shared Personal Data;
- (f) at the written direction of the Data Discloser, securely delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this Agreement unless required by law to store the personal data;
- (g) use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 20.4; and
- (i) provide the other Party with contact details of at least one employee as point of contact and responsible officer for all issues arising out of compliance with the Data Protection Legislation, and this Agreement including the training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Data Protection Legislation.

20.5 **Indemnity:** Each Party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of the Data Protection Legislation for which the indemnifying party, its employees or agents is directly or indirectly responsible, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.

## 21 ENVIRONMENTAL REQUIREMENTS

21.1 CCC shall consider, so far as is reasonably possible, sustainability issues when delivering the Delegated Activities. CCC shall also comply with PCC's sustainability and corporate social responsibility policies, standards, targets when delivering the Delegated Activities and may recover the costs of doing so from PCC.

## 22 PREVENTION OF CORRUPTION

22.1 No Party shall offer or give, or agree to give, to any employee, agent, servant or representative of any other Party or person employed by or on behalf of that other Party any gift or consideration of any kind which could act as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation

to the Agreement or any other contract with that other Party or any other public body or person employed by or on behalf of that other Party or for showing or refraining from showing favour or disfavour to any person in relation to any such contract.

22.2 No Party shall commit an offence under the Bribery Act 2010.

22.3 Each Party warrants that it has not paid commission or agreed to pay commission to any other Party or any other public body or any person employed by or on behalf of any other Party or a public body in connection with the Agreement.

22.4 If any Party (the "Breaching Party"), its employees or any person acting on that Party's behalf, engages in conduct prohibited by clauses 22.1, 22.2, 22.3 above or any other contract with any other Party or person employed by or on behalf of any other Party, the other Party (the "Non-Breaching Party") may:

22.4.1 terminate the Agreement with immediate effect by giving notice in writing to the Breaching Party and recover from the Breaching Party the amount of any loss suffered by the Non-Breaching Party resulting from the termination; and/or

22.4.2 recover in full from the Breaching Party any other loss sustained by the Non-Breaching Party in consequence of any breach of those clauses.

## **23 PREVENTION OF FRAUD**

23.1 All Parties shall take reasonable steps to prevent Fraud.

23.2 To the extent permitted by Law, each Party shall notify the others and/or any appropriate Regulatory Body immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.

23.3 In the event of any Party establishing that an event of Fraud has been committed in relation to this Agreement the Parties shall discuss in good faith:

23.3.1 the steps to be taken in relation to ensuring the continued provision of the Delegated Activities:

23.3.1.1 agree any measures to be taken against the relevant member of Staff or if the individual responsible for the Fraud is an employee, agent or contractor of PCC, the measures to be taken against such individual; and

23.3.1.2 agree any remedial measures required to ensure that the circumstances which resulted in the Fraud are not repeated and a timescale for implementing such measures.

## **24 PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES**

24.1 Neither CCC nor PCC shall do anything or permit to cause anything to be done, which may damage the reputation of the other or bring the other into disrepute.

## **25 EQUALITIES DUTY**

25.1 The Parties shall not (and shall procure that its Staff do not) unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination in employment.

## **26 AUDIT & RECORDS**

26.1 CCC shall during the Term and for six (6) years after the Expiry Date:

26.1.1 keep and maintain full and accurate records and accounts of the operation of the Agreement including the Delegated Activities provided under it, and the amounts paid by PCC and for the avoidance of doubt records subject to a statutory minimum retention period shall be retained by CCC until CCC receives:

26.1.1.1 notice that such records have been transferred to PCC; or

26.1.1.2 Authority to destroy such records.

26.1.2 on reasonable request afford PCC, its representatives and/or its Auditor access to such records and accounts (which may include working papers if reasonably requested) as may

be required from time to time.

26.2 Subject to PCC's rights in respect of Confidential Information as set out in clause 19, CCC shall on demand provide the Auditors with reasonable cooperation and assistance in relation to each audit, including:

26.2.1 all information requested by PCC within the scope of the audit;

26.2.2 reasonable access to Sites controlled by CCC and to Equipment used in the provision of the Delegated Activities; and

26.2.3 access to the Staff.

26.3 Except where an audit is imposed on PCC by a regulatory body, PCC may not conduct an audit under this clause 26 more than twice in any calendar year.

26.4 PCC shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt CCC or delay the provision of the Delegated Activities.

26.5 If an audit identifies that:

26.5.1 CCC has failed to perform its obligations under this agreement in any material manner, the Parties shall agree and implement a remedial plan.

26.6 CCC may commission, at their own cost, an internal audit review from a third party provider other than PCC. Copies of all such reviews and the responses provided by CCC shall be provided to PCC upon completion.

26.7 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 26.

## **27 TERMINATION**

### **Termination on notice**

27.1 In accordance with clause 2, this Agreement shall continue until expiry.

27.2 Either Party may at any time terminate this Agreement or any part or parts of the Delegated Activities by serving at least twelve (12) months' written notice on the other Party such notice shall specify the date on which the Agreement shall terminate.

### **Termination on Default**

27.3 In the event that either Party commits a Default, the non-defaulting Party may serve on the other Party a Default Notice.

27.4 Either Party may terminate the Agreement, or terminate the provision of any part of the Agreement or any part or parts of the Delegated Activities by written notice to the other party with immediate effect if that other Party commits a material breach and if:

27.4.1 The material breach is not remedied within 30 days, or such other period as may be agreed between the Parties, after issue of a written notice specifying the material breach and requesting it to be remedied; or

27.4.2 The material breach is not, in the opinion of the non-defaulting Party, capable of remedy.

## **28 CONSEQUENCES OF TERMINATION**

28.1 On termination of this Agreement for any part of the Delegated Activities for any reason, the Exit Plan shall be implemented in accordance with Schedule C.

28.2 Save as otherwise expressly provided in the Agreement:

28.2.1 termination or expiry of the Agreement shall be without prejudice to any rights, remedies or obligations accrued under the Agreement prior to termination and nothing in the Agreement shall prejudice the right of any Party to recover any amount outstanding at the time of such termination.

## **29 VARIATION**

- 29.1 Except as otherwise expressly provided by this Agreement, any requirement for a Variation shall be agreed by Parties in writing.

### **30 FORCE MAJEURE**

- 30.1 Neither Party shall be liable for failure to perform its obligations under the Framework Agreement if such failure results from Force Majeure.
- 30.2 If either Party becomes aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part it shall notify the other as soon as reasonably possible and shall estimate the period such failure or delay shall continue.
- 30.3 If any Party reasonably determines that the event of Force Majeure is likely to extend for any period beyond a week, the Parties shall discuss in good faith any action to be taken to resolve the impact of such event.
- 30.4 If the event of Force Majeure has a material impact on any Party and its ability to perform its obligations under this Agreement, the Parties shall discuss in good faith the termination of the Agreement and if terminated, neither Party will be liable to the other except that any rights and liabilities accrued prior to termination will continue to exist.
- 30.5 Neither Party shall incur any liability if it is delayed in the performance of its obligations as a result of Force Majeure. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations under the Agreement. If a Party is unable to perform its obligations under the Agreement as a result of a Force Majeure event for a period in excess of 4 months (commencing on the date of the notice provided in accordance with clause 30.2), the other Party may terminate the Agreement by notice in writing with immediate effect.

### **31 WAIVER**

- 31.1 A waiver of any right or remedy under this Agreement or by Law is only effective if given in writing and communicated in accordance with clause 35 (Notices) and shall not be deemed a waiver of any subsequent breach or default.
- 31.2 A failure or delay by a Party to exercise any right or remedy provided under this Agreement or by Law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by Law shall prevent or restrict the further exercise of that or any other right or remedy.

### **32 NO PARTNERSHIP OR AGENCY**

- 32.1 Except as expressly set out in this Agreement, nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party.

### **33 CUMULATIVE REMEDIES**

- 33.1 Except as expressly provided by this Agreement, all remedies available to any Party for breach of the Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

### **34 CONFLICTS OF INTEREST**

- 34.1 CCC shall take appropriate steps to ensure that neither CCC nor any Staff are placed in a position where (in the reasonable opinion of PCC), there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of CCC or Staff and the duties owed to PCC under the provisions of the Agreement.
- 34.2 CCC shall promptly notify PCC and provide PCC with full particulars or as much detail as it is able to in circumstances where any conflict referred to in clause 34.1 above arises or

is reasonably foreseeable.

34.3 This clause 34 shall apply during the Term and for 6 months following the Expiry Date.

### **35 NOTICE**

- 35.1 Except as otherwise expressly provided within the Agreement, no notice or other communication from one Party to another shall have any validity under the Agreement unless made in writing.
- 35.2 Any notice or other communication which is to be given by a Party to another shall be given by letter (sent by hand, post, registered post or by the recorded delivery service) or electronic mail. Provided that the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail or sooner where the other Party acknowledges receipt of such letters or item of electronic mail.
- 35.3 Any Party may change its address for service by serving a notice in accordance with this clause.

### **36 ENTIRE AGREEMENT**

- 36.1 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter, except that this clause 36 shall not exclude liability in respect of any fraudulent misrepresentation.
- 36.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

### **37 THIRD PARTY RIGHTS**

- 37.1 No term of this Agreement is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this Agreement. Nothing in this Agreement shall create any rights for third parties under the Contracts (Rights of third Parties) Act 1999. No Variation of this Agreement and no supplemental or ancillary agreement to this Agreement shall create any such rights unless expressly so stated in any such agreement by the parties.

### **38 GOVERNING LAW AND JURISDICTION**

- 38.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 38.2 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

### **39 RECOVERY OF SUMS**

- 39.1 If any sum of money shall at any time have been, or becomes, recoverable from, or payable by CCC to PCC, PCC is entitled to deduct that money from any moneys due under this Agreement or any other contract between PCC and CCC, irrespective of when such money shall have been or becomes payable or recoverable.

### **40 SURVIVAL**

- 40.1 The following clauses will survive termination or expiry of the Agreement: Clause 28 (Consequences of Termination), Clause 16 (Insurance), Clause 19 (Confidentiality), Clause 20 (Data Protection), Clause 18 (Freedom of Information), Clause 26 (Audit and



Records), Clause 38 (Governing Law and Jurisdiction), and Clause 41 (Severance).

#### **41 SEVERANCE**

- 41.1 If any provision of the Agreement shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity shall not impair or affect any other provision all of which shall remain in full force and effect.

#### **42 COSTS AND EXPENSES**

- 42.1 Each of the parties will pay their own costs and expenses incurred in connection with the negotiation, preparation, execution, completion and implementation of this Agreement.

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## SCHEDULE A

### DELEGATED ACTIVITIES

CCC will act as lead commissioner in procuring 0-19 HCP service across Cambridgeshire and Peterborough, undertaking the specific delegated activities below on behalf of PCC:

#### Delegated activities

1. Secure 0-19 Healthy Child Programme provision (based on the commissioning approach and supply plan developed jointly by both PCC and CCC) via either
  - entering a Section 75 arrangement with appropriate provider(s) on behalf of PCC and CCC or
  - leading a competitive tender process and contracting directly with provider(s) on behalf of PCC and CCC
2. Responsibility for transferring PCC's contribution to the 0-19 HCP to the provider(s)
3. Comply with CCC internal governance and democratic processes of CCC in place of PCC's processes
4. Enact appropriate clauses from the terms and conditions agreed with the provider(s) during the term as jointly agreed by commissioners from both PCC and CCC

#### Non-delegated activities

The commissioning activities shown in the diagram below are not delegated activities and remain the responsibility of both PCC and CCC to be shared and undertaken together through a joint commissioning function:

Fig 1: Commissioning Cycle, Social Care Institute for Excellence



## SCHEDULE B

### FEE AND PAYMENT PLAN

The contributions of CCC and PCC towards the 0-19 Healthy Child Programme are set out below.

	CCC	PCC
0-5 HCP (Health Visiting provision)	£xxx pa	£xxx pa
5-19 HCP (School Nursing provision)	£xxx pa	£xxx pa
Family Nurse Partnership provision	£xxx pa	£xxx pa
Total 0-19 HCP	£xxx pa	£xxx pa
Grand total	£xxxx pa	

PCC will raise an annual PO during April of each year for CCC to invoice against, split against cost centres where appropriate.

CCC will make payment to the provider(s), clearly identifying PCC and CCC monies and invoice PCC in accordance with the payment schedule in the terms and conditions in the subsequent Section 75 agreement or contract award. CCC will first pay the provider(s) and then invoice PCC for its contribution to the HCP.

## SCHEDULE C EXIT PLAN

### EXIT STRATEGY

#### 1. PRINCIPLES AND OBJECTIVES

- 1.1 This Schedule sets out the principles and objectives of the Exit Strategy to be agreed between CCC and PCC which will apply when the Delegated Activities or part of the Delegated Activities are terminated or at the Expiry Date (whichever is sooner).
- 1.2 For the purposes of this Schedule C, the period between the date when a valid termination notice is served by either party and the Expiry Date shall be known as the “**Termination Transfer Period**”.
- 1.3 If there is a partial termination, the provisions of this Schedule C shall apply only to those assets, information, rights and employees to the extent that they are no longer required by CCC for the provision of the Delegated Activities.
- 1.4 The objectives of the Exit Strategy (the “**Objectives**”) are to:
  - 1.4.1 ensure CCC stops supplying the Delegated Activities or such part of the Delegated Activities which are to be terminated;
  - 1.4.2 allow PCC to perform the Replacement Delegated Activities; and
  - 1.4.3 eliminate or minimise any disruption or deterioration of the Delegated Activities or failure to provide the Delegated Activities in accordance with the Specification as a result of the termination to include the Termination Transfer Period.
- 1.5 CCC shall take all such reasonable steps as shall be necessary or desirable for the orderly hand-over of the Delegated Activities to PCC to assist in achieving the Objectives.

#### 2. PLANNING

- 2.1 CCC shall develop a generic plan for the transfer of the Delegated Activities and the steps to be taken upon termination of the Delegated Activities by CCC to assist in achieving the Objectives (the “**Exit Plan**”). This Exit Plan will be agreed between the PCC and CCC prior to the commencement of the contract.
- 2.2 The Exit Plan will be reviewed in accordance with paragraph 2.4.3. below.
- 2.3 The level of detail required by PCC shall be reasonable but should provide as a minimum the procedures and responsibilities necessary for an orderly and effective transfer of the Delegated Activities to PCC and the achievement of the Objectives.
- 2.4 In addition CCC shall:
  - 2.4.1 maintain the Exit Plan throughout the Term to ensure that it is updated to reflect any changes made to the Delegation Agreement, Specification or Changes in Law;
  - 2.4.2 provide all information and assistance reasonably necessary to effect the termination in accordance with the Exit Plan as efficiently and effectively as reasonably possible; and
  - 2.4.3 review and verify the Exit Plan with PCC at least once each year during the Term and following such review and verification by PCC. If PCC identify any aspect of the Exit Plan which each considers to be inadequate or out of date CCC shall promptly make improvements or changes and submit the revised Exit Plan to PCC for approval.

- 2.5 The Exit Plan shall include, amongst other things:
- 2.5.1 details of employees to include any original transferring employees, contracts, sub-contracts, licences, properties and any other resources which CCC will continue to provide during the Termination Transfer Period; and
  - 2.5.2 an outline timetable, process, outline schedule of responsibilities and other critical criteria for effecting the orderly hand-over of the Delegated Activities.

### **3. TRANSFER DELEGATED ACTIVITIES**

- 3.1 At the start of the Transfer Period, CCC shall comply with its obligations in the Exit Plan in order to provide the Delegated Activities during the Termination Transfer Period (the "**Transfer Delegated Activities**").
- 3.2 PCC shall identify which of the Transfer Delegated Activities CCC should continue to deliver during the Transfer Period and which if any may be discontinued.
- 3.3 If PCC identifies any Transfer Delegated Activities which may be discontinued it shall specify when during the Transfer Period they may be discontinued, such changes to be agreed through the Variation process.
- 3.4 CCC shall not reduce the resources which it has committed to the Transfer Delegated Activities without the prior written consent of PCC.

### **4. DATA AND KNOWLEDGE**

- 4.1 CCC shall, to the extent that it is entitled to do so, supply all Data to the PCC in such formats and by such methods as PCC may reasonably specify.
- 4.2 CCC shall provide for the transfer of all necessary knowledge reasonably required for the provision of the Replacement Delegated Activities ("**Necessary Information**") which may, as appropriate, include information, records and documents required pursuant to this Agreement and the provision of the Delegated Activities. To allow the transfer of knowledge from CCC to PCC CCC shall explain the relevant procedures and operation of the Delegated Activities to the employees and or other nominees of PCC.
- 4.3 The Necessary Information during the Termination Transfer Period which CCC shall provide to PCC includes:
  - 4.3.1 a list of third party suppliers of Delegated Activities which are likely to be the subject of a Transfer setting out:
    - 4.3.1.1 key support contact details;
    - 4.3.1.2 contract termination provisions;
    - 4.3.1.3 key term dates; and
    - 4.3.1.4 contract values
  - 4.3.2 details of work in progress, including how any risks to successful completion of this work may be mitigated;
  - 4.3.3 details of any negotiations with third party suppliers;
  - 4.3.4 details of any litigation, disputes, arbitration, mediations or administrative or criminal proceedings to which CCC has been a party in connection with the Delegated Activities in the 3 years prior to the Expiry Date;
  - 4.3.5 details of any Customer Complaints received by CCC in the 3 years prior to the Expiry Date;
  - 4.3.6 details of any insurance claims made by CCC in connection with the Delegated Activities in the 3 years prior to the Expiry Date; and
  - 4.3.7 details of any proceedings which have been instigated in relation to any other matter which may adversely affect PCC's ability to perform the Replacement Delegated Activities.

## 5 STAFF AND TUPE

5.1 CCC shall ensure that CCCs Personnel are available to assist PCC:

5.1.1 during the Transfer Period; and

5.1.2 for a minimum of 32 hours each month for the first six months after or before the Expiry Date at times reasonably required by PCC and at the cost of PCC as detailed in the Exit Plan to allow PCC to familiarise itself with the Delegated Activities, to the extent necessary to enable it to provide the Replacement Delegated Activities.

5.2 PCC shall be entitled to place with CCC such number of PCC employees and consultants as it reasonably requires ("**PCC Personnel**") during the Transfer Period to enable PCC to gain further information and knowledge in relation to the Delegated Activities. CCC shall provide all necessary co-operation and assistance to PCC Personnel to facilitate this. CCC shall not be entitled to use PCC Personnel in the actual performance of the Delegated Activities.

## 6 CCC UNDERTAKINGS

6.1 If PCC issues a notice of termination to CCC, CCC undertakes, during the period between the receipt of the termination notice and the Expiry Date, except with the prior written consent of PCC, such consent not to be unreasonably withheld or delayed, not to:

6.1.1 enter into any long-term, unusual or abnormal contracts or commitments;

6.1.2 other than in the ordinary course of business vary the terms of any contracts with the providers of Delegated Activities supplied in connection with the Delegated Activities;

6.1.3 other than in the ordinary course of business vary the terms of any contracts with CCC Sub-contractors;

6.1.4 grant or issue or agree to grant or issue any mortgages, charges, debentures or other securities for money or redeem or agree to redeem any such securities or give or agree to give any guarantees or indemnities;

6.1.5 permit any of its insurance policies required under this Delegation Agreement to lapse or do anything which would make any such policy of insurance void or voidable;

6.1.6 in any way depart from the ordinary course of its day to day business either as regards the nature or scope or the manner of conducting the same;

6.1.7 release waive or modify any warranty or guarantee given by any supplier of Delegated Activities supplied in connection with the provision of the Delegated Activities;

6.1.8 cause or permit any item comprised in the records to be removed or destroyed or any programs or data on PCC's and CCC's computer systems relating to the Delegated Activities to be removed or deleted except for the deletion of Personal Data where required to ensure compliance with data protection legislation or for the efficient running of the computer system after satisfactory back-up codes have been made and securely stored off-site;

6.1.9 take any action if the reasonably foreseeable consequence would be to materially and adversely affect the operation of the Delegated Activities;

6.1.10 other than in the ordinary course of business terminate the employment of any of CCC's employees employed in the provision of the Delegated Activities ("**Employees**");

6.1.11 relocate or assign to new duties any of the Employees;

6.1.12 make any other alterations to the structure or composition of the Employees which are intended to or which may preclude the application of TUPE upon the start of

the Replacement Delegated Activities; and

- 6.1.13 other than in the ordinary course of business make any additional payments to Employees outside of the terms and conditions set out in their employment contract, statute or any other contractual document.

## **7 COSTS**

- 7.1 CCC shall provide the Termination Delegated Activities at its cost save where expressly stated in this Schedule. CCC has assumed that the Termination Delegated Activities shall be delivered by its staff normally allocated to service delivery. Where this is not reasonably possible CCC shall notify PCC and seek to agree appropriate provisions including agreeing a mechanism to provide relief from performance where relevant, provided that both parties in agreeing this mechanism act reasonably.

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EXECUTED under the Common Seal of  
**PETERBOROUGH CITY COUNCIL**  
In the presence of

.....  
Duly Authorised Officer

EXECUTED under the Common Seal of  
**CAMBRIDGESHIRE COUNTY COUNCIL**  
In the presence of

.....  
Duly Authorised Officer



# HEALTH POLICY AND SERVICE COMMITTEE AGENDA PLAN

Published on 2nd January 2019



Cambridgeshire  
County Council

**Agenda Item No: 7**

## **Notes**

Committee dates shown in bold are confirmed.

Committee dates shown in brackets and italics are reserve dates.

The definition of a key decision is set out in the Council's Constitution in Part 2, Article 12.

\* indicates items expected to be recommended for determination by full Council.

+ indicates items expected to be confidential, which would exclude the press and public.

Draft reports are due with the Democratic Services Officer by 10.00 a.m. eight clear working days before the meeting.

The agenda dispatch date is six clear working days before the meeting

Committee date	Agenda item	Lead officer	Reference if key decision	Deadline for draft reports	Agenda despatch date
<b>17/01/19</b>	Public Health Finance and performance report	Chris Malyon/ Liz Robin	Not applicable		
	Update on Public Health Reserves – Fenland Fund	Val Thomas	Not applicable		
	Scrutiny Item: emerging issues in the NHS (standing item)	Kate Parker	Not applicable		
	Annual Public Health Report	Liz Robin	Not applicable		
	Scrutiny Item: NWAFT CQC Inspection	Caroline Walker	Not applicable		
	Scrutiny Item: Eating Disorders Service	Tracy Dowling	Not applicable		
	Scrutiny Item: Provision of 111 Out of Hours service for Wisbech 20 mins solution focussed	CCG/CPFT	Not applicable		
	Quarterly Liaison Meetings Q3 Update	Kate Parker	Not applicable		

Committee date	Agenda item	Lead officer	Reference if key decision	Deadline for draft reports	Agenda despatch date
	Committee training plan (standing item)	Kate Parker/ Daniel Snowdon	Not applicable		
	Agenda plan and appointments to outside bodies	Daniel Snowdon	Not applicable		
<b>07/02/19</b>	Section 75 for Health Visiting and School Nursing Service	Liz Robin / Val Thomas	2019/015		
	Sexual Health Services Contract Exemption	Val Thomas	2019/029		
<b>14/03/19</b>	Public Health Finance and performance report	Chris Malyon/ Liz Robin	Not applicable		
	Let's Get Moving – Evaluation Plans	Val Thomas	Not applicable		
	Scrutiny Item: CUH CQC Inspection Report	CUH	Not applicable		
	CGL Contract Novation in Cambridgeshire	Val Thomas	Yes (awaiting ref)		
	Scrutiny Item: emerging issues in the NHS (standing item)	Kate Parker	Not applicable		
	Scrutiny Item: CCG Finances update position	Jan Thomas	Not applicable		
	Scrutiny Item: GP Five Year Forward View	Jan Thomas	Not applicable		
	Committee training plan (standing item)	Kate Parker/ Daniel Snowdon	Not applicable		
	Delegation for Quality Accounts	Kate Parker	Not applicable		
	Agenda plan and appointments to outside bodies	Daniel Snowdon	Not applicable		
<i>[11/04/19] Provisional meeting</i>					
<b>23/05/19</b>	Public Health Finance and performance report	Chris Malyon/ Liz Robin	Not applicable		

<b>Committee date</b>	<b>Agenda item</b>	<b>Lead officer</b>	<b>Reference if key decision</b>	<b>Deadline for draft reports</b>	<b>Agenda despatch date</b>
	Scrutiny Item: emerging issues in the NHS (standing item)	Kate Parker	Not applicable		
	Scrutiny Item: Minor Injury Unit Update		Not applicable		
	Scrutiny Item: STP Workforce Planning		Not applicable		
	Response to Quality Accounts Report	Kate Parker	Not applicable		
	Committee training plan (standing item)	Kate Parker/ Daniel Snowdon	Not applicable		
	Agenda plan and appointments to outside bodies	Daniel Snowdon	Not applicable		
<i>[20/06/19] Provisional Meeting</i>					
<b>11/07/19</b>	Finance & Performance Report	Liz Robin			
	Scrutiny Item: STP Digital Strategy	STP			
	Health Committee Training Plan	Kate Parker			
	Agenda Plan and appointments to outside bodies	Daniel Snowdon			
<i>[08/08/19] Provisional Meeting</i>					
<b>19/09/19</b>	Finance & Performance Report	Liz Robin			
	Health Committee Training Plan	Kate Parker			
	Agenda Plan and appointments to outside bodies	Daniel Snowdon			
<b>17/10/19</b>	Finance & Performance Report	Liz Robin			

<b>Committee date</b>	<b>Agenda item</b>	<b>Lead officer</b>	<b>Reference if key decision</b>	<b>Deadline for draft reports</b>	<b>Agenda despatch date</b>
	Health Committee Training Plan	Kate Parker			
	Agenda Plan and appointments to outside bodies	Daniel Snowdon			
<b>14/11/19</b>	Finance & Performance Report	Liz Robin			
	Health Committee Training Plan	Kate Parker			
	Agenda Plan and appointments to outside bodies	Daniel Snowdon			
<b>05/12/19</b>	Finance & Performance Report	Liz Robin			
	Health Committee Training Plan	Kate Parker			
	Agenda Plan and appointments to outside bodies	Daniel Snowdon			
<b>23/01/19</b>	Finance & Performance Report	Liz Robin			
	Health Committee Training Plan	Kate Parker			
	Agenda Plan and appointments to outside bodies	Daniel Snowdon			
<i>[06/02/19] Provisional Meeting</i>					
<b>19/03/19</b>	Finance & Performance Report	Liz Robin			
	Health Committee Training Plan	Kate Parker			
	Agenda Plan and appointments to outside bodies	Daniel Snowdon			
<i>[16/04/19] Provisional Meeting</i>					
<b>28/05/19</b>	Finance & Performance Report	Liz Robin			

<b>Committee date</b>	<b>Agenda item</b>	<b>Lead officer</b>	<b>Reference if key decision</b>	<b>Deadline for draft reports</b>	<b>Agenda despatch date</b>
	Health Committee Training Plan	Daniel Snowdon			
	Agenda Plan and appointments to outside bodies	Daniel Snowdon			

