March 2013

BRIGHTON & HOVE CLINICAL COMMISSIONING GROUP

AND

BRIGHTON & HOVE CITY COUNCIL

Agreement under Section 75 of the National Health Service Act 2006 for the Joint Commissioning of Health & Social Care Services

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D R A F T

Table of contents

Clause heading and number — Page number

1. DEFINITIONS AND INTERPRETATION 1
2. BACKGROUND 5
3. DURATION OF THE AGREEMENT 5
4. SUMMARY OF THE ARRANGEMENTS 6
5. SERVICES 6
6. SERVICE STANDARDS AND PERFORMANCE MANAGEMENT 7
7. GOVERNANCE AND MONITORING ARRANGEMENTS 8
8. INSPECTION 9
9. FINANCIAL ARRANGEMENTS 9
10. TREATMENT OF VAT 10
11. [STAFFING ROLES 10
12. PREMISES ..... **ERROR! BOOKMARK NOT DEFINED.**
13. INDEMNITIES, LIABILITY AND INSURANCE 10
14. REVIEW AND VARIATION 11
15. CHANGE OF LAW 12
16. TERMINATION 12
17. EFFECTS OF TERMINATION 13
18. CONFIDENTIALITY 14
19. DATA PROTECTION 14
20. FREEDOM OF INFORMATION 16
21. FORCE MAJEURE 16
22. DISPUTE RESOLUTION 17
23. NOTICES 17
24. EXCLUSION OF PARTNERSHIP AND AGENCY 18
25. ASSIGNMENT AND SUB-CONTRACTING 18
26. THIRD PARTY RIGHTS 18
27. COMPLAINTS 18
28. ENTIRE AGREEMENT 19
29. SEVERABILITY 19
30. WAIVER 19
31. COSTS AND EXPENSES 19

32. GOVERNING LAW AND JURISDICTION 19
33. FAIR DEALINGS 19
SIGNATURE PAGE 21
SCHEDULE 1 22
AIMS AND OBJECTIVES 22
SCHEDULE 2 23
TRUST FUNCTIONS 23
SCHEDULE 3 24
COUNCIL FUNCTIONS 24
SCHEDULE 4 25
EXCLUDED FUNCTIONS 25
SCHEDULE 5 26
THE SERVICES 26
SCHEDULE 6 67
RESOURCES AND VAT TREATMENT 67
SCHEDULE 7 73
JOINT COMMISSIONING BOARD 73
SCHEDULE 8 ..... **ERROR! BOOKMARK NOT DEFINED.**
INFORMATION SHARING PROTOCOL ..... **ERROR! BOOKMARK NOT DEFINED.**
SCHEDULE 9 ..... **ERROR! BOOKMARK NOT DEFINED.**
JOINT WORKING PROTOCOLS AND WORKING WITH OTHER AGENCIES **ERROR! BOOKMARK NOT DEFINE**
SCHEDULE 10 ..... **ERROR! BOOKMARK NOT DEFINED.**
STANDARDS OF CONDUCT ..... **ERROR! BOOKMARK NOT DEFINED.**
SCHEDULE 11 ..... **ERROR! BOOKMARK NOT DEFINED.**
BEST VALUE ..... **ERROR! BOOKMARK NOT DEFINED.**
SCHEDULE 12 79
WINDING DOWN PROTOCOL 79
SCHEDULE 13 ..... **ERROR! BOOKMARK NOT DEFINED.**
STAFFING LIST ..... **ERROR! BOOKMARK NOT DEFINED.**
SCHEDULE 14 ..... **ERROR! BOOKMARK NOT DEFINED.**
TRANSFERRING STAFF ..... **ERROR! BOOKMARK NOT DEFINED.**

THIS AGREEMENT is made the ..... day of 2013

BETWEEN:

(1) **BRIGHTON & HOVE CLINICAL COMMISSIONING GROUP** of Lanchester House, Trafalgar Place, Brighton BN1 4FU (the **"CCG"**); and

(2) **BRIGHTON & HOVE CITY COUNCIL** of Kings House, Grand Avenue, Hove BN3 2LS (the **"Council"**),

together, the **"Parties"**.

INTRODUCTION:

(A) The CCG and the Council have agreed to enter into a partnership arrangement pursuant to section 75 of the National Health Service Act 2006 and Regulation [8(1)]/ [9(1)] of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (SI 617), in respect of a range of health and social care services for vulnerable people as further described in this Agreement.

(B) As part of the partnership arrangement referred to at Recital (A) above, the Parties have agreed that the CCG shall delegate certain of its functions to the Council under a lead commissioning arrangement. For these purposes, the Parties shall establish and maintain a non-pooled fund which is made up of contributions from the CCG and the Council (described in Schedule 6 (Resources)), out of which payments may be made towards expenditure incurred in the exercise of any CCG Functions or Council Functions in connection with this Agreement.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement unless the context otherwise requires the following words and expressions shall have the following meanings:

"Act"	the National Health Service Act 2006;
"Agreement"	this agreement between the CCG and the Council comprising these terms and conditions, together with all Schedules attached hereto;
"Arrangements"	has the meaning ascribed to it in Clause 0;
"CCG Functions"	those of the functions of the CCG set out in Regulation 5 of the Regulations (and further described in Schedule 2 (CCG Functions) of this Agreement) in relation to these Arrangements and as are exercised in making arrangements for the provision of the Services, excluding the Excluded Functions;
"CCG Staff"	any employee or employees of or persons engaged by the CCG carrying out the Functions;

"Client Group"	the collection of Service Users either receiving or eligible to receive the Services and living within the administrative area of Brighton & Hove and registered with a Brighton & Hove CCG GP or as otherwise agreed between the Parties;
"Commencement Date"	1st April 2013
"Contributions"	the respective financial contributions of the Parties (as set out in Schedule 6 (Resources)), for use by the Lead in connection with the Lead Commissioning of the Services in fulfilment of the Functions and in accordance with the terms of this Agreement;
"Contributions Manager"	Financial Lead within the respective organisation;
"Council Functions"	the health related functions of the Council listed in Regulation 6 of the Regulations (and further described in Schedule 3 (Council Functions) of this Agreement) in relation to these Arrangements and making arrangements for the provision of the Services, but excluding the Excluded Functions;
"Council Staff"	any employee or employees of or persons engaged by the Council carrying out the Functions;
"Department"	the Department of Health;
"DPA"	the Data Protection Act 1998, as amended from time to time;
"Event of Force Majeure"	an event or circumstance which is beyond the reasonable control of the Party claiming relief under Clause 22 (Force Majeure), including without limitation war, civil war, armed conflict or terrorism, strikes or lock outs, riot, fire, flood or earthquake, and which directly causes that Party to be unable to comply with all or a material part of its obligations under this Agreement;
"Excluded Functions"	such Functions contained in Schedule 4 (Excluded Functions) of this Agreement and/or such Functions as the Parties may agree from time to time are excluded from the Arrangements, together with any exclusions set out in the Regulations;
"Financial Year"	the financial year running from 1 April of one year to 31 March in the next year;
"FOIA"	the Freedom of Information Act 2000, as amended from time to time;

"Functions"	the CCG Functions and the Council Functions in relation to the making of arrangements for the provision of the Services to meet the needs of the Client Group, but excluding the Excluded Functions as set out in Schedule 4 (Excluded Functions);
"Community Care Budget"	the budget allocated for the provision of services to individuals who receive an assessment under Section 47 of the NHS and Community Care Act 1990 and whose care is purchased in the independent or voluntary sector;
"HMRC"	Her Majesty's Revenue and Customs;
"Lead"	the Council or CCG being the Party nominated by the Parties to perform the Lead Commissioning and to be responsible for the management of the associated fund;
["Lead Commissioning"	the commissioning of the Services by the Lead for either the Council and the CCG as further detailed in Clause 0 (Services) of this Agreement;
"Joint Commissioning Board"	the Joint Commissioning Board is made up of representatives from both the CCG and the Council (as further described at Clause 8 (Governance and Monitoring Arrangements) and Schedule 7 (Joint Commissioning Board));
"NHS"	National Health Service;
"NHS Body"	has the meaning given to it at section 275(1) of the Act, and "**NHS Bodies**" shall be construed accordingly;
"Quarter"	each of the following periods in the Financial Year: (i) 1 April to 30 June; (ii) 1 July to 30 September; (iii) 1 October to 31 December; (iv) 1 January to 31 March, and **"Quarterly"** shall be construed accordingly;
"Regulations"	the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (SI 617) as amended from time to time;

"Section 75 Flexibility"	any of the powers set out in section 75 of the Act, developed to give NHS Bodies and local authorities the flexibility to be able to respond effectively to improve services, either by joining up existing services, or developing new, co-ordinated services, and to work with other organisations to fulfil this, which may include: (i) a pooled fund arrangement; (ii) a lead commissioning arrangement; and (iii) an integrated provision arrangement;
"Services"	the Services described in Clause 0 (Services) and Schedule 5 (The Services) and which the Parties have agreed will come within the Arrangements and which will (unless specified otherwise in this Agreement) be procured by the Lead from third party providers;
"Service Users"	any individual for whose benefit the Services are provided, as further described at Schedule 5 (The Services);
"Staff"	the staff of the Council and/ or the CCG who are carrying out the Arrangements under this Agreement;
"Variation"	an addition, deletion or amendment in the Clauses of or Schedules to this Agreement, agreed to be made by the Parties in accordance with Clause 15 (Review and Variation) or Clause 16 (Change of Law);
"VAT Guidance"	the guidance published by the Department entitled "VAT Arrangements for Joint NHS/Local Authority Initiatives including Disability Equipment Stores and Welfare - Section 31 Health Act 1999"; and
"Working Day"	any day other than Saturday, Sunday, a public or bank holiday in England and Wales.

1.2 References to statutory provisions shall be construed as references to those provisions as respectively amended or re-enacted (whether before or after the Commencement Date) from time to time.

1.3 The headings of the Clauses in this Agreement are for reference purposes only and shall not be construed as part of this Agreement or deemed to indicate the meaning of the relevant Clauses to which they relate. Reference to Clauses are clauses in this Agreement.

1.4 References to Schedules are references to the schedules to this Agreement and a reference to a Paragraph is a reference to the paragraph in the Schedule containing such reference.

1.5 References to a person or body shall not be restricted to natural persons and shall include a company, corporation or organisation.

1.6 Words importing the one gender shall include the other genders and words importing the singular number only shall include the plural.

1.7 Where anything in this Agreement requires the mutual agreement of the Parties, then unless the context otherwise provides, such agreement must be in writing.

2. BACKGROUND

2.1 The CCG is a clinical commissioning group established under section 14C of the Act. The CCG commissions services for the Client Group in Brighton & Hove.

2.2 The Council is a local authority established under the Local Government Act 1972 (as amended) and has a health and social care department responsible for **[enter relevant services commissioned by the Council e.g. the protection and support of vulnerable adults and children]**. The Council commissions relevant services for the Client Group in Brighton & Hove.

2.3 The CCG and the Council have duties and powers to provide care to the Client Group and section 82 of the Act requires both local authorities and NHS Bodies when exercising their respective functions to co-operate to secure and advance the health and welfare of the people of England and Wales. Furthermore, under relevant guidance, local authorities and NHS Bodies are encouraged to consider partnership working, including Lead Commissioning under the Act. Section 75 of the Act and the Regulations have introduced powers for local authorities and NHS Bodies to set up joint working arrangements.

2.4 The Parties are entering into this Agreement (which includes Lead Commissioning) in exercise of the powers under section 75 of the Act and pursuant to the Regulations.

> The CCG and the Council have, in accordance with Regulation 4(2) of the Regulations, jointly consulted with a wide range of stakeholder organisations as described in Schedule 1 (Aims and Outcomes) on the proposals for this Agreement and with those who are affected by the Arrangements.

2.5 [The CCG is satisfied that the Arrangements are consistent with the commissioning plan prepared by it under section 14Z11 of the Act.]

2.6 The Parties are satisfied that the arrangements contemplated by this Agreement are likely to lead to an improvement in the way that their functions are exercised.

2.7 The CCG and the Council have approved the terms of this Agreement and agree to work together in accordance with the terms of the Agreement.

3. DURATION OF THE AGREEMENT

3.1 This Agreement shall take effect on the Commencement Date and shall continue for a period of 3 years, subject to earlier termination in accordance with the provisions of Clause 17 (Termination) and any extension agreed in accordance with Clause 3.2 below.

3.2 This agreement may be extended on 31st March 2016 for a further defined period.

4. SUMMARY OF THE ARRANGEMENTS

4.1 The Parties have agreed that, with effect from the Commencement Date, the partnership arrangements are to comprise:

4.1.1 the Lead Commissioning arrangements set out in this Agreement (and more particularly described at Clause 0 (The Services));

4.1.2 the management of a non-pooled fund (as further described in Clause 10 (Financial Arrangements) and Schedule 6 (Resources)) for the revenue expenditure on the Services;

4.1.3 provision of the Contributions by each Party, insofar as is required for the exercise of the Functions (as set out in Schedule 6 (Resources));

4.1.4 performance of the Functions specified in Schedule 2 (CCG Functions) and Schedule 3 (Council Functions) in accordance with this Agreement; and

4.1.5 full engagement in the Joint Commissioning Board established for the monitoring of the Functions and the Services (as set out and described in Clause 0 (Governance and Monitoring Arrangements) and Schedule 7 (Joint Commissioning Board);

the **"Arrangements"**.

42. Without prejudice to the other provisions of this Agreement, the primary objective of the Parties in entering into this Agreement is to improve the commissioning of the Services in accordance with the aims and outcomes outlined in Schedule 1 (Aims and Outcomes).

4.3 The Parties hereby represent that they have obtained all necessary consents sufficient to ensure the delegation of Functions provided for by this Agreement.

4.4 It is the Parties' intention that the Arrangements shall be the mechanism through which the Functions shall be fulfilled.

4.5 The Parties wish to use this Agreement to enable the Council and CCG to act as the Lead Commissioner for designated service areas.

4.6 The Lead Commissioner shall (without limitation):

4.6.1 act as the Lead Commissioner and exercise both the Council and CCG functions concurrently;

4.6.2 administer the Parties' Contributions in accordance with the provisions of this Agreement; and

4.6.3 be responsible for all Staff carrying out the Functions.

5. SERVICES

The services areas covered under this Agreement are as follows:

Council Lead	CCG Lead
Integrated communication equipment	Mental Health

Carers	Dementia
Older People and people with a Physical Disability	Community Short Term Services
Learning Disability	

The Lead Commissioner shall commission the free services set out in Schedule 5 (The Services), in order to satisfy the Functions and its other obligations set out in this Agreement and in accordance with the procedure set out in Schedule 8 (Standards of Conduct).

6. SERVICE STANDARDS AND PERFORMANCE MANAGEMENT

6.1 The Lead Commissioner shall use all reasonable endeavours to procure that the Services under this Agreement are carried out in accordance with national and local standards:

6.1.1 the agreed set of standards that apply to the Services and specific aspects of the Services, as set out in Schedule 8 (Standards of Conduct); and

6.1.2 each Party's respective standing orders and standing financial instructions,

and will be monitored by applicable bodies / regulators, e.g. the Care Quality Commission, Monitor.

6.2 Without prejudice to Clause 6.1 above, the Lead Commissioner shall exercise its duties, obligations and functions arising out of or in relation to this Agreement effectively, efficiently, fairly and in good faith.

6.3 The Lead Commissioner shall report to the Joint Commissioning Board as required on the operation of the Arrangements (which, to avoid doubt, shall include but not be limited to, the operation of the Services and performance levels against agreed performance measures, targets and priorities) and the exercise of the Functions by the Lead.

6.4 The Parties shall agree the format of, and the content to be included in, the reports to the Joint Commissioning Board referred to at Clause 6.3 above. Any disagreement as to the format of the content to be included in the reports may be referred to the Joint Commissioning Board for its determination and/or instruction.

6.5 The Joint Commissioning Board shall ensure that Service Users and their families fully participate at all levels of the Lead's work under these Arrangements and that an annual evaluation of the Lead takes place and includes outcomes which are qualitative as well as quantitative.

7. LEAD COMMISSIONING STRUCTURE

7.1 The CCG's Chief Operating Officer shall have overall responsibility for the carrying out of the functions for the CCG client groups.

7.2 The Council's Director of Adult Social Care shall have overall responsibility for the carrying out of the functions for the Council commissioned client groups.

7.3 The management structure for lead commissioning is out in Schedule 10

7.4 The parties may agree changes in the lead commissioning structure in writing in accordance with clause 15. Such changes shall only be made in accordance with all applicable low and guidance after such consultation as shall be required by law and guidance.

8. GOVERNANCE AND MONITORING ARRANGEMENTS

8.1 The Parties shall jointly monitor the effectiveness of the Arrangements.

8.2 The Parties agree that they shall establish and maintain the Joint Commissioning Board, whose role and function shall be as described at Schedule 7 (the Joint Commissioning Board). The Joint Commissioning Board 's terms of reference shall be reviewed by the Parties on an annual basis and, if necessary, amended to ensure that the Joint Commissioning Board continues to assist the Parties to meet the aims and objectives of the Arrangements.

8.3 The role of the Joint Commissioning Board is to manage and monitor the Council's/ CCG's role as Lead Commissioner, the exercise of the Functions and the application of the Contributions, the management and administration of the contributions, together with supporting the implementation of any strategic plan or variation to the Services as provided for in Clause 0 (Services).

Clinical and Corporate Governance

8.4 The CCG is subject to a duty of clinical governance, which (for the purposes of this Agreement) shall be defined as "*a framework through which it is accountable for continuously improving the quality of its services and safeguarding high standards of care by creating an environment in which excellence in clinical care will flourish*".

8.5 The Council acknowledges that clinical governance (as described at Clause 0 above) applies to the treatment of NHS patients. Such patients are entitled to expect to receive services which are part of a clinical governance system irrespective of where they are treated.

8.6 The Arrangements will therefore themselves be subject to clinical governance obligations to the extent they are relevant to the process of commissioning the Services and the Lead will require that all Services are subject to clinical governance obligations relevant to the Services (as set out in Schedule 10 (Standards of Conduct)) and the Council shall use reasonable endeavours to co-operate with all reasonable requests from the CCG, which the CCG considers necessary in order to fulfil its obligations.

8.7 The Lead Commissioner shall comply with the principles and standards of corporate governance relevant to NHS Bodies and local authorities.

9. INSPECTION

The Parties shall co-operate with any investigation undertaken by the Care Quality Commission and/or the Audit Commission and/ or any regulatory authority/ body.

10. FINANCIAL ARRANGEMENTS

10.1 The Parties acknowledge that they are not entering into a Pooled Fund arrangement pursuant to section 75(2)(a) of the Act and Regulation 7 of the Regulations.

10.2 The Parties agree to adhere to the financial arrangements more fully set out in Schedule 6 (Resources) Part 1 (Financial Resources) of this Agreement.

10.3 The Lead Commissioner will be responsible for the proper management and auditing of the accounts and shall appoint an officer ("**the Contributions Manager**") to be responsible for managing and administering the Parties' Contributions to the extent required in Schedule 6 (Resources) Part 1 (Financial resources).

10.4 Any overspends or underspends that may occur throughout the term of this Agreement shall be dealt with according to the provisions of Part 2 (Overspends and Underspends) of Schedule 6 (Resources).

11. TREATMENT OF VAT

The Parties shall agree that their respective Contributions shall be treated, for VAT purposes, in accordance with the provisions set out in Schedule 6 (Resources) Part 3 (VAT Regime).

12. STAFFING ROLES

12.1 The Parties have agreed that the Arrangements shall be facilitated by the Staff covered by the joint resource set out in Schedule 9

12.2 The CCG / Council shall make available the level of staff resources required to carry out the CCG / Council functions in relation to the Lead Commissioner responsibilities.

12.3 Any mention needed to TUPE?

13. CONFLICTS OF INTEREST

13.1 No member of staff or representative of the commissioning organisation shall put themselves in a position whereby duty and private interest conflict. The parties' policies for identifying and managing conflicts of interest should be adhered to.

14. INDEMNITIES, LIABILITY AND INSURANCE

14.1 Nothing in this Agreement shall affect:

14.1.1 the liability of the CCG to the Service Users in respect of the CCG Functions; or

14.1.2 the liability of the Council to the Service Users in respect of the Council Functions.

14.2 Each Party (the "First Party") shall indemnify and keep indemnified the other Party (the "Second Party") and its officers, employees and agents against any damages, costs, liabilities, losses, claims or proceedings whatsoever, arising in respect of:

14.2.1 any damage to property (real or personal) including, but not limited to, any infringement of third party intellectual property, including patents, copyrights and registered designs;

14.2.2 any death or personal injury;

14.2.3 any fraudulent or dishonest act of employees;

14.2.4 any Service User complaint or investigation by the Parliamentary and Health Service Ombudsman or the Local Government Ombudsman or any similar entity,

arising out of or in connection with the Agreement, to the extent that such damages, costs, liabilities, losses, claims or proceedings shall be due directly or indirectly to any negligent act or omission, any breach of this Agreement or any breach of statutory duty by the First Party, its officers employees or agents. Where the Parties are unable to agree any such apportionment of

liability and consequential indemnity under this Clause 14 the disputes procedure in Clause 23 (Dispute Resolution) shall apply.

14.3 For the avoidance of doubt, the Second Party shall be under a duty to mitigate its losses in accordance with general principles of common law and the indemnity on the part of the First Party shall not extend to damage, cost, liability, loss, claim or proceedings incurred by reason of or in consequence of any negligent act or omission, misconduct or breach of this Agreement by the Second Party.

14.4 Each Party shall ensure that it maintains appropriate insurance arrangements in respect of employer's liability, liability to third parties and all other potential liability under this Agreement.

15. REVIEW AND VARIATION

15.1 If at any time during the term of this Agreement the Council or the CCG requests in writing any change to the Services described or the manner in which the Services are commissioned, then the provisions outlined in this Clause 15 shall apply.

15.2 The Party proposing the Variation ("the Proposer") shall provide a report in writing to the other Party (the "Report") setting out:

15.2.1 the Variation proposed;

15.2.2 the date upon which the Proposer requires it to take effect;

15.2.3 a statement of whether the Variation will result in an increase or decrease in Contributions by reference to the relevant component elements of the Service or Services the subject of change;

15.2.4 a statement on the individual responsibilities of the CCG and the Council for any implementation of the Variation;

15.2.5 a timetable for implementation of the Variation;

15.2.6 a statement of any impact on, and any changes required to the Services;

15.2.7 details of any proposed staff and employment implications; and

15.2.8 the date for expiry of the Report.

15.3 Following receipt by the receiving Party ("the Recipient") of the Report and allowing the Recipient 10 working days from receipt in which to consider the Report, the Parties shall meet to discuss the proposed Variation and acting reasonably and in good faith shall use reasonable endeavours to agree the Variation.

15.4 Where the Parties are unable to agree on the terms of the Variation then the Agreement may terminate in accordance with Clause 17.3.3

15.5 If agreement in principle is reached then the Parties shall confirm in writing their decision to proceed with the proposed Variation and shall agree a formal Variation to this Agreement.

15.6 All Variations made to this Agreement pursuant to this Clause 15 or otherwise shall be agreed between the Parties and made in writing.

16. CHANGE OF LAW

16.1 If at any time during the term of this Agreement a change to the manner in which a Service or the Services are commissioned is required by operation of NHS or Local Government law through statutes, orders, regulations, instruments and directions made by the Secretaries of State for Health and Local Government respectively or others duly authorised pursuant to statute or other changes in the law which relate to the powers, duties and responsibilities of the Parties and which have to be complied with, implemented or otherwise observed by the Parties in connection with the Functions for the time being, then the provisions outlined in this Clause 16 shall apply.

16.2 The Parties shall jointly investigate the likely impact of the required change on the Services and any other aspect of the Agreement and shall prepare a Report in writing, setting out:

16.2.1 the Variation proposed;

16.2.2 the date upon which it should take effect;

16.2.3 a statement of whether the Variation will result in an increase or decrease in Contributions by reference to the relevant component elements of the Service or Services the subject of change;

16.2.4 a statement on the individual responsibilities of the CCG and the Council for any implementation of the Variation;

16.2.5 a timetable for implementation of the Variation;

16.2.6 a statement of any impact on, and any changes required to the Services;

16.2.7 details of any proposed staff and employment implications; and

16.2.8 the date for expiry of the Report.

16.3 Where the Parties are unable to agree on the terms of the Variation then the Agreement may be terminated in accordance with Clause 17.3.3.

16.4 The Parties shall confirm in writing their decision to proceed with the proposed Variation and shall agree a formal Variation, in writing, to this Agreement.

17. TERMINATION

17.1 Either Party ("**the First Party**") may, at any time by notice in writing to the other Party, terminate this Agreement if the other Party is in default of its obligations under this Agreement (the **"Defaulting Party"**) and:

17.1.1 if such default is capable of remedy, fails to comply with a written notice from the First Party to remedy such default within a reasonable period (which shall be specified in such written notice), such termination notice to take effect two (2) weeks from its date of receipt; or

17.1.2 if such default is not capable of remedy, such termination notice shall take effect upon receipt.

17.2 Either Party may terminate this Agreement:

17.2.1 for convenience, by giving no less than twelve (12) months' notice in writing to the other Party; or

17.2.2 immediately on written notice, if the other Party suffers an Event of Force Majeure and such event persists for more than twenty (20) Working Days following the service of the notice referred to at Clause 22.4.2;

17.3 Either Party ("**the First Party**") may terminate this Agreement by giving the other Party not less than 6 months' notice in writing if:

17.3.1 the First Party's fulfilment of its obligations hereunder would be in contravention of any guidance from any Secretary of State issued after the date hereof;

17.3.2 the fulfilment of the Arrangements would be ultra vires; or

17.3.3 the Parties are unable to agree a Variation to this Agreement in accordance with Clause 15 (Review and Variation) and/ or Clause 16 (Change of Law) so as to enable either/ both Parties to fulfil its/ their obligations in accordance with law and guidance.

18. EFFECTS OF TERMINATION

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

18.1.1 termination of this Agreement shall have no effect on the liability of either Party to make payment of any sums due under this Agreement, nor any rights or remedies of either Party already accrued, prior to the date upon which such termination takes effect;

18.1.2 upon termination of this Agreement, the Parties agree that they will work together and co-operate to ensure that the winding down and disaggregation of the integrated and joint activities is carried out smoothly and with as little disruption as possible to individual Service Users, the Client Group as a whole, Staff, the Parties and third parties, in accordance with Schedule 12 (Winding Down Protocol); and

18.1.3 the Parties shall ensure that payment of the Contributions, including the handling of any potential remaining overspend or underspend, is carried out in accordance with the procedures set out in Schedule 12 (Winding Down Protocol).

18.2 Upon termination, but subject to the provisions of Schedule 12 (Winding Down Protocol), the Contributions shall continue to be used by the Lead Commissioner only to pay for any of the Services delivered by third parties under contracts approved by the Joint Commissioning Board until the earliest date at which such contracts can also be validly terminated.

19. CONFIDENTIALITY

19.1 Except as required by law and specifically pursuant to Clause 21 (Freedom of Information), each Party agrees at all times during the continuance of this Agreement and after its termination or expiry to keep confidential any and all information, data and material of any nature which either Party may receive or obtain in connection with the operation of this Agreement or otherwise relating in any way to the business, operations and activities of the other Party, its employees, agents and/or any other person with whom it has dealings including any Service User of either Party. For the avoidance of doubt this Clause shall not affect the rights of any workers under section 43 A-L of the Employment Rights Act 1996.

19.2 The Parties agree to provide or make available to each other sufficient information concerning their own operations and actions and concerning Service User information (including material affected by the DPA in force at the relevant time) to enable efficient operation of the Arrangements (which to avoid doubt shall include the Services).

20. DATA PROTECTION

20.1 The Parties acknowledge their respective duties under the DPA and shall give all reasonable assistance to each other where appropriate or necessary to comply with such duties.

20.2 To the extent that the Lead is acting as a Data Processor (as such term is defined in the DPA) on behalf of the CCG / Council, the Lead shall, in particular, but without limitation:

20.2.1 only process such Personal Data as is necessary to perform its obligations under this Agreement, and only in accordance with any instruction given by the CCG / Council under this Agreement;

20.2.2 put in place appropriate technical and organisational measures against any unauthorised or unlawful processing of such Personal Data, and against the

accidental loss or destruction of or damage to such Personal Data having regard to the specific requirements in Clause 0 below, the state of technical development and the level of damages that may be suffered by a Data Subject (as such term is defined in the DPA) whose Personal Data is affected by such unauthorised or unlawful processing or by its loss, damage or destruction;

20.2.3 take reasonable steps to ensure the reliability of employees who will have access to such Personal Data, and ensure that such employees are aware of and trained in the policies and procedures identified in Clauses 0, 0 and 0 below; and

20.2.4 not cause or allow such Personal Data to be transferred outside the European Economic Area without the prior consent of the CCG / Council.

20.3 The Lead shall ensure that Personal Data is safeguarded at all times in accordance with the DPA and other relevant data protection legislation, which shall include without limitation the obligation to:

20.3.1 perform an annual information governance self-assessment;

20.3.2 have an information guardian able to communicate with the Joint Commissioning Board, who will take the lead for information governance and from whom the Joint Commissioning Board shall receive regular reports on information governance matters including details of all data loss and confidentiality breaches;

20.3.3 (where transferred electronically) only transfer essential data that is (i) necessary for direct Service User care; and (ii) encrypted to the higher of the international data encryption standards for healthcare and the National Standards (this includes, but is not limited to, data transferred over wireless or wired networks, held on laptops, CDs, memory sticks and tapes);

20.3.4 have policies which are rigorously applied that describe individual personal responsibilities for handling Personal Data;

20.3.5have agreed protocols for sharing Personal Data with other NHS organisations and non-NHS organisations; and

20.3.6 have a system in place and a policy for the recording of any telephone calls, where appropriate, in relation to the Services, including the retention and disposal of such recordings.

21. FREEDOM OF INFORMATION

21.1 Each Party acknowledges that the other Party is subject to the requirements of the FOIA and each Party shall assist and co-operate with the other (at their own expense) to enable the other Party to comply with its information disclosure obligations.

21.2 Where a Party receives a "request for information" (as defined in the FOIA) in relation to information which it is holding on behalf of the other Party, it shall (and shall procure that its sub-contractors shall):

21.2.1 transfer the request for information to the other Party as soon as practicable after receipt and in any event within two (2) Working Days of receiving the request for information;

21.2.2 provide the other Party with a copy of all information in its possession or power in the form that the other Party requires within five (5) Working Days (or such other period as may be agreed) of the other Party requesting that information; and

21.2.3 provide all necessary assistance as reasonably requested to enable the other Party to respond to the request for information within the time for compliance set out in section 10 of the FOIA.

21.3 Where a Party receives a request for information which relates to the Agreement, it shall inform the other Party of the request for information as soon as practicable after receipt and in any event within two (2) Working Days of receiving the request for information.

21.4 If either Party determines that information must be disclosed pursuant to Clause 21.3, it shall notify the other Party of that decision at least two (2) Working Days before disclosure.

21.5 Each Party shall be responsible for determining at its absolute discretion whether the relevant information is exempt from disclosure or is to be disclosed in response to a request for information.

21.6 Each Party acknowledges that the other Party may be obliged under the FOIA to disclose information:

21.6.1 without consulting with the other Party; or

21.6.2 following consultation with the other Party and having taken its views into account.

22. FORCE MAJEURE

22.1 Where a Party is (or claims to be) affected by an Event of Force Majeure, it shall take all reasonable steps to mitigate the consequences of it, resume performance of its obligations as soon as practicable and use all reasonable efforts to remedy its failure to perform.

22.2 Subject to Clause 22.1, the Party claiming relief shall be relieved from liability under this Agreement to the extent that because of the Event of Force Majeure it is not able to perform its obligations under this Agreement.

22.3 The Party claiming relief shall serve initial written notice on the other Party immediately it becomes aware of the Event of Force Majeure. This initial notice shall give sufficient details to identify the particular event.

22.4 The Party claiming relief shall then either:

22.4.1 serve a detailed written notice within a further five (5) Working Days. This detailed notice shall contain all relevant available information relating to the failure to perform as is available, including the effect of the Event of Force Majeure, the mitigating action being taken and an estimate of the period of time required to overcome it; or

22.4.2 in the event it reasonably believes that the effects of the Event of Force Majeure will make it impossible for the Arrangements to continue, serve notice of this to the other Party and the Agreement will terminate in accordance with Clause 17.2.2 of this Agreement.

23. DISPUTE RESOLUTION

23.1 The Parties shall use their best efforts to negotiate in good faith and settle any dispute that may arise out of or relate to this Agreement. If any dispute cannot be settled amicably through ordinary negotiations, then it shall be referred to the Chief Executive of the Council and the Chief Executive of the CCG for discussion and resolution.

23.2 Each Party shall use all reasonable endeavours to reach a negotiated resolution to the dispute through the above dispute resolution procedure. If the dispute is not resolved, the Parties will use reasonable endeavours to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (**"CEDR"**) Model Mediation Procedure (**"the Model Procedure"**).

23.3 To initiate the mediation, a Party must give notice in writing (**"ADR notice"**) to the other Party requesting a mediation in accordance with Clause 223.2.

23.4 The procedure in the Model Procedure will be amended to take account of:

23.4.1 any relevant provisions in this Agreement;

23.4.2 any other agreement which the Parties may enter into in relation to the conduct of the mediation (**"Mediation Agreement"**).

23.5 The costs of the mediation shall be met in equal shares by the Parties and will not be paid from the Contributions.

24. NOTICES

24.1 Any notice or communication in relation to this Agreement shall be in writing.

24.2 Any notice or communication to the Council shall be deemed effectively served if sent by registered post or delivered by hand to the Council at the address set out above and marked for the Chief Executive or to such other addressee and address notified from time to time to the Joint Commissioning Board for service on the Council.

24.3 Any notice or communication to the CCG shall be deemed effectively served if sent by registered post or delivered by hand to the address set out above and marked for the attention of the Chief Executive or to such other addressee and address notified from time to time to the Joint Commissioning Board for service on the CCG.

24.4 Any notice served by hand delivery shall be deemed to have been served on the date it is delivered to the addressee. Where notice is posted, it shall be sufficient to prove that the notice was properly addressed and posted and the addressee shall be deemed to have been served with the notice forty-eight (48) hours after the time it was posted.

25. EXCLUSION OF PARTNERSHIP AND AGENCY

25.1 Nothing in this Agreement shall create or be deemed to create a legal partnership under the Partnership Act 1890 or the relationship of employer and employee between the Parties or render either Party directly liable to any third party for the debts, liabilities or obligations of the other Party.

25.2 Save as specifically authorised under the terms of this Agreement, neither Party shall hold itself out as the agent of the other Party.

26. ASSIGNMENT AND SUB-CONTRACTING

This Agreement, and any right and conditions contained in it, may not be assigned or transferred by either Party without the prior written consent of the other Party, except to any statutory successor to the relevant function.

27. THIRD PARTY RIGHTS

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

28. COMPLAINTS

28.1 Any complaints relating to Council Functions shall be dealt with in accordance with the statutory complaints procedure of the Council.

28.2 Any complaints relating to the CCG Functions shall be dealt with in accordance with the statutory complaints procedure of the CCG.

28.3 Insofar as any complaint may relate to the content of this Agreement or to the operation of the Arrangements, such complaints shall be referred to the Joint Commissioning Board or such Joint Commissioning Board member or sub-committee made up of Joint Commissioning Board members as it nominates for the procedure adopted by it for the handling of complaints to be carried through.

28.4 All complaints shall be reported by the Parties to the Joint Commissioning Board.

29. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding of the Parties and supersedes any previous agreement between the Parties relating to the subject matter of this Agreement.

30. SEVERABILITY

If any term, condition or provision contained in this Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality or enforceability of the remaining parts of this Agreement.

31. WAIVER

31.1 The failure of any Party to enforce at any time or for any period of time any of the provisions of this Agreement shall not be construed to be a waiver of any such provision and shall in no matter affect the right of that Party thereafter to enforce such provision.

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

32. COSTS AND EXPENSES

Each Party shall be responsible for paying its own costs and expenses incurred in connection with the negotiation, preparation and execution of this Agreement.

33. GOVERNING LAW AND JURISDICTION

Subject to the provisions of Clause 23 (Dispute Resolution) this Agreement shall be governed by and construed in accordance with English Law, and the Parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement.

34. FAIR DEALINGS

The parties recognise that it is impracticable to make provision for every contingency which may arise during the life of this Agreement and they declare it to be their intention that this Agreement shall operate between them with fairness and without detriment to the interests of either of them and that if in the course of the performance of this Agreement, unfairness to either of them does or may result then the other shall use its reasonable endeavours to agree upon such action as may be necessary to remove the cause or causes of such unfairness.

SIGNATURE PAGE

SIGNED by: **DR CHRISTA BEESLEY** .....

for and on behalf of **BRIGHTON & HOVE** (Signature)

CLINICAL COMMISSIONING GROUP .....

(Date)

WITNESS:

Signature .....

Name .....

Address:
LANCHESTER HOUSE
TRAFALGAR PLACE
BRIGHTON
BN1 4FU

Occupation: **CLINICAL ACCOUNTABLE OFFICER**

(PLEASE COMPLETE IN CAPITALS)

SIGNED by ....

for and on behalf of **BRIGHTON & HOVE CITY** (Signature)

COUNCIL .....

(Date)

WITNESS:

Signature .....

Name .....

Address .....

.....

.....

.....

(PLEASE COMPLETE IN CAPITALS)

SCHEDULE 1

AIMS AND OUTCOMES

1. The Parties wish to use this Agreement to enable the Lead Commissioning arrangements for 7 designated service areas.

2. Without prejudice to the other provisions of this Agreement, the primary objective of the Parties in entering into this Agreement is to improve the commissioning of the services by:-

   2.1 analysing local needs, gaps in current service provision and capacity and demand issues, so as to ensure investment is targeted and cost effective;

   2.2 commissioning integrated services and seamless care pathways, which will improve outcomes and service user / carer experience of the services; and

   which shall be achieved by (without limitation)

   2.3 synergising business planning, reporting procedures and other bureaucratic requirements between the Parties;

   2.4 aligning budgets to improve the efficiency and cost-effectiveness of service provision/ commissioning;

   2.5 improved team working and priority setting;

   2.6 a higher level of accountability via the Joint Commissioning Board.

SCHEDULE 2

CCG FUNCTIONS

1. For the purposes of this Schedule 2 (CCG Functions), Schedule 3 (Council Functions) and Schedule 4 (Excluded Functions), reference to legislation and provisions within such legislation mirrors the references contained in the Regulations as at the Commencement Date, and shall be deemed to include any and all replacement and amending legislation and provisions as may come into force from time to time whether prior to or following the Commencement Date.

2. The NHS functions are:

   2.1 The function of providing, or making arrangements for the provision of, services:

      2.1.1 under sections 2 and 3(1) of the National Health Service Act 1977, including rehabilitation services and services intended to avoid admission to hospital; and

      2.1.2 under section 5(1), (1A), and (1B) of, and Schedule 1 to, the National Health Service Act 1977;

   2.2 The functions under sections 117 and 130A of the Mental Health Act 1983;

   2.3 The functions of making direct payments under:

      2.3.1 section 12A(1) of the National Health Service Act 2006 (direct payments for health care); and

      2.3.2 regulation 2(7) of the National Health Service (Direct Payments) Regulations 2010; and

      2.3.3 the functions under Schedule A1 of the Mental Capacity Act 2005.

SCHEDULE 3

COUNCIL FUNCTIONS

The health-related functions are–

1. The functions specified in Schedule 1 to the Local Authorities Social Services Act 1970 except for those Functions listed at Schedule 4 (Excluded Functions);

2. The functions under sections 7 or 8 of the Disabled Persons (Services, Consultation and Representation) Act 1986;

3. The functions of providing, or securing the provision of recreational facilities under section 19 of the Local Government (Miscellaneous Provisions) Act 1976;

4. The functions of local authorities under the Education Acts as defined in section 57 of the Education Act 1996;

5. The functions of local housing authorities under Part I of the Housing Grants, Construction and Regeneration Act 1996 and under Parts VI and VII of the Housing Act 1996;

6. The functions of local authorities under section 126 of the Housing Grants, Construction and Regeneration Act 1996;

7. The functions of waste collection or waste disposal under the Environmental Protection Act 1990;

8. The functions of providing environmental health services under sections 180 and 181 of the Local Government Act 1972;

9. The functions of local highway authorities under the Highways Act 1980 and section 39 of the Road Traffic Act 1988;

10. The functions under section 63 (passenger transport) and section 93 (travel concession schemes) of the Transport Act 1985;

11. Where the Parties enter into arrangements under regulation 7(1) or 8(1) in respect of the provision of accommodation under sections 21 or 26 of the National Assistance Act 1948, the function of charging for that accommodation under section 22, 23(2) or 26 of that Act, or

12. Where the Parties enter into arrangements under regulation 7(1) or 8(1) in respect of the provision of a service under any enactment mentioned in section 17(2)(a) to (c) of the Health and Social Services and Social Security Adjudications Act 1983, the function of charging for that service under that section.

SCHEDULE 4

EXCLUDED FUNCTIONS[10]

1.1 CCG Functions shall not include the following:

1.1.1 surgery;

1.1.2 radiotherapy;

1.1.3 termination of pregnancies;

1.1.4 endoscopy;

1.1.5 the use of Class 4 laser treatments and other invasive treatments; and

1.1.6 emergency ambulance services; and

1.2 The Council Functions shall not include any functions pursuant to the following:

1.2.1 subject to Regulation 6(k) of the Regulations, sections 22, 23(3), 26(2) to (4), 43, 45 and 49 of the National Assistance Act 1948;

1.2.2 sections 6 and 7B of the Local Authorities Social Services Act 1970;

1.2.3 section 3 of the Adoption and Children Act 2002;

1.2.4 sections 114 and 115 of the Mental Health Act 1983;

1.2.5 section 17 of the Health and Social Services and Social Security Adjudications Act 1983;

1.2.6 the Registered Homes Act 1984; and

1.2.7 Parts VII to X and section 86 of the Children Act 1989,

Or any other functions that are specified in the Regulations as amended from time to time as being excluded from section 75 arrangements.

2.1 To avoid doubt:

2.1.1 All functions that are not specified as either Council Functions in Schedule 3 or CCG Functions in Schedule 4 of this Agreement shall be Excluded Functions; and

2.1.2 Any Functions of either Party that do not relate to or benefit any individual falling within the Client Group shall be Excluded Functions.

10

SCHEDULE 5

THE SERVICES

Part 1: The Services

5.1 Integrated Community Equipment Service

5.1.1. Scope of the Service

The provider is jointly commissioned and funded by NHS Brighton & Hove (Brighton & Hove Primary Care Trust) and Brighton & Hove City Council, with the City Council acting as lead commissioner. There is a section 75 provider to provider agreement which details provision of staff and buildings. There is a section 75 agreement between Brighton & Hove City Council and the PCT for the joint commissioning of the ICES service, which includes funding for equipment. The equipment budget is currently aligned, with separate accounting systems.

5.1.2. Service Provision

Aim

To provide Section 75 Integrated Community Equipment Store delivering daily living and community health equipment and minor adaptations to across all tenures to adults and children who meet the accessibility criteria for the service

Objectives

- To maximise independence, choice and control and maintain people within their own homes
- To reduce need for provision of care packages and where this is not possible, support appropriate reduction in level and duration by the timely provision of equipment and minor adaptations
- To prevent avoidable admission to hospital or residential care
- To support timely discharge from acute hospital settings, residential and community care settings
- To support and enhance the quality of care provided by formal and informal carers to service users.

5.1.3. Service Description

The provider is commissioned to provide:

Community health equipment: Pressure care and posture management, toileting items required for medical reasons specified in the ICES standard stock list

Daily living equipment for adults and children, including sensory items as specified in the ICES standard stock list or approved as a special or non stock item through the Exceptions Panel.

In addition, the provider is commissioned to provide advice and information regarding minor adaptations, community health equipment and daily living equipment to service users and prescribers.

The ICES provider is not responsible for any clinical aspects of decision making around provision of equipment beyond verifying that the requisition has been provided by an authorised prescriber and agreed by the Exceptions Panel where necessary.

The ICES provider is not responsible for budgetary decisions around the provision of equipment and minor adaptations beyond ensuring efficiency, best value for money procurement process and monthly reporting of relevant financial information to prescribing managers and commissioners.

5.1.4. Eligibility/ Geographic coverage/boundaries

Social care equipment: All service users must have a permanent and substantial disability and be ordinarily resident within the Brighton & Hove Local Authority boundary or the responsibility of Brighton & Hove if placed outside the boundary.

Adults must meet the Brighton and Hove City Council Fair Access to Care Services criteria for equipment.

Children must have a physical and /or learning disability that affects their independence as a result of a medical condition, syndrome or trauma, or there must be evidence that they are in receipt of a disability benefit indicating a severe loss of function and independence.

Health equipment: Service users must be registered with a GP practice within the NHS Brighton and Hove boundary.

5.1.5. Budgetary Details

Budget Contributions				
Basis of Contract	**Unit of Measurement**	**Price**	**Thresholds**	**Expected Annual Contract Value (for this service)**
ASC contribution	Staff Other Equipment	£210,892 £75,718 £349,604		**£ 636214**
PCT contribution	Staff Other Equipment	£366,659 £104,760 £392,849		**£ £872998**
Total				**£1,509,212**

5.1.6. Commissioning and Governance

The CCG and ASC has a lead commissioner responsibilities for jointly commissioning Integrated Community Equipment. Decisions regarding funding allocation have been delegated to Joint Commissioning Board.

5.2 Carers Support Services

5.2.1 Scope of the Service

5.2.1.1 In the 2001 Census 21,800 (9% of the total population) identified themselves as Carers. In Brighton and Hove over 4,000 people (19%) cared for more than 50 hours a week. More than half of the carers in the city are aged 50 years or over. Of people aged 85 years or over, 5% provided some form of unpaid care, 50% of whom provided 50 hours or more.

5.2.1.2 Under the Carers (equal opportunities) Act 2004, local authorities are required to inform carers that they are eligible for an assessment of their needs and support requirements and make provision to meet these needs. In 2011/12 Brighton & Hove City Council carried out 1,430 Carers Assessments (970 separate Carers Assessments and 460 Carers who were jointly assessed with the person they care for). Of these 1,136 (79%) received carers services as a result.

5.2.1.3 Brighton and Hove has a Multi-Agency Commissioning and Development Strategy for Carers, the strategy identifies the key priorities and outcomes for Brighton and Hove City Council; Brighton and Hove Clinical Commissioning Group; NHS Sussex; Sussex Community NHS Trust; and Sussex Partnership Foundation Trust. In Nov'11 the Joint Commissioning Board agreed the refreshed strategy. http://www.brighton-hove.gov.uk/index.cfm?request=c1152568.

5.2.1.4 The local strategy echoes the national Carers Strategy priorities – Identification and Recognition of carers; Realising and Releasing Potential; A Life Outside of Caring; Supporting Carers to Stay Healthy; and Young Carers. Additionally Brighton and Hove recently published a Carers Plan which pulls together information regarding the strategy; the recently completed Carers Needs Assessment; as well as the current funding commitments for the provision of support for carers locally.
http://www.brighton-hove.gov.uk/index.cfm?request=c1152568

5.2.1.5 Brighton and Hove provides a range of services, both within the statutory and voluntary sector to support the needs of carers locally, some are commissioned jointly and others are solely funded by either Health or Adult Social Care (City Council). These are summarised within section 2 and 3.

5.2.2 Service Details

The services listed here at section 2 and 3 are correct for 2012/13 and may be varied by written agreement between the Partners from time to time.

Voluntary Sector Services commissioned by Adult Social Care and Health

Service	Health (£)	Adult Social Care (£)	Total (£)	Notes

5.2.3. Statutory Services commissioned by ASC and Health

Service	Health (£)	Adult Social Care (£)	Total (£)	Notes

Service	Health (£)	Adult Social Care (£)	Total (£)	Notes

5.2.4. Commissioning and Governance

The PCT and ASC has a lead commissioner responsibilities for jointly commissioning services for carers. Decisions regarding funding allocation have been delegated to Joint Commissioning Board.

5.3 Older People/People with a Physical Disability

Scope of the Service

This section outlines all services for older people and people with a physical disability where

a) There are jointly commissioned services in place (NB Community Short Term Services are part of a separate Section75 agreement)
b) There are services funded by both CCG and BHCC
c) Services funded by the CCG only and which are monitored by BHCC contracts unit

5.3.1. Role of Council Adult Social Care with regard Section 75

Adult Social Care Contracts Unit: The Contracts Unit monitor contracts on behalf of the CCG. Funding for this is detailed in a separate Memorandum of Understanding.

Adult Social Care Commissioning & Partnerships Team: The team commission services jointly with a range of commissioners, including Health commissioners. Funding for Joint Commissioning is separately reported.

Details of Commissioning Manager below (as an example of joint commissioning activity).

Care Homes

- To co ordinate the commissioning of care homes, both residential and nursing in the city for older people.
- To lead, but work closely with the CCG commissioning manager (dementia) on the commissioning of care homes, both residential and nursing in the city for older people with mental health needs.

Activity includes: Service specification (also includes working with Continuing Health Care) Provider relations Response to Planning Fee reports Lead on joint governance

Short Term Services

- To support CCG commissioning of joint service.
- To lead on activity that primarily involves the Council as provider.

Activity includes: Active participation in discussions and attendance at a arrange of meetings Contribution to governance

Shared Lives

- To lead on the commissioning of Shared Lives across the city for all client groups.
- With regard mental health to work closely with the CCG commissioning manager (mental health).

Activity includes: Service specifications Provider relations Active participation in discussions and attendance at a arrange of meetings Contribution to governance

Older People

- To co ordinate with a range of CCG commissioners services for older people, to ensure activity is joined up.

Activity includes: Service specifications Provider relations Active participation in discussions and attendance at a arrange of meetings Contribution to governance

Self Directed Support

- To co ordinate with a range of CCG commissioners services that support direct payments.
- To co ordinate with a range of CCG commissioners services that support a development of a market fit for personalisation.

Activity includes: Service specifications Provider relations Active participation in discussions and attendance at a arrange of meetings including those on Personal Health budgets Contribution to governance

Other

To contribute to positive joint working

Activity includes: Attendance at team meetings – approximately one in three

As well as Adult Social Care, other Council Directorate and teams commission services that support individual's health and wellbeing, most notable are probably Public Health and Community teams.

5.3.2 Adult Social Care Services

The aim of adult social care services is to enable residents who are eligible for social care funding to:

- gain maximum independence
- make choices about their care
- stay healthy and safe and
- increase their ability to participate in family and community life.

Adult social care fulfils the council's statutory duties in respect of vulnerable adults under the National Assistance Act 1948 and subsequent related legislation. Councils are required to complete a thorough assessment of an individual's needs and to meet these assessed needs in the most cost effective manner by providing community care services. The eligibility criteria are set by the Department of Health's Fair Access to Care Services (FACS). Councils have a duty to provide information and advice for residents who are not eligible for adult social care.

5.3.3 Service Details

The services listed below are correct at 12/13 and may be varied by written agreement between the partners from time to time. Services listed below are as follows:

- Assessment Team and Care Matching Team
- Care Homes
- Home Support, Community and Voluntary Services
- Physical Disability
- Information and Advice
- Advocacy
- Personalisation and Support – including telehealth/telecare
- Governance

5.3.4 Assessment Teams/Care Matching Team

- **BHCC Adult Social Care Assessment team**
  Role of teams - Assess individuals and arrange care in contracted services. Monitor individual service users. Lead on safeguarding. Lead on provision of Adult Social Care information and advice.

  Teams within the assessment function:
  Access Point
  Assess & Reablement team
  Independent Living
  Review
  Planned Intervention & Response
  Hospital Discharge Service
  Hospital Rapid Discharge Service
  Hospital Assessment Service
  Short Term Services

- **Care Matching Team**

  The Care Matching Team is managed as part of the Assessment teams.
  Role of team - the Care Matching Team is responsible for managing placements in continuing health care beds, nursing care beds, residential beds and homecare packages.
  CCG pays £22,280 (50% of manager).
  Continuing Health Care also contribute to Care Matching Team Support £24,240.

- **Funding: Assessment & Care Matching Team**

	Health (£)	Adult Social Care (£)	Total (£)	Notes

- The Community Care budget funds services to support people meet their individual needs. This includes nursing home placements, residential care placements, shared lives and other accommodation, personal budgets, home care and day services.

- In order to provide some services the Council may 'top slice' the Community care budget. This funding may be used to fund 'preventative' services via a range of contractual arrangements eg 'block contractual arrangement for a building based day service.

- Main stream Adult Social Care budget contributes to the cost of in-house services.

- CCG currently contribute a grant to Sycamore Court.

- All nursing homes receive the Registered Nursing Care Contribution (RNCC) and continence payments.

5.3.5 Care Homes

- Both in the city and outside the city, care is commissioned in a number of care homes. Out of city placements are funded by the Council, but the Health costs are paid by the local area.

- The Council's Commissioning Support Unit are responsible for monitoring quality in a range of homes, excluding community short term beds. The clinical quality review nurse is responsible for monitoring quality in nursing homes. The clinical quality review nurse is funded by the CCG.

- The Care Matching Team is responsible for managing placements in continuing health care beds, nursing care beds, residential beds and homecare packages.

- Some services e.g. Craven Vale and Knoll House will be included in the S75 for Community Short Term Service section. (some detail also below)

	Health	Council	Total	Comment

	Health	Council	Total	Comment

	Health	Council	Total	Comment

5.3.6 Home Support, Day, Community and Voluntary

- Home care in the main is commissioned by the Council who are also responsible for procurement and contract monitoring. Continuing Health Care commission some home care placements.

- CCG joint commission some home care to support short term services. The Council and CCG jointly procure these services and the Council contract monitors.

- Some services eg Age UK Crisis will be included in the Section 75 for Community Short Term Service

Provider	Name of service	Start date of original contract	Start date of current contract	End date	Council contract sum 12/13	Health funding 12/13	Total contract Sum 12/13	Lead commissioner	Procurement and contract	Contract monitoring

5.3.7 Physical Disability

- Overlap with Carers e.g. Headway

Provider	Name of service	Start date of original contract	Start date of current contract	End date	Council contract sum 12/13	Health funding 12/13	Total contract Sum 12/13	Lead commissioner	Procurement and contract	Contract monitoring

5.3.6 Information and Advice including Governance

- There are many information and Advice type contract that Health has with parts of the Council other that Adult Social Care.

Provider	Name of service	Start date of original contract	Start date of current contract	End date	Council contract sum 12/13	Health funding	Total contract Sum 12/13	Lead commissioner	Procurement and contract	Contract monitoring

5.3.7 Advocacy

Provider	Name of Service	Start date of original contract	Start date of current contract	End Date	Council Contract Sum 12/13	Health Contract Funding 12/13	Total Contract Sum 12/13	Lead commissioner	Procurement and Contract	Contract Monitoring

5.3.8 Telecare and Telehealth

There is scope for commissioners to work jointly on the developments in Telecare & Telehealth:

Over the next three years, the Council and CCG are keen to explore the opportunities for greater integration in the area of personalisation and support. With a growing focus on individualised care, personal health budgets etc. there are benefits in doing this in as joined up a way as possible to ensure greater efficiency and innovation. We will be developing shared plans around telecare/telehealth and exploring a joint approach to the management of personal budgets over the duration of this agreement and will update the service schedules accordingly as part of the routine annual review.

TELEHEALTH

Telehealth devices can empower patients to take more control of their health and be more independent. Telehealth systems can be used to support people with long-term health conditions, such as diabetes, heart failure and chronic obstructive pulmonary disease. Blood pressure, blood glucose, weight and other vital signs can be measured in the person's home and sent confidentially to a response centre or health professional. This enables health professionals to identify any changes or deterioration in a person's condition and take appropriate action to prevent the need for hospital admission. Telehealth has proven to reduce GP visits and hospital admissions.

A recent Telehealth study by Kent County Council reported significant benefits from Telehealth in supporting long term conditions - COPD, coronary heart disease and diabetes mellitus.

https://shareweb.kent.gov.uk/Documents/adult-Social-Services/professionals-and-projects/WSD/Telehealth%20Full%20Report%20FINAL_Layout%201.pdf

Other study examples include Stoke-on-Trent:

http://www2.hull.ac.uk/administration/pdf/NHS%20Stoke%20report%20(Final).pdf

BHCC Adult Social Care – Telecare Development Update

The city Council recognises the increasing role that Telecare technologies have in supporting service users with a broad range of needs to increase independence, manage risks in the home environment and avoiding or delaying the need for additional social care and health services. The Council has a well established in-house Telecare provider CareLink Plus with approximately 6,000 customers, comprising of 3,500 people living independently in the community and the remainder living in sheltered or supported accommodation.

The provision of Telecare reflects the national drive for more preventative, community-based care. Telecare can help prevent admission to hospital or support with hospital discharge. Telecare can also help minimize or delay the need for home care or care home provision.

The economic benefits of Telecare are evident. An external CSED evaluation of 69 Council Telecare users in receipt of a Telecare service during the period between October 2009 and January 2010 estimated that, for the sample group total savings were made in Social Care in the range of £640,117 to £711,241 and NHS provision in the range of £51,045 to £56,717. Of the sample using Telecare 50 users were avoiding the escalation of further support by using Telecare; 16% avoided an increase in home care, 44% avoided NHS provision, 32% avoided reablement and 32% avoided residential care.

A Telecare steering group was established in 2011 to raise the raise the profile and promote the use of Telecare. The group created Telecare champions across adult social care to imbed thinking and referrals for Telecare. The group also provided staff training events, produced demonstration and Telecare display kits and ensured that adult social care assessment funding panels consider the need for Telecare.

In October 2012 a dedicated project manager (Joel Caines) was appointed to further raise the profile of Telecare in Brighton & Hove and increase the number of users of Telecare. A project plan has been signed-off with the overall objectives:

- **Marketing** what we do to raise the profile of Telecare and increase engagement
- Establish an effective **infrastructure** and **performance regime** to ensure we have the right resources to facilitate Telecare growth and manage performance
- Conduct Market **Research** around Telecare to ensure we are using the right solutions to meet needs
- Work in **partnership** with colleagues across the Council and externally to maximise the potential of Telecare
- **Support and develop staff** skills, knowledge and experiences of Telecare

The project will seek to raise the profile of Telecare via a 2013 marketing campaign as well as working with the independent, voluntary and public sector partners to increase referrals for Telecare. New and emerging technologies such as devices which use GPS satellite technologies are being explored which can support people in the community and can be used to locate someone in times of distress. The project seeks to learn from national developments such as the *3 million lives campaign* and explore links with the telehealth agenda.

5.3.9 Governance

- Decisions taken by Adult Care & Health Committee: Joint commissioning decisions affecting services where the majority spend is Council's Adult Social Care e.g. care homes. The decision is then noted and ratified by the Joint Commissioning Board.

- Decisions taken by the Joint Commissioning Board:
  a) Where joint commissioning decisions and comparable joint funding arrangements exist.
  b) Where the majority of spend is CCG and where joint commissioning decisions affecting services exist.

- Commissioners share information and governance arrangements for some services (mechanism to be reviewed)

5.4 Learning Disability Services

5.4.1 Scope of the Service

Adult Social Care are the Lead Commissioner for Learning Disability Services. These services are not in the scope of the section 75 agreement. However, because of the close links between learning disability and mental health, and the need for reasonable adjustments across all health services for people with a learning disability, it is important to document joint working and funding arrangements.

The commissioning plan for learning disability services will be reviewed in the New Year and there is an intention to produce a market position statement which will outline how services will be developed in the future.

5.4.2 Service Details

The services listed here at section 2 and 3 are correct for 2012/13 and may be varied by written agreement between the Partners from time to time.

Assessment Services: (see Table below - 2.4.) The health staff in the Community Learning Disability Team (CLDT) are currently funded by SPFT through a block contract from the CCG.

The community care budget for the CLDT is managed in Adult Social Care. The Community Care budget funds the following:

- Residential placements
- Respite services
- Shared Lives placements
- Supported accommodation
- Home Care support
- Direct payments
- Day services

5.4.3 Table: Services Provided by the Council (Assessment Services)

Service	Health (£)	Adult Social Care (£)	Total (£)	Notes

5.4.4 Table: Services Provided Directly by the Council (Provider Services)

Service	Health (£)	Adult Social Care (£)	Total (£)	Notes

Continuing Health Care Funding: The CCG fund service users living in group homes managed by the council including Old Shoreham Road, Leicester Villas, Beach House, Hawkhurst Road, Windlesham Road and day options (Total £700,822)

5.4.5 Voluntary Sector Services Commissioned by Adult Social Care and Health

Service	Health (£)	Adult Social Care (£)	Total (£)	Notes

5.4.6 Commissioning and Governance

5.4.6.1 Relevant reports for people with a learning disability will continue to be presented at Joint Commissioning Board.

5.4.6.2 Joint commissioning and governance arrangements for the health element of Learning disability services need to be clarified. All generic services commissioned by health are required to make reasonable adjustments for people with learning disability.

5.4.6.3 The current Block contract between the CCG and SPFT for the Community Learning Disability Team has no KPIs or monitoring data on Learning Disabilities.

5.5 Adult Mental Health Services

5.5.1 Scope of the Service

Services will be commissioned to meet the mental health and well-being needs of adults aged 18 and over. Health and social care budgets are utilised to fund services from a range of providers through a range of different contractual arrangements. Some of the contracts are joint contracts (Health & Adult Social Care) and others are solely Health or solely Adult Social Care contracts.

The services are available to residents aged 18 or over registered with a Brighton and Hove GP and any Brighton and Hove resident not registered with a GP.

A Joint Commissioning Strategy for Mental Health for Adults outlines the strategic approach to the development of services in Brighton and Hove and provides a framework for service development. The document is available at the following link:
http://www.brightonandhovepct.nhs.uk/about/commissioning/documents/MentalHealthJointCommissioningStrategyforAdults2010-2013_2_.pdf

A summary of services commissioned under this agreement are detailed in section 2. Each service commissioned has a service specification which contains the detail of the service to be delivered, access criteria and performance management arrangements. Decisions in terms of significant change to services provision, for example through de-commissioning and re-commissioning processes will be approved by the Joint Commissioning Board.

5.5.2 Service Details

5.5.2.1 The services listed here at section 2 are correct at 1 April 2013 and may be varied by written agreement between the Partners from time to time.

5.5.2.2 **Services provided by Sussex Partnership Foundation Trust (SPFT) services (correct for 2012-13)**
Services are managed and delivered in an integrated way by SPFT.

Service	Health (£)	Adult Social Care (£)	Total (£)	Notes
Secure & Forensic				
Working Aged Services				

5.5.2.3 **Community Care Budget**

The Community Care budget is managed by SPFT under the terms of the Section 75 agreement between Brighton & Hove City Council and SPFT. The budget is sourced from Health and Adult Social Care funds. There is a 50:50 risk share between Brighton and Hove City Council & SPFT on any under/over-spends against this budget, and the details of this arrangement are described in the B&H City Council & SPFT Section 75 agreement.

	Health (£)	Adult Social Care (£)	Total (£)	Notes

The Community Care budget funds the following:

- Nursing home placements
- Residential care placements
- West Pier Hostel - joint contract with the Housing Department
- Wayfield Avenue – how is this funded?
- Shared Lives placements
- Home Care
- Day Care

5.5.2.4 **Services provided by the Mental Heath Partnership** (Brighton and Hove Integrated Care Service, SPFT, 7 GP practices in Brighton and Hove, MIND in Brighton and Hove and Turning Point)

	Health (£)	Adult Social Care (£)	Total (£)	Notes

Total				

5.5.2.5 **Community & Voluntary Sector Provision**

Community & Voluntary Sector Provision Organisation	Description	Health (£)	Adult Social Care (£)	Total (£)	Notes

Community & Voluntary Sector Provision Organisation	Description	Health (£)	Adult Social Care (£)	Total (£)	Notes

5.5.3 Specialist Placement Budget

5.5.3.1 specialist placements budgets is held by the CCG. The total budget is X and is operated... (To be agreed after discussions with other CCG's and LAT). The services include:

- Complex and/or Refractory Disorder Services
- Specialised Services for Asperger's Syndrome and Autism Spectrum Disorder (Need to check with Anne Hagan where this sits and approval process)

5.5.3.2 This budget exists in addition to the specialised commissioning budget for which is held by the National Commissioning Board and covers "Prescribed Services" which are:

- Specialised Services for Eating Disorder – inpatient services only
- Forensic & Secure Mental Health Services – high secure, medium secure, low secure inpatient services
- Specialised Mental Health Services for Deaf Adults – inpatient services
- Gender Identity Disorder Services – assessment, treatment & surgery
- Specialised Perinatal Services – pre-pregnancy assessment of women with severe mental illness and inpatient Mother and baby units.
- Tier 4 Severe Personality Disorder Services

5.5.4. Commissioning and Governance:

5.5.4.1 The CCG has lead commissioning responsibilities for Adult Social Care mental health services. Issue to be addressed – the CCG's block contract with SPFT does not cover Adult Social Care services and this needs to be addressed.

4.1 Decisions Regarding Funding Allocation have been delegated to the Joint Commissioning Board

Service	Health (£)	Adult Social Care (£)	Total (£)	Notes
Secure & Forensic				
Working Aged Services				
Older Adults				

Service	Health (£)	Adult Social Care (£)	Total (£)	Notes
Total				

5.5.3 Community Care Budget

The Community Care budget is managed by SPFT under the terms of the Section 75 agreement between Brighton & Hove City Council and SPFT. The budget is sourced from Health and Adult Social Care funds. There is a 50:50 risk share between Brighton and Hove City Council & SPFT on any under/over-spends against this budget, and the details of this arrangement are described in the B&H City Council & SPFT Section 75 agreement.

Service	Health (£)	Adult Social Care (£)	Total (£)	Notes

The Community Care budget funds the following:

- Nursing home placements
- Residential care placements
- West Pier Hostel - joint contract with the Housing Department
- Wayfield Avenue – how is this funded?
- Shared Lives placements
- Home Care
- Day Care

5.5.4 Services provided by the Mental Heath Partnership (Brighton and Hove Integrated Care Service, SPFT, 7 GP practices in Brighton and Hove, MIND in Brighton and Hove and Turning Point)

Service	Health (£)	Adult Social Care (£)	Total (£)	Notes

5.5.5 Community & Voluntary Sector Provision

Community & Voluntary Sector Provision Organisation	Description	Health (£)	Adult Social Care (£)	Total (£)	Notes

Community & Voluntary Sector Provision Organisation	Description	Health (£)	Adult Social Care (£)	Total (£)	Notes
Total					

5.5.6 Specialist Placement Budget

A specialist placements budgets is held by the CCG. The total budget is X and is operated... (To be agreed after discussions with other CCG's and LAT). The services include:

- Complex and/or Refractory Disorder Services
- Specialised Services for Asperger's Syndrome and Autism Spectrum Disorder (Need to check with Anne Hagan where this sits and approval process)

This budget exists in addition to the specialised commissioning budget for which is held by the National Commissioning Board and covers "Prescribed Services" which are:

- Specialised Services for Eating Disorder – inpatient services only
- Forensic & Secure Mental Health Services – high secure, medium secure, low secure inpatient services
- Specialised Mental Health Services for Deaf Adults – inpatient services
- Gender Identity Disorder Services – assessment, treatment & surgery
- Specialised Perinatal Services – pre-pregnancy assessment of women with severe mental illness and inpatient Mother and baby units.
- Tier 4 Severe Personality Disorder Services

5.5.7 Commissioning and Governance:

5.5.7.1 The CCG has lead commissioning responsibilities for Adult Social Care mental health services. Issue to be addressed – the CCG's block contract with SPFT does not cover Adult Social Care services and this needs to be addressed.

5.5.7.2 We also need to agree the governance for monitoring the Commissioner to Commissioner Section 75 Agreement

5.6 Dementia Services

5.6.1 Scope of the Service

5.6.1.1 Services will be commissioned to meet the mental health and well-being needs of adults with dementia aged 18 and over. Health and social care budgets are utilised to fund services from a range of providers through a range of different contractual agreements. Some of the contracts are joint contracts (Health & Adult Social Care) and others are solely Health or solely Adult Social Care contracts.

The services are available to residents aged 18 or over registered with a Brighton and Hove GP and any Brighton and Hove resident not registered with a GP.

5.6.1.2 A Joint Commissioning Plan for Dementia outlines the local approach to implementing the National Dementia Strategy and provides a framework for service development. The document is available at the following link:
http://www.brightonandhove.nhs.uk/about/improving/index.asp

A summary of services commissioned under this agreement are detailed in section 2. Each service commissioned has a service specification which contains the detail of the service to be delivered, access criteria and performance management arrangements. Decisions in terms of significant change to services provision, for example through de-commissioning and re-commissioning processes will be approved by the Joint Commissioning Board.

5.6.2 Service Details

5.6.2.1 The services listed here at section 2 are correct at 1 April 2013 and may be varied by written agreement between the Partners from time to time.

5.6.2.2 **Services provided by Sussex Partnership Foundation Trust (SPFT) services**

Services are managed and delivered in an integrated way by SPFT. The details of the dementia specific services provided by SPFT are detailed in the mental health schedule.

5.6.3 Local authority provided

	Description	Health (£)	Adult Social Care (£)	Total (£)	Notes

5.6.4 Community Care Budget

The Community Care budget is managed by SPFT. The budget is detailed in the mental health schedule.

The Community Care budget funds the following:
Nursing home placements
Residential care placements
Shared Lives placements
Home Care
Day Care

5.6.5 Community & Voluntary Sector Provision

Community & Voluntary Sector Provision Organisation	Description	Health (£)	Adult Social Care (£)	Total (£)	Notes

Note this does not include services commissioned with Age UK for carer crisis support – need to cross reference with Carers

5.6.6 Memory Assessment Service -

	Health (£)	Adult Social Care (£)	Total (£)	Notes

5.6.7 Commissioning and Governance:

The PCT has lead commissioning responsibilities for [specify which elements of] dementia services. Issue to be addressed – the PCT's block contract with SPFT does not cover Adult Social Care services and this needs to be addressed.

Decisions regarding funding aloocation have been delegated to the Joint Commissioning Board

5. 7 Service: Short Term Services

5.7.1 Scope of the Service

Brighton and Hove Clinical Commissioning Group (formerly Brighton and Hove Primary Care Trust) and Brighton & Hove City Council jointly commission Short Term Services (STS) via a section 75 agreement. STS includes the following elements:

- Bed based and community STS (formerly intermediate care)
- Integrated rapid response service (including Community Rapid Response, Roving GP, OOHs District Nursing and Age UK Crisis)

5.7.2 Service Provision – Bed Based and Community STS

Aim

The Community Short Term Service supports people either in their own homes or in a bedded facility following a spell of illness. The service provides multidisciplinary short term intensive rehabilitation/reablement programmes to promote independence and support recovery from illness, prevent unnecessary admission to hospital or residential care and support timely discharge from acute hospital settings.

5.7.2.1 Objectives

The objectives of the service are to

- § prevent unnecessary admission to hospital or care home
- § support timely transfer from acute settings
- § provide multidisciplinary care, assessment and discharge planning for people identified as having short term rehabilitation/reablement goals as part of a planned programme of care, within a persons own home, current residence or in a CSTS bed
- § promote seamless care from the point of referral to discharge from the service, working closely with health and social care professionals and the voluntary and community sector
- § map a person's need to appropriate place of care
- § work flexibly to accommodate changes to a person dependency/need and the demands on the service
- § deliver high quality care through improved person and carer experience and outcomes.

5.7.2.2 Service Description

The service provides multidisciplinary short term intensive rehabilitation/reablement programmes to promote independence, faster recovery from illness, prevent unnecessary admission to hospital or residential care and support timely discharge.

The service is delivered to people meeting agreed criteria within their usual place of residence or in dedicated beds for a maximum period of 6 weeks between the hours of 8am and 8pm.

There will be continuous monitoring of a person's outcome and experience to inform service improvement.

For those people in bed based services 24 hour care is provided. Highgrove provides 24 hour nursing. Nursing requirements for people in bedded facilities without overnight nursing will be monitored and a solution will be developed if a need is identified.

The service is multidisciplinary and comprises social workers registered nurses, physiotherapists, occupational therapists, care officers, home care, rehab assistants and administrative staff.

Medical cover via GPs is provided by contract with B&H CCG via South East Health (SEH), providing out or hours nurse's support. There is also input from elderly care consultants from BSUH. Sussex Community Trust provides pharmacist support.

The service is available between 8am and 8pm, 7 days a week including bank holidays.

Bed based services are 24 hour provision as per location specifications and operational policies.

5.7.2.3 Responsibility for delivery of the service

The service is jointly provided by Sussex Community Trust, Brighton and Hove City Council and the Victoria Nursing Home Group according to the specification for Bed and Community Short Term Services (current version attached). Detailed information about the individual organisations' responsibility for delivering the service are set out in the specification and the joint Partnership Agreement which describes both the roles and the accountability arrangements. In summary

- The Register Managers of each of the 3 bedded sites are responsible for ensuring the overall quality of care provided in each site for the purposes of CQC registration
- BHCC is responsible for the overall management of the beds at Craven Vale and Knoll House
- The Sussex Community Trust is responsible for the providing nursing care, physiotherapy, occupational therapy and health care worker support to patients in the beds at Knoll House and Craven Vale
- SCT is responsible for providing overnight nursing to Craven Vale and Knoll House
- BHCC is responsible for providing social worker, support worker and home care support to people whilst they are being supported by the CSTS
- The Victoria Nursing Home Group provides 21 beds with nursing to the Community Short Term Service. The Victoria Nursing Group is responsible for overall management of these beds and for providing the nursing care. SCT provides additional in reach nursing and therapy support to these beds.
- SCT is responsible for providing the screening service that manages the flow of people into the service
- South East Health is responsible for providing medical cover to patients in the beds.
- Patients own GPs are responsible for the ongoing medical provision to patients whilst they remain in their own homes
- Collectively providers are responsible for generating the information required for performance and activity reports

5.7.2.4 Eligibility and Geographic Boundaries

This service is available to residents of Brighton and Hove.

Referrals are accepted from all health and social care professionals, including GPs, community nurses, social workers, hospital consultants and nurses, Carelink and paramedics

and paramedic practitioners from SECAMB. It is also possible for the Community Short Term Service to receive referrals via HERMES

Exclusions to the service are

- A person who is under 18 years of age
- A person who requires acute hospital admission as they are medically unwell and cannot be safely cared for within the community
- A person who presents with symptoms of new onset stroke
- A person who is not able physically and/or willing to take an active role to achieve maximum independence.
- A person with significant mental health needs who requires the input of specialist mental health services (low level dementia alone is not a reason to exclude a person from the service)

Exceptions to these criteria will be considered on an individual basis.

5.7.3 Service Provision - Integrated Rapid Response Service

Aim

The 2 main aims of the integrated rapid response service

- to prevent avoidable admissions to hospital or residential care
- and to provide short term support to patients who are medically fit for discharge from AMU and A&E but require additional short term support at home to enable them to be discharged

Objectives

The service has the following objectives:

- rapid assessment and diagnosis service for patients
- rapid co-ordination and treatment service that responds to patients identified needs
- provision of whatever services a patient needs to prevent them from being admitted to hospital where admission is not essential.

Service Description

It is expected that the integrated rapid response service

- is a single multi-disciplinary service
- is free to patients
- is able to respond within 2 hours to referrals for urgent support
- provides a rapid response service for up to 72 hours
- provides appropriate levels of care to patients overnight where appropriate
- is accessible via a single point
- has clear referral criteria and accompanying pathways

Responsibility for delivery of the service

The Integrated Rapid Response Service (IRRS) comprises services currently provided by the Roving GP service, the Community Rapid Response Service , Age UK Crisis and the out of

hours district nursing service. These providers work to the specification for IRRS (current draft attached – final draft to be agreed in January 2013). These services include:

- rapid assessment of patients
- development and implementation of care plans that will support patients in their own home or place of residence
- identification of ongoing support needs beyond the initial 72 hours and work with partner organisations/services to put in place those services.
- palliative care
- catheter care
- PEG feeding
- administration of medicines including: injections, infusions, intra-venous drugs, and administration
- mobile access to ECG, defibrillator, oxygen saturation monitor and out of hours formulary medications
- night sitting/ take home and settle/pop in service
- low level personal care – e.g. help with client's normal daily wash and dress
- light household tasks
- Other support as required including collecting pensions / prescriptions, shopping for essential items, paying bills, posting mail etc.

Eligibility and Geographic Boundaries

The IRRS will support patients who

- are over 18
- are resident of Brighton and Hove
- require support for up to 72 hours to enable them to avoid being admitted to hospital or residential care
- require support for up to 72 hours to enable them to be discharged from hospital
- require stop gap support until alternative services are available e.g. intermediate care, hospice at home and homecare
- require short term support at night to enable them to remain in their own homes

There are a number of exclusions to the service

- clients who require acute hospital admission that cannot be safely cared for within the community
- clients who present with symptoms of new onset stroke
- clients who are not able and/or willing to take an active role to achieve maximum independence.
- clients with significant mental health needs who require the input of specialist mental health services
- clients who require predominately social care services. These clients should instead be referred to the social care access point.

- clients under the age of 18

5.7.4 Budgetary Details

5.7.5. Commissioning and Governance

The commissioning of Short Term Services is undertaken jointly by lead commissioners within Brighton and Hove Clinical Commissioning Group and Brighton and Hove City Council.

All key services within the scope of Short Term Services are contracted for separately with individual providers as set out in the table below.

Service	Provider	Contract Holder
Roving GP and medical cover	South East Health	Brighton and Hove CCG
OOHs Nursing	South East Health	Brighton and Hove CCG
CRRS, in reach, community STS	Sussex Community NHS Trust	Brighton and Hove CCG/Brighton and Hove City Council
Crisis	Age UK	Brighton and Hove CCG
STS beds	Victoria Nursing Homes	Brighton and Hove CCG
COTE cover	Brighton and Sussex University Hospitals NHS Trust	Brighton and Hove CCG

For the elements directly provided by Brighton and Hove Adult Social Care, the CCG and BHCC will enter into a separate section 75 agreement which will set out the level of service required and include a risk sharing agreement between the parties to mitigate the impact of loss of capacity in the services.

Whilst the separate elements of the service are contracted for separately, it is a term of the providers' contracts that they collaborate with each other via a Provider Management Board. Whilst the providers are responsible for delivery distinct elements of each service (and these are set out in the specifications and PMB agreements) they are also collectively responsible for delivering a seamless and integrated service to patients.

The members of the Provider Management Board will be held to account in terms of service delivery by a quarterly Performance and Quality Board chaired by joint commissioners from CCG and BHCC.

The effectiveness of the Provider Management Board as a vehicle for delivering an integrated service according to the service specifications will be evaluated on an annual basis.

SCHEDULE 6

RESOURCES AND VAT TREATMENT

Part 1: Financial Resources

1. The Parties' Contributions shall be managed by the [Pooled Fund Manager] / [Contributions Manager], appointed by the Lead.

2. Each Party's Contributions for the first Financial Year shall be set out in Annex A to this Schedule 6 Part 1.

3. For each Financial Year subsequent to initial Financial Year, the Parties shall agree the Contributions no later than 3 months before the end of the preceding Financial Year.

4. In the event that the Contributions are not agreed by the start of the Financial Year to which they pertain, the Contributions shall be deemed to be the same as the Contributions of the immediately preceding Financial Year.

5. Each Party shall ensure that their respective financial officers attend such meetings (with relevant papers to be circulated at least five Working Days before such meetings) and have all support and resources necessary to negotiate and agree the budgets described in this Schedule 6 Part 1 within the timescales stated.

6. Once the Contributions for a Financial Year have been agreed, they may only be varied in accordance with the process laid out in Clauses 15 (Review and Variation) and/ or 16 (Change of Law).

7. [This Agreement does not create any pooling of funds and the funds of the Parties shall be kept and recorded separately at all times.]

8. The [Pooled Fund Manager] / [Contributions Manager] shall report to the Joint Commissioning Board on expenditure against Contributions at each meeting.

9. Any overspends and underspends shall be dealt with in accordance with the provisions of Schedule 6 Part 2.

10. [The Lead will provide the financial administrative systems for the pooled fund.

11. The Pooled Fund Manager will be responsible for: -

    11.1 managing the Contributions, which shall be placed in a separate bank account held in the Lead's name allocated exclusively for the Arrangements; and

    11.2 submitting to the Parties Quarterly reports on the pooled fund and an annual return and all other information required by the Parties in order to monitor the pooled fund;

12. The monies in the pooled fund:

12.1 may be expended on the Functions in such proportions as the Parties shall agree is necessary to undertake the Functions and to procure or otherwise provide the Services;

12.2 shall be spent in accordance with any restrictions agreed in writing between the Parties from time to time; and

12.3 are specific to the Arrangements and shall not be used for any other purpose.

]

Annex A:

Contributions for the Financial Year 2013

[Debra can you insert a summary table relating to the financial contributions]

Part 2: Overspends and Underspends

1. The Lead shall make the other Party aware of any potential overspend as soon as it becomes aware of this possibility. The Lead will highlight reasons for the overspend, both current and projected, and make recommendations for action to bring the relevant Contributions, as appropriate, back to balance. The [Council]/[CCG] will act in good faith and in a reasonable manner in agreeing the management of the overspend.

2. If the [Council]/[CCG] agrees with the recommendations made by the Lead in accordance with Paragraph 1 above, it will promptly carry out whatever actions are reasonably necessary to implement such recommendations. If the [Council]/[CCG] cannot agree, or if notwithstanding agreement, the [Council]/[CCG] fail to implement any such agreed actions, then the matter should be referred as soon as possible to the Chief Executive of the Council (or her nominee) or the Accountable Officer of the CCG (or her nominee) for resolution. If the Council's Chief Executive and the CCG's Accountable Officer or their nominees (as appropriate) are unable to resolve matters within a period of twenty-one (21) days (or such other period as they may agree) then the amount of overspend will be borne by the Party to whom such overspend relates save that where and to the extent that it is not possible to distinguish whether the overspend primarily relates to a NHS health care function or a Council health related care function, then the Parties shall, subject to Paragraph 3, be jointly responsible (in the proportion of their respective Contributions to the pooled fund for the relevant Financial Year) for any such overspend. The Parties shall make such payments to each other as shall be required to reflect this allocation.

3. For the avoidance of doubt, each Party shall be liable for any overspend relating to their contribution to the extent that such overspend is due directly or indirectly to that Party's liability arising pursuant to Clause 14.

4. The Lead shall make the [Council] / [CCG] aware of any potential underspend in relation to its Contributions, prior to the end of the Financial Year. The Lead shall highlight reasons for the underspend and identify any part of that underspend which is already contractually committed. The Lead shall either carry forward any such under spend to the following Financial Year, or refund the value of such underspend to the [Council] / [CCG], in accordance with the instructions of the [Council] / [CCG]'s financial officer.

5. In the event that agreement cannot be reached in respect of any matters referred to in Paragraphs 1 and 2 above, then either Party may terminate this Agreement in accordance with Clause 17.2.1, and the process in Clause 18.1.3 for handling any overspends and underspends shall apply.

Part 3: VAT Regime

[Debra can you advise which option is peferable]

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

OR

1 [The Parties agree to adopt "Partnership Structure (b)" as described in the VAT Guidance through which the Lead agrees to purchase goods and services in its own name and then re-invoice the [Council] / [CCG] for their share of the VAT charge enabling the [Council] / [CCG] to recover any VAT which may be incurred under its VAT regime. Invoices shall be issued in the format given in Annex A to the VAT Guidance.

2 The Lead will provide sufficient and complete documentation to the [Council] / [CCG], to enable the [Council] / [CCG] to satisfy the requirements of HM Revenue and Customs with respect to reclaiming any VAT.

3 For the avoidance of doubt, sums invoiced pursuant to Paragraph 1 will be paid by the [Council] / [CCG] within [10 Working Days] of the [Council] / [CCG] receiving confirmation from HM Revenue and Customs that the VAT claim, with respect to expenditure by the Lead, is valid.]

OR

1 [The Parties agree to adopt "Partnership Structure (b)" as described in the VAT Guidance through which the Lead agrees to arrange for invoices for those goods and services listed at Paragraph 2 below to be invoiced directly to the [Council] / [CCG]

for their share of the VAT charge enabling the [Council] / [CCG] to recover any VAT which may be incurred under its VAT regime.

2 Those goods and services in respect of which the [Council] / [CCG] will be directly invoiced are as follows: [insert details].]

SCHEDULE 7

JOINT COMMISSIONING BOARD

1. The particular responsibilities of the Joint Commissioning Board are (without limitation) as follows:

   1.1 to receive feedback and reports from the Parties on the Services commissioned;

   1.2 to monitor, advise and agree resource allocation and highlight cost pressures to the Parties through reporting lines to be agreed between the Parties;

   1.3 to approve changes to the commissioning of the Services, within the terms of this Agreement;

   1.4 to ensure the Parties comply with this Agreement;

   1.5 to measure performance and quality of the commissioning of the Services against the standards of conduct outlined at Schedule 10 (Standards of Conduct);

   1.6 to pursue the intended aims and outcomes as specified in Schedule 1 (Aims and Outcomes); and

   1.7 [without prejudice to any complaints procedures under the Hospital Complaints Procedures Act 1985 or under section 7B of the Local Authorities Social Services Act 1970 or otherwise, to appoint [a sub-committee] / [a member of the Joint Commissioning Board] to consider complaints about the Arrangements if the complaints are made by or on behalf of Service Users]

2. The Parties may agree in writing from time to time to modify, extend or restrict the remit of the Joint Commissioning Board.

SCHEDULE 8

STANDARDS OF CONDUCT

1. The Partners Will:

   1.1 Comply and ensure their staff comply with all statutory requirements national and local and other guidance on conduct and probity and to ensure good corporate governance (including their respective SOs and SFIs); and

   1.2 will ensure that the Joint Commissioning Board, the CCG's Chief Operating Officer and the Council's Director of Adult Social Care carry out their respective responsibilities in such a manner as to ensure the fulfilment of the Functions.

SCHEDULE 9

SHARED MANAGEMENT SUPPORT COSTS

Schedule 9 - Shared Management Support Costs

Jointly Commissioned Areas	WTE	Council %	Contribution £	CCC %	Contribution £	Total	
Mental Health	1 x AfC 8C	50%	£41,623	50%	£41,623	83,246	
Dementia	1 x AfC 8A	50%	£28,439	50%	£28,439	56,878	
Community Short-Term Services	1 x Afc 8C	25%	20,811	75%	62,434	83,246	
Older People's Residential and Home Care	1 x	50%	£24,540	50%	£24,540	£49,080	Check that this includes all oncosts
Carers	0.5 wte	50%	£21,650	50%	£21,650	£43,300	check that this includes all oncosts
Integrated community Equipment	0.5wte	50%		50%			
Learning Disability	1 wte	50%		50%			
Total Joint Commissioning			£137,063		£178,686	£315,750	
Other Areas							
contracts support team	contribution to overall cost				£46,702		(check whether this or £29k)

care matching team	contribution to overall cost			(check with Wendy)
third sector commissioning	1 wte AfC 8B	100%	68,812	

SCHEDULE 10

MANAGEMENT ARRANGEMENTS FOR LEAD COMMISSIONERS

Director of Adult Social Care	Chief Operating Officer

Council Senior Commissioning Lead for Adults S75	CCG Senior Commissioning Lead for Adults S75
§ Commissioner for Older People Residential and Home Care § Commissioner for Carers § Commissioner for ICES § Commissioner for LD § Contract Support Team § Care Matching Team	§ Commissioner for Mental Health § Commissioner for Dementia § Commissioner for STS § Commissioner for Third Sector and Partnerships

The Council shall make the management resource listed in Schedule x and outlined above available in order to effectively discharge their lead commissioning responsibilities.

The CCG shall make the management resource listed in Schedule x and outlined above available in order to effectively discharge their lead commissioning responsibilities.

The Human Resource procedures operative in relation to staff shall be those of the respective employer.

Neither Party shall alter the management structure aligned to its joint commissioning responsibility without prior agreement by the other Party.

Where a decision is taken to amend the S75 agreement and change the scope of joint commissioning arrangements any associated costs should be agreed by both Parties and respective contributions amended accordingly.

The Council's Director of Adult Social Care will have overall responsibility for commissioning services for which the Council is lead commissioner.

The CCG's Chief Operating Office shall have overall responsibility for commissioning services for which the CCG is lead commissioner.

The Director of Adult Social Care and Chief Operating Officer shall meet together with the Senior Section 75 Commissioning Lead from each organisation at least 6 times a year to develop annual collaborative commissioning plans for services covered by the Section 75 agreement and oversee delivery and performance of the commissioned services.

A meeting of all joint commissioners shall take place at least once a year to inform the Annual Joint Commissioning Plan. This shall be presented to the Joint Commissioning Board for sign of prior to the beginning of the financial year.

Regular reports relating to the performance and delivery of individual jointly commissioned areas shall be presented to the Joint Commissioning Board for information/decision.

SCHEDULE 11

WINDING DOWN PROTOCOL

In the event that this Agreement is terminated the Parties agree to co-operate to ensure an orderly wind down of their joint activities as set out in this Agreement and the following provisions shall (unless agreed otherwise by the Parties) have effect:

1. the Council shall ensure or procure the continued provision of the Services related to the Council Functions;

2. the CCG shall ensure or procure the continued provision of the Services related to the CCG Functions;

3. each Party shall use its reasonable endeavours to arrange and ensure the novation of the contracts which were novated by the other Party (or other contracts either substituted or entered into solely in connection with other Party's Functions) back to that other Party, who shall accept such novation;

4. any assets transferred from a Party to the other under these Arrangements shall transfer back to the originating Party subject to agreed terms;

5. [the Lead's] / [each Party's] rights of occupation of Premises owned or controlled by the other Party shall cease insofar as applicable to the commissioning of the Services related to the Functions of that other Party;

6. the Parties will not, following service or receipt of a valid notice to terminate this Agreement:

    6.1 increase or decrease the number of persons employed or engaged by in connection with the provision of the Functions by more than 10% without obtaining the consent of the other (such consent not to be unreasonably withheld); or

    6.2 significantly alter the terms and conditions of employment of persons employed or engaged in connection with the provision of the Functions without obtaining the consent of the other (such consent not to be unreasonably withheld).

7. [If TUPE is deemed to apply at the end of the Arrangements to the Staff employed in relation to the [Council] / [CCG] Functions, such Staff will transfer to the [Council] / [CCG] in accordance with TUPE.]

8. The CCG and the Council shall work together to ensure an orderly handover in relation to all aspects of the Functions and shall at all times act in such a manner as not to adversely affect the delivery of the Services and in particular the Parties shall, as soon as reasonably practicable provide to the other details of the terms and conditions of employment of all employees engaged in providing the Functions.

9. Both Parties agree that all such information as may be provided to the other may be passed on to any prospective or new service providers (in confidence) for the purposes of future provision of the Functions and obtaining advice only.

10. Both Parties shall transfer ownership, to the originating Party, the records and information relating to the Functions, including any relevant records that were transferred to the other at the Commencement Date.

11. Both Parties shall agree a just and equitable approach to the final reconciliation of any budgetary underspend or overspend which shall be in accordance with any relevant provisions contained in Schedule 6 Part 2.