

DATED 2015

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

and

ABERTAWE BRO MORGANNWG UNIVERSITY HEALTH BOARD

AGREEMENT

SECTION 33 OF THE NATIONAL HEALTH SERVICE (WALES) ACT 2006

OVERARCHING PARTNERSHIP AGREEMENT

for

ADULT AND OLDER PEOPLE SERVICES

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SCHEDULE 1: THE SERVICES:

Host Partner, Aims and Outcomes & Access to Service

**SCHEDULE 2: THE HEALTH BOARD'S NHS FUNCTIONS AND THE COUNCIL'S
HEALTH RELATED FUNCTIONS**

SCHEDULE 3: RESOURCES:

Finance and Budget Setting

SCHEDULE 4: GOVERNANCE:

Approvals, Oversight & Performance

THIS AGREEMENT is made the first day of October 2015 **BETWEEN NEATH PORT TALBOT COUNTY BOROUGH COUNCIL** ("the Council") of Civic Centre, Port Talbot, Neath Port Talbot SA13 1PJ of the one part and **ABERTAWA BRO MORGANNWG UNIVERSITY HEALTH BOARD** ("the Health Board") of One Talbot Gateway, Baglan Energy Park, Baglan, Port Talbot, SA12 7BR of the other part.

WHEREAS:

- A This Agreement covers arrangements to plan, and arrange provision for adult and older people's services pursuant to Section 33 of the Act.
- B This Agreement provides for the establishment and management of individual Pooled Funds between the Health Board and the Council where either Partner will from time to time be the Host Partner for a Scheme for the purposes of the Regulations.
- C For the purpose of the implementation of the Partnership Arrangements under this Agreement:
 - 1 The Health Board has agreed that the Council may, in conjunction with exercising its Health Related Functions, exercise the Health Board's NHS Functions in relation to the Services and;
 - 2 The Council has agreed that the Health Board may, in conjunction with exercising its NHS Functions, exercise the Council's Health Related Functions in relation to the Services.
- D Where the Health Board and the Council arrange Services pursuant to Section 33 of the Act the Services which the Partners arrange shall be set out according to the Schedules and the terms herein.
- E The Partners shall carry out consultation on the proposals for any Scheme with those persons, user groups, staff and statutory and non-statutory providers, who appear to them to be affected by the arrangement, as required by Regulation 4(2) of the Regulations.
- F The Partners have agreed to enter into this Agreement to fulfil the requirements in Regulation 8(2) of the Regulations and to record their respective rights and obligations under the Partnership Arrangements and the terms on which the Partnership Arrangements will be exercised and the Service will be delivered.
- G The Partners wish to improve the effectiveness of the Services delivered by them.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, except where the context otherwise requires, the following expressions shall have the meanings respectively ascribed to them:-

“Act”	means the National Health Service (Wales) Act 2006;
“Agreement”	means this Agreement and any variation of it from time to time agreed between the Partners;
“Authorised Officers”	means the persons notified in writing from time to time by each of the Partners to the other from time to time as authorised to act on behalf of that Partner in that capacity (which person shall until further notice be for the Council its Head of Paid Service and for the Health Board its Chief Executive);
“Budget”	means the budget for a Scheme as set out in or ascertained in accordance with Schedule 3
“Commencement Date”	means 1 st October 2015;
“Council”	means Neath Port Talbot County Borough Council (and any successor to their statutory function);
“Directions”	means such statutory directions in respect of services as the Partners must follow;
“Eligibility Criteria Threshold”	means the four criteria as derived from the Welsh Government’s Guidance on “Fair Access to Care” as set out in “Creating a Unified and Fair System for Assessing and Managing Care”, April 2002 and these being critical, substantial, moderate and low.

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“Financial Year”	means the financial year from 1st April in any year to 31st March in the following calendar year;
“Functions”	means the NHS Functions and the Council’s Health Related Functions which may be carried out (in whole or part) by either Partner for any Scheme approved by the Partners and which are reproduced in Schedule 2 for ease of reference
“Health Board”	means Abertawe Bro Morgannwg University Health Board (and any successor to its statutory function);
“Health Related Functions”	means the Council functions set out in regulation 6 of the Regulations, which are reproduced in Schedule 2 for ease of reference;
“Host Partner”	means the Partner responsible for any Pooled Funds within a Scheme and to operate in accordance with Regulation 7 (4) of the Regulations;
“Joint Management Board”	means a group of officers for each Scheme who will assist the JPB in its activities through oversight of day to day management of the particular agreed Scheme and in accordance with Schedule 4;
“Joint Partnership Board referred to by abbreviation as JPB”	means the membership set out at Schedule 4 and which is responsible for the management of any scheme established under this Agreement and its delivery in accordance with the provisions of Schedule 4;
“Locality”	means the administrative area of the Council;
"Month"	means a calendar month;
“NHS Functions”	means those functions set out in regulation 5 of the Regulations as reproduced in Schedule 2;

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“Partners”	means the Council and the Health Board, and the term “Partner” shall mean either;
“Partnership Arrangements”	means the arrangements as set out in this Agreement concerning the planning, or arranging of services to Adults and Older People and in accordance with the Regulations and any Scheme;
“Partnership Lead”	means the officer responsible within the office of the Host Partner approved by the JPB who shall be the chair of the Joint Management Board;
“Pooled Fund Manager”	means the person determined from time to time under Clause 7.5 and who has been identified in the particular Schedules for a Scheme agreed by the JPB;
“Pooled Fund/Pooled Funds”	means the joint fund or joint funds of monies administered by the Partners from time to time being shared contributions from the Partners for the purpose of securing the Services in the Locality pursuant to this Agreement;
“Regulations”	means the NHS Bodies and Local Authority Partnership Arrangements Regulations 2000, S.I. No. 2993 (W.193) as amended or replaced from time to time;
“Revised Annual Plan”	means an annual statement of agreed intentions referred to in Schedule 4;
“Scheme”	means:- firstly at the Commencement Date the arrangements for the provision of Services set out in the Schedules and secondly any additional Services which may be added by the method referred to in Clause 32;

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“Scheme Schedules”	means Schedules 1, 3 and 4;
“Services”	means the services which are to be made available to Service Users as described in Schedule 1 and such other services as the Partners may agree to be arranged for any particular Scheme and whose costs are to be met from the Pooled Fund or in respect of which the Partners have agreed to make expenditure;
“Service Users”	mean the people who receive the Services to be arranged by the Partners;
“Term”	means the period from the Commencement Date and ending on 31 st March 2018 subject to earlier termination in accordance with the terms of this Agreement;

1.2 Save to the extent that the context or the express provisions of this Agreement otherwise require:-

1.2.1 obligations undertaken or to be undertaken by more than a single person shall be made and undertaken jointly and severally;

1.2.2 words importing any gender include any other gender and words in the singular include the plural and words in the plural include the singular;

1.2.3 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;

1.2.4 Headings and the Index are inserted for convenience only and shall be ignored in interpreting or in the construction of this Agreement;

1.2.5 references in this Agreement to any Clause or Sub-Clause Paragraph or Schedule without further designation shall be construed as a reference to the Clause or Sub-Clause of or Schedule to this Agreement so numbered;

1.2.6 any obligation on any of the Partners shall be a direct obligation or an obligation to procure as the context requires;

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- 1.2.7 any reference to “indemnity” or “indemnify” or other similar expressions shall mean that either Partner indemnifies, shall indemnify and keep indemnified and hold harmless the other Partner; and
- 1.2.8 any reference to a person shall be deemed to include any permitted transferee or assignee of such person and any successor to that person or any person which has taken over the functions or responsibilities of that person but without derogation from any liability of any original Partner to this Agreement;
- 1.2.9 this Agreement and its Schedules should be read as a whole but in the event of any inconsistency the Schedules shall have precedence

2. TERM

- 2.1 This Agreement shall commence on the Commencement Date and shall continue for the Term, subject to earlier termination as provided below.
- 2.2 The Agreement may be terminated in accordance with the provisions of Clause 11.

3. AIMS AND OBJECTIVES

- 3.1 The aims, benefits and intended outcomes of the Partners in entering in to this Agreement are to:
- 3.1.1 provide high quality, efficient and cost effective Services to meet the needs of the Partners, Service Users and other authorised users according to any specific Scheme set out in the Schedules;
- 3.1.2 provide the best value Service to the Partners, Service Users and other authorised users;
- 3.1.3 develop a quality-management system for continuous service improvement in line with measures and targets for the Schemes contained in the Schedules including risk management and workforce training.
- 3.2 The targets for any Scheme are set out in Schedule 1 for that Scheme and which are to be updated annually for approval in accordance with Schedule 4 along with a Revised Schedule 1 and Schedule 3 (as a revised Annual Finance Agreement) and Appendix to Schedule 4 which collectively here shall form a Revised Annual Plan for a Scheme.

4 FINANCIAL CONTRIBUTIONS

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- 4.1 The Budget for the first Financial Year together with the mechanism for calculating subsequent Budgets and contributions is set out in Schedule 3.
- 4.2 The arrangements for outturn and balancing payments between the Partners are described in Schedule 3 to this Agreement.
- 4.3 Any increases to the amounts described at Clause 4.1 shall be dealt with by the procedure set out in Schedule 3.
- 4.4 No provision of this Agreement shall preclude the Partners by mutual agreement making additional contributions of non-recurring monies to the Pooled Fund for a Scheme from time to time but no such additional contributions shall be taken into account in the calculation of the Partners' respective contributions for the purpose of apportionment at Clause 8. Any such additional contributions of non-recurring monies shall be explicitly recorded in JPB minutes and recorded in the budget statement for a Scheme as a separate item.

5. NHS FUNCTIONS AND COUNCIL HEALTH RELATED FUNCTIONS

- 5.1 The NHS Functions and the Council's Health Related Functions which may be carried out (in whole or part) by either Partner from time to time according to any Scheme are set out in Schedule 2.

6. THE SERVICES

- 6.1 The Host Partner for the Scheme is identified in Schedule 1.
- 6.2 The Services shall be arranged by the JPB in accordance with the provisions of the relevant Schedules.
- 6.3 The Partners will ensure that the Welsh Government's Guidance on "Fair Access to Care" is fully implemented and that the Eligibility Criteria Thresholds as agreed by the Council are consistently applied.
- 6.4 The Eligibility Criteria Threshold for the provision of Services will operate according to Schedule 1 for any Scheme.

7. ARRANGEMENT OF SERVICES

- 7.1 Pooled Funds shall be established for arranging the Services.
- 7.2 For any Scheme the Council or the Health Board shall be the Host Partner for the purposes of Regulation 7(4) of the Regulations.
- 7.3 The JPB will be established in accordance with Schedule 4 to carry out the functions as set out in Schedule 4 and shall be supported by a Joint Management Board according to that Schedule's requirements.

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- 7.4 The Pooled Fund Manager shall be responsible for the management of the Pooled Fund for a Scheme.
- 7.5 The Pooled Fund Manager shall be approved by the Partner who is not the Host partner for a Scheme (such approval not to be unreasonably withheld) and affirmed in the role by the Joint Partnership Board at the outset of a Scheme.
- 7.6 The Pooled Fund Manager where the Council is the Host Partner shall be accountable directly to the Partnership Lead for an approved Scheme.
- 7.7 The Pooled Fund Manager where the Health Board is the Host Partner shall be accountable directly to the Partnership Lead for an approved Scheme.
- 7.8 The internal regulations of the Host Partner shall apply to the management of the Pooled Funds under this Agreement, insofar as the funding is held and defrayed by the Host Partner.
- 7.9 The Pooled Fund Manager shall be responsible for authorising payments and the Host Partner shall make payments from the Pooled Fund and shall be responsible for authorising payments, insofar as the funding is held and defrayed by the Host Partner, in accordance with the Service description and the Aims and Objectives, as set out in Schedule 1 provided that the Partners shall be responsible for payments under regular day to day provision of the Service supplied directly through their own employees and/or contractors.
- 7.10 The Pooled Fund Manager shall be responsible for managing the Pooled Fund and forecasting and reporting to the JPB upon the targets and information in accordance with and any further targets or performance measures that may be set by the JPB from time to time.
- 7.11 The Pooled Fund Manager shall report to the Authorised Officers in accordance with the requirements of the Regulations. The Council's Authorised Officer shall in turn ensure reporting on the same to the officer of the Council responsible for the administration of their financial affairs under Section 151 of the Local Government Act 1972.
- 7.12 Each Partner shall comply with all Statutes, Regulations, Guidance, Directions and Directives relating to the provision of the Services or any part thereof.

8. FINANCIAL PERFORMANCE AND RISK SHARING ARRANGEMENTS

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- 8.1 The Pooled Funds are to be used solely to achieve the aims and objectives of a Scheme set out in Schedule 1 and according to the arrangements for spend and performance set out at schedule 3 and 4.
- 8.2 The Pooled Fund Manager of a Scheme shall submit information monthly and report every three months in summary form to the JPB at its meetings, on spend and the performance information specified in the Appendix to Schedule 4 for a Scheme. The Partners agree to provide all necessary information to the Pooled Fund Manager in time for the reporting requirements to be met.
- 8.3 The Partners shall ensure:-
- a) The Pooled Funds are used efficiently to deliver agreed outcomes.
 - b) The expenditure and income within the Pooled Funds remain within budget, and that any exceptions to this are reported to the JPB in a timely manner.
 - c) A high level of probity in financial management arrangements.
 - d) Resources allocated to Pooled Funds are adequately protected.
- 8.4 The benefit of any surplus in the Pooled Fund at the end of any Financial Year may:
- 8.4.1 Be used for such other expenditure of the same general nature as that contained within the Scheme as the Partners may determine and
 - 8.4.2 Where the Partners agree, remain within the Pooled Fund for a Scheme to be used to meet such other expenditure as the Partners may determine.
- 8.5 Where there is not agreement under Clause 8.4. in full or in part and no other purpose is agreed, the benefit of any surplus in the Pooled Fund at the end of any Financial Year shall be distributed to the Partners pro rata to their contributions for the Financial Year.
- 8.6 The Partners shall take mitigating action as appropriate to ensure expenditure remains within the limit of a Pooled Fund and neither party shall act unreasonably to expose the other to undue financial risk.
- 8.7 Save:
- 8.7.1 to the extent that a party's liability arises pursuant to clause 12 and/or
 - 8.7.2 to the extent agreed between the parties in writing;
- The Partners shall be jointly responsible (in the proportions determined according to the formula for balancing payments as at Schedule 3 to the Agreement in respect of a Pooled Fund for the Financial Year) for any such

costs, claims, expenses or liabilities incurred in accordance with the terms of this Agreement.

- 8.8 The monthly reports of the Pooled Funds Manager to be submitted to the JPB shall include monthly financial performance reports detailing performance against agreed funding. The report will include a variance analysis for the period and expected forecast outturn and where required, an explanatory note setting out actions being taken to tackle areas where there is a projected underspend or overspend against agreed budgets. Annual statements of spend and performance against the Pooled Funds will also be provided in line with any statutory timescales required by either The Health Board or the Council.
- 8.9 The Pooled Funds Manager shall maintain and provide in addition to information provided under Clause 8.8 above when requested by either of the members of the JPB at the expense of that Partner such information as shall be appropriate to describe the cost of arranged Services for so long as any part thereof is being provided to Service Users notwithstanding any notice of termination in accordance with Clause 11.
- 8.10 The governance arrangements shall be as set out in Schedule 4 for a Scheme.
- 8.11 Approval for all other reasonable administrative expenses incurred by the Pooled Funds outside of the budget in-year must be approved in writing in advance of spend and will require the agreement of the Partners before being accepted as an allowable charge to the particular Pooled Fund for a Scheme.

9. REVIEW

- 9.1 The Partners, through the JPB, shall review the operation of the Scheme annually by 1st July of every year.
- 9.2 Reviews of this Agreement shall be conducted in good faith and in accordance with the governance arrangements set out in Schedule 4; shall be based upon information to be provided as set out in Schedule 4.
- 9.3 The Partners shall review the operation of this Agreement on the coming into force (or anticipation of the coming into force) of any legislation or guidance affecting the terms of this Agreement so as to ensure that the terms of this Agreement comply with such legislation or guidance.

10. FINANCIAL PLANNING AND BUDGET SETTING PROCESS

- 10.1 The Partners will prepare planning assumptions of inflation allowances for pay and non-pay expenditure and income together with proposed variations to the expenditure budget in respect of for example:
- Growth and demographic changes
 - Service enhancements and reductions
 - Required efficiency/quality improvements
 - Cost pressures/increases in demand; and expected changes in Service delivery costs
 - National initiatives
- 10.2 These will be considered in the context of the overall budget of the Council and the Health Board as applicable.
- 10.3 The Budget for a Scheme and which is to be agreed by the Partners will take into account effects on other budgets and the financial resources of the Partners.
- 10.4 Where the Partners do not agree an annual Budget by the time of the commencement of a new Financial Year they shall remain liable to contribute the same sum as was identified as their contribution in the previous Financial Year (together with any inflation on salaries including increments and pay settlements) until such time as an annual review at Clause 9 or termination takes effect.
- 10.5 As part of the annual Budget setting process, the Partners shall seek appropriate advice in respect of the factors outlined in clauses 10.1 and 10.3 above.

11. TERMINATION

- 11.1 If the Health Board or the Council fails to meet any of its respective obligations under this Agreement, either Partner may by written notice request the Partner in default to take such reasonable action to rectify such failure within 60 days of the date of the notice.
- 11.2 Should the Partner in default fail to rectify such failure within such time-scale, the other Partner may give a minimum of three months written notice to terminate the Agreement.
- 11.3 Either Partner shall be entitled to terminate this Agreement immediately by notice to the other Partner, if the other Partner, its employees or agents either offer, give or agree to give to anyone any inducement or reward or confers any other benefit in respect of this or any other Agreement (even if the Partner is unaware of any such action) or otherwise commits an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972.

- 11.4 Either Partner is entitled to terminate this Agreement forthwith by written notice to the other Partner if an event of force majeure pursuant to clause 28 persists for more than 3 months.
- 11.5 Either Partner is entitled to terminate this Agreement by giving not less than twelve months written notice to the other such notice to end at the end of a Financial Year.
- 11.6 The Partners may mutually agree that this Agreement is terminated on an agreed date.
- 11.7 Any termination of this Agreement under this Clause shall be without prejudice to any continuing obligations of the Partners under Clause 12.
- 11.8 Any addition or removal of a Scheme or the Services provided pursuant to this Agreement shall be dealt with in accordance with Clause 32.

12. EFFECTS OF TERMINATION

- 12.1 Notwithstanding any notice of termination in accordance with Clause 11
 - 12.1.1 the Partners shall continue to be liable to arrange the Service within a Scheme in accordance with this Agreement until the actual date of termination;
 - 12.1.2 the Partners shall remain liable to operate the Pooled Fund for a Scheme in accordance with this Agreement so far as is necessary to ensure fulfilment of the obligations in Sub-Clause 12.1.1; and
 - 12.1.3 for the avoidance of doubt the Partners shall remain liable to contribute that proportion of the cost of a Scheme which comprises its contribution until the termination takes effect;
 - 12.1.4 in the event that the Partners have jointly agreed to procure a contract with a provider for the provision of any part of the Services and one Partner has agreed to make a contribution to the other in respect of the costs of that contract the contributing Partner shall continue to pay such contribution while that contract subsists.
 - 12.1.5 the Partners shall cooperate together to ensure that any Service User who has started to receive a service under this Agreement continues to receive an appropriate service whilst the Partners make arrangements to revert to separate service provision.
- 12.2 Subject to the foregoing commitments of the Partners, following termination of this Agreement, in the event that the Host Partner holds any funds for the purpose of the Service those funds shall be divided between the Partners in the percentage shares identified in paragraphs 3 and 4 of Appendix 2 to Schedule 3

- 12.3 Assets purchased from the Pooled Fund will be disposed of by the Partners for the purposes of meeting any of the costs of winding up the Service or where this is not practicable such goods will be shared proportionately between the Partners in the percentage shares identified in Clause 12.2 above.
- 12.4 In the event that this Agreement is terminated the Partners agree to co-operate to ensure an orderly wind up of their joint activities as set out in this Agreement so as to minimise disruption to all Service Users carers and Staff, and comply with individual rights as set out in their contract of employment.
- 12.5 The operation of this Clause 12 together with Clauses 14, 15, 17, 18 and 19 shall survive the termination or expiry of this Agreement.

13. SCRUTINY

- 13.1 The Partners will make senior officers available to attend each other's committees and boards with responsibility for the development of policy and the scrutiny of decisions taken in relation to the Services.

14. EXTERNAL INSPECTION AND MONITORING

- 14.1 The Partners:

14.1.1 Shall comply with any statutory inspection requirements in relation to Services and will liaise as required with the Care and Social Services Inspectorate Wales (CSSIW) and /or Healthcare Inspectorate Wales (HIW) and/or other relevant regulatory bodies.

14.1.2 Shall provide appropriate access and information to any external body empowered by statute to inspect or monitor the Partners' discharge of the Services.

14.1.3 Shall work together to ensure that recommendations made to the Council pursuant to its outcome agreement with the Welsh Government or any other administrative procedure which replaces it are implemented.

15. INDEMNITY AND INSURANCE

- 15.1 The Partners shall maintain public liability insurance or its equivalent in respect of the Services provided under this Agreement to a minimum level of ten million pounds (£10,000,000) per claim or aggregate cover of ten million pounds (£10,000,000) of claims in any Financial Year and shall review the adequacy of such cover not less frequently than once in each Financial Year.

- 15.2 Either Partner shall upon request from the other Partner from time to time:

15.2.1 provide evidence that the insurance arrangements required by clause 15.1 and 15.10 are fully paid up and in force;

15.2.2 allow the requesting Partner to inspect its insurance policies; and

15.2.3 provide the requesting Partner with copies of the full policy document.

15.3 Subject to Clause 15.4 each Partner (the “Indemnifying Partner”) shall indemnify the other Partner, their officers, employees and agents against any damage, cost, liability, loss, claim or proceedings whatsoever arising in respect of:

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

15.3.2 any personal injury including injury resulting in death;

15.3.3 any fraudulent or dishonest act of any of its officers, employees or contractors;

15.3.4 any breach of the obligations under Clause 17 or any related statutory provision

or arising out of or in connection with the Service.

15.4 Where the Indemnifying Partner has only contributed partially to the cause of any damage, cost, liability, loss, claim or proceedings, it shall only be liable to indemnify the other Partner for such proportion of the total costs of such damage, cost, liability, loss, claim or proceedings as its contribution to the cause bears to the total damage, cost, liability, claim or proceedings. Where the Partners are unable to agree any such apportionment, the disputes procedure in Clause 19 shall apply.

15.5 Neither the indemnity from the Council nor that from the Health Board at Clause 15.3 shall apply to any such claim or proceeding:-

15.5.1 unless, as soon as reasonably practicable following receipt of notice of such claim or proceeding, the Partner in receipt of a claim shall have notified the other Partner in writing of it, and shall, upon any of the latter’s request and at the latter’s cost, have permitted the former to have full care and control of the claim or proceeding, using legal representation approved by the latter Partner, such approval not to be unreasonably withheld; or

15.5.2 if the Partner in receipt of the claim or proceeding, its employees or agents shall have made any admission in respect of such claim or proceeding or taken any action related to such claim or proceeding prejudicial to the defence of it without the written consent of the other Partner (such consent not to be unreasonably withheld or delayed), provided that this condition shall not be treated as breached by any statement properly made by the Partner in receipt of the claim, its employees or agents in connection with the operation of its internal complaints procedures, accident reporting procedures or disciplinary procedures or where such statement is required by law.

- 15.6 Each Partner shall keep the other Partner and their legal advisers fully informed of the progress of any such claim or proceeding, will consult fully with the other Partner on the nature of any defence to be advanced and will not settle any such claim or proceeding without the written approval of the other Partner affected (such approval not to be unreasonably withheld).
- 15.7 Without prejudice to the provisions of Clause 15.5, the Partners will use their reasonable endeavours to inform each other promptly of any circumstances reasonably thought likely to give rise to any such claim or proceedings of which they are directly aware and shall keep each other reasonably informed of developments in relation to any such claim or proceeding even where they decide not to make a claim under this indemnity.
- 15.8 The Partners shall each give to the other such help as may reasonably be required for the efficient conduct and prompt handling of any claim or proceeding.
- 15.9 The Partners shall ensure that they maintain policies of insurance (or in the case of the Health Board, equivalent arrangements through the schemes operated by the Welsh Risk Pool) to cover the matters referred to in Clauses 15.3 including but not limited to employers liability, public liability and other liabilities to third parties.
- 15.10 The Partners will maintain the insurances set out in Clause 15.1 and 15.9 for a period of 12 years following any termination or expiry of the Agreement

16. VARIATION

- 16.1 No variation to this Agreement shall be effective unless it is in writing and executed by the Partners using the same formalities as this Agreement.

17. CONFIDENTIALITY AND DATA PROTECTION

- 17.1 The Partners comply and have adequate measures in place to ensure its compliance at all times with the provisions and obligations of the Data Protection Act 1998 (the "DPA"). This shall include but is not limited to:
- 17.1.1 Partners shall not use Personal Data and Sensitive Personal Data (as both defined in the DPA) or any part thereof for any purposes whatsoever other than for the purpose of performing the Services
- 17.1.2 Partners shall keep and dispose of all Personal Data and Sensitive Personal Data in a safe and secure manner
- 17.1.3 Partners shall retain all Personal Data and Sensitive Personal Data for only as long as is necessary for performing the Services
- 17.2 Partners shall immediately inform each other in the event of any breaches or suspected breaches of the provisions of the DPA in relation to information obtained in the course of performing the Services

17.3 Each Partner shall:

17.3.1 treat as confidential and provide appropriate safeguards for all or any information which belongs to and has been supplied by and designated as confidential by the other Partner howsoever or in whatsoever manner such information is conveyed or stored, including information which relates to the business, affairs, assets, goods or services or operations of the other Partner (“Confidential Information”); and

17.3.2 not disclose any Confidential Information to any other person without the prior written consent of the Partner, except to such person and to such extent as may be necessary for the performance of the Services or as required by law.

17.4 The Partners shall take all necessary precautions to ensure that all Confidential Information obtained from either Partner under or in connection with the Services:-

17.4.1 is given only to such of the staff engaged in connection with the performance of the Services as is strictly necessary for the performance of the Services and only to the extent necessary for performance of the Services;

17.4.2 is treated as confidential and not disclosed (without prior approval) or used by any staff otherwise than for the purposes of the Services.

17.5 The Partners agree that information relating to the provision of Services as defined in this Agreement may also be shared with the Welsh Government, Welsh NHS bodies, the Audit Commission and the Wales Audit Office where this is necessary for them to meet their obligations as defined by statute, regulation or contractual commitment.

17.6 The obligations of confidentiality in this clause 17 shall not extend to any matter which either Partner can show:

17.6.1 is in, or has become part of, the public domain other than as a result of a breach of the obligations of confidentiality under this Agreement;
or

17.6.2 is required to be disclosed under any applicable law, or by order of a court or governmental body or authority of competent jurisdiction.

18. FREEDOM OF INFORMATION

18.1 The Partners agree that they will each co-operate with one another to enable any Partner receiving a request for information under the Freedom of Information Act 2000 or Environmental Information Regulations 2004 to respond to that request promptly and within the statutory timescales. This co-operation shall include but not be limited to finding, retrieving and supplying information held, directing requests to other Partners or parties as appropriate and responding to any requests by the Partner receiving a request for comments or other assistance.

19. DISPUTE RESOLUTION

19.1 Prior to any dispute difference or disagreement being referred to mediation pursuant to the remaining provisions of this paragraph 19 the Partners shall seek to resolve the matter as follows:

19.1.1 in the first instance the issue shall be considered by chief officers with delegated responsibility for the Service

19.1.2 if the aforementioned chief officers are unable to resolve the matter within 30 working days then the issue shall be referred to the Head of Paid Service of the Council and the Chief Executive officer of the Health Board ('the Heads of Paid Service')

19.1.3 if the Heads of Paid Service are not able to resolve the matter within a further thirty (30) working days the provisions of paragraph(s) 19.2 and 19.3 shall take effect

19.2 In the event of the Heads of Paid Service not being able to resolve the matter shall be dealt with by the following mediation procedure:

19.2.1 for the purpose of this paragraph 19.2 a dispute shall be deemed to arise when one Partner serves on the other a notice in writing stating the nature of the dispute

19.2.2 every dispute notified under this paragraph 19.2 shall first be referred to mediation in accordance with the mediation procedures of the Alternative Dispute Resolution Group London

19.2.3 the mediator shall be agreed upon by the Partners and failing such agreement within fifteen (15) working days of one Partner requesting the appointment of a mediator and proposing a name then the mediator shall be appointed by the head of the division of the Welsh Government for the time being with responsibilities for the oversight of the Services

- 19.2.4 unless agreed otherwise the Partners shall bear their own costs of the mediation and share equally the costs of the mediator
- 19.2.5 the use of mediation will not be construed under the doctrines of laches waiver or estoppel to affect adversely the rights of any Partner and in particular any Partner may seek a preliminary injunction or other judicial relief at any time if in its judgment such action is necessary to avoid irreparable damage
- 19.3 In the event of the Partners failing to reach agreement following mediation the following procedure shall be followed:
 - 19.3.1 in the event of the Partners failing to reach agreement on their dispute or difference following mediation pursuant to paragraph 19.2 one Partner may serve on any other a notice in writing stating the nature of the matters still in dispute
 - 19.3.2 the dispute or difference shall then be referred to the arbitration of a sole arbitrator to be appointed in accordance with Section 16(3) of the Arbitration Act 1996 (“the Arbitration Act”)
 - 19.3.3 in the event of failure of the Partners to make the appointment pursuant to Section 16(3) of the Arbitration Act the appointment shall be by the President (or if the President be unwilling, unable or unavailable) the Vice President for the time being of the Law Society
 - 19.3.4 the arbitration will be regarded as commenced for the purposes set out in Section 14(1) of the Arbitration Act when one Partner sends to the other written notice in accordance with the Arbitration Act
 - 19.3.5 the arbitration shall be conducted in accordance with the Rules of the Chartered Institute of Arbitrator(s) or any amendment or modification thereof being in force at the date of commencement of the arbitration
- 19.4 This dispute resolution procedure cannot be used in relation to any dispute relating to the setting of the Budget or any revision of this Agreement

20. EXCLUSION OF PARTNERSHIP AND AGENCY

- 20.1 The Partners expressly agree that nothing in this Agreement in any way creates a legal partnership between them.
- 20.2 No Partner nor any of its employees or agents will in any circumstances hold itself out to be the servant or agent of the other Partner, except where expressly permitted by this Agreement.

21. ASSIGNMENT AND SUB AGREEMENTS

21.1 Neither Partner shall assign nor transfer the whole or any part of this Agreement, without the prior written consent of the other Partner, except where expressly permitted by the Agreement.

21.2 Either Partner shall be entitled to assign novate or otherwise transfer its rights and obligations pursuant to this Agreement to a statutory successor. This Agreement shall be binding on and shall endure to the benefit of the Health Board and the Council and their respective successors and permitted transferees and assignees.

22. THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

22.1 The Contracts (Rights of Third Parties) Act 1999 is hereby excluded.

22.2 No variation to this Agreement and no supplemental or ancillary agreement to this Agreement shall create any such rights unless expressly so stated in any such agreement by the parties to this Agreement. This does not affect any right or remedy of a third party, which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999.

23. PREVENTION OF CORRUPTION / QUALITY CONTROL

23.1 The Partners shall have mutual policies and procedures to ensure that relevant controls, assurance, probity and professional standards are met.

24. COMPLAINTS

24.1 The Partners shall ensure that any complaints received about the Service shall be dealt with promptly and in accordance with their adopted complaints procedures.

24.2 Where applicable any complaints which have not been resolved under the above sub clause shall be dealt with under any appropriate statutory complaints procedure which applies to that class of complaint

25. NOTICES

25.1 All notices under this Agreement shall only be validly given if given in writing, addressed as follows:-

25.1.1 if to the Health Board, addressed to its Chief Executive as above; or

25.1.2 if to the Council, addressed to its Chief Executive as above.

25.2 Any notices required to be given under this Agreement must be in writing and may be served by personal delivery, post (special or recorded delivery or first class post) or facsimile at the address set out at the beginning of this Agreement or at such other address as each party may give to the other for the purpose of service of notices under this Agreement. Notices shall be deemed to be served at the time when the notice is handed to or left at the

address of the party to be served (in the case of personal delivery) or the day (not being a Saturday, Sunday or public holiday) next following the day of posting (in the case of notices served by post) or at 10 a.m. on the next day (not being a Saturday, Sunday or public holiday) following dispatch if sent by facsimile transmission.

- 25.3 To prove service of any notice, it shall be sufficient to show in the case of a notice delivered by hand that the same was duly addressed and delivered by hand and in the case of a notice served by post that the same was duly addressed prepaid and posted special or recorded delivery or by first class post. In the case of a notice given by facsimile transmission, it shall be sufficient to show that it was dispatched in a legible and complete form to the correct telephone number without any error message on the confirmation copy of the transmission.

26. NOTIFICATION TO THE WELSH GOVERNMENT

- 26.1 In accordance with the relevant guidance the Partners agree that they shall lodge with the Welsh Government a copy of this Agreement and any Services added under Clause 32.

27. GENERAL PRINCIPLES

- 27.1 In relation to the Services, the Partners shall:

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

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

27.1.3 provide early information and notice about relevant problems; and

27.1.4 co-operate with each other to agree joint protocols and any variance in such protocols as may be required from time to time.

28. FORCE MAJEURE

- 28.1 In this Agreement "force majeure" shall mean any cause preventing either party from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the party so prevented including without limitation act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order rule regulation or direction, accident, fire, flood or storm.

- 28.2 If any party is prevented or delayed in the performance of any or all of its obligations under this Agreement by force majeure, that party shall forthwith serve notice in writing on the other party or parties specifying the nature and extent of the circumstances giving rise to force majeure and shall, subject to service of such notice (and to Clause 28.4), have no liability in respect of the performance of such of its obligations as are prevented by the force majeure events during the continuation of such events.

28.3 The party affected by force majeure shall use all reasonable endeavors to bring the force majeure event to a close or to find a solution by which the Agreement may be performed, despite the continuance of the force majeure event.

28.4 If any party is prevented from performance of any or all of its obligations for a continuous period in excess of three months the other party may terminate this Agreement forthwith by written notice, in which case neither party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

29. SEVERABILITY

29.1 If at any time any part of this Agreement (including any one or more of the clauses of this Agreement or any sub-clause or paragraph or any part of one or more of these clauses) is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from this Agreement and the validity and/or enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired as a result of that omission.

30. WAIVER

30.1 The rights and remedies of any party in respect of this Agreement shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time granted by such party to the other nor by failure of, or delay by the said party in ascertaining or exercising of any such rights or remedies. The waiver by any party of any breach of this Agreement shall not prevent the subsequent enforcement of any subsequent breach of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.

31. GOVERNING LAW

31.1 This Agreement shall be considered as a contract made in England and Wales and shall be subject to the laws of England and Wales as they apply in Wales.

31.2 Subject to the provisions of any jointly agreed dispute resolution procedure, all the parties agree that the courts of England and Wales shall have exclusive jurisdiction to hear and settle any action, suit, proceeding or dispute in connection with this Agreement and irrevocably submit to the jurisdiction of those courts.

32. ADDITION OR REMOVAL OF SERVICES

32.1 The Partners may by mutual consent add further Schemes or Services to this Agreement or remove Schemes or Services from it.

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- 32.2 The Schemes or Services shall be added or removed by such amendment to the Schedules and the body of this Agreement as the Partners may agree which may include separate description of the Schemes or Services, Pooled Funds and management arrangements such as JPBs and Joint Management Boards.
- 32.3 These amendments shall be contained in an agreement executed using the same formalities as this Agreement

IN WITNESS whereof the Partners have executed this Agreement as a Deed the day and year first before written.

Executed as a deed by affixing the

COMMON SEAL of

**THE ABERTAWE BRO MORGANNWG UNIVERSITY
HEALTH BOARD**

In the presence of:

Signed (Authorised Officer):

Name/Position:

Executed as a deed by affixing the

COMMON SEAL of

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

In the presence of:

Proper Officer

SCHEDULE 1: THE SERVICES:

Host Partner, Aims and Outcomes & Access to Service

INTRODUCTION

Services Aims and Outcomes for the service at commencement of this Agreement are as set out here with details of the Host Partner.

1. **NEATH PORT TALBOT INTERMEDIATE CARE SERVICES**
2. **HOST PARTNER: Neath Port Talbot County Borough Council**
3. **NEATH PORT TALBOT INTERMEDIATE CARE JOINT MANAGEMENT BOARD:**

- 3.1 The Partnership Lead Officer:.....
- 3.2 The Pooled Fund Manager
- 3.3 Other members comprising
 - One non-host partner officer.....
 - One Finance officer (Council).....
 - One Finance officer (Health Board).....

4. **AIMS & OBJECTIVES FOR 2015/16**

- 4.1 The overarching strategic aim of this Agreement is:-
- 4.2 To ensure coordinated arrangements for ensuring for integrated provision of high quality, cost effective Intermediate Care services which meet local health and social care needs, through the establishment a pooled fund arrangements under Section 33 of the Act from 1st April 2015
- 4.3 The Western Bay Health and Social Care partnership was established to co-design and deliver services that meet the current and future needs of people in Bridgend, Neath Port Talbot and Swansea.
- 4.4 This Agreement seeks to maximise the efficiency of Intermediate Care by delivering integrated provision from a pooled fund from 2015/16. It builds on the Western Bay documents: August 2013 “*Joint Commitment - Delivering Improved Community Services*”, January 2014’s “*Transforming care through investment in the intermediate tier - 3 year business case*” and the “*Statement of Intent on Integration*” from July 2014.

- 4.5 The document takes account of other local plans being developed, such as the Health Board's Three Year Plan, the Primary Care Plan, the Local Authority's Commissioning intentions and the major business change programmes (such as Changing For The Better and the Western Bay Programme).

5. PURPOSE AND KEY PRINCIPLES

- 5.1 Across the Western Bay footprint there are excellent examples of innovative community services, with health and social care increasingly being delivered through integrated care models. A similar model of care is being implemented in the three Localities and each has a similar Pooled Fund Agreement. The Agreement for this Locality builds on the achievements to date and enables its further development. It is based on an established set of principles and provides a mechanism for closer and faster integration.
- 5.2 The approach of the Partners will be consistent with the principles in "Sustainable Social Services: A Framework for Action" which sets out the action needed to ensure care and support services respond to rising levels of demand and changing expectations, particularly for frail older people.
- 5.3 This will help the Partners deliver their stated commitment to benefit adults in the region:
- Support for people to remain independent and keep well
 - More people cared for at home to maximise their recovery, with shorter stays in hospital if they are unwell
 - A change in the pathway away from institutional care to community care, available on a 7-day basis
 - Fewer people being asked to consider long term residential or nursing home care, particularly in a crisis
 - Earlier diagnosis of dementia and quicker access to specialist support for those who need it
 - More people living with the support of technology and appropriate support services
 - Provision of services that are more joined up around the needs of the individual with less duplication or hand-offs between health and social care agencies
- 5.4 Through this Agreement the Partners will pool their funds and resources so as to deliver the maximum impact for residents.

5.5 The Agreement's primary purpose is to:-

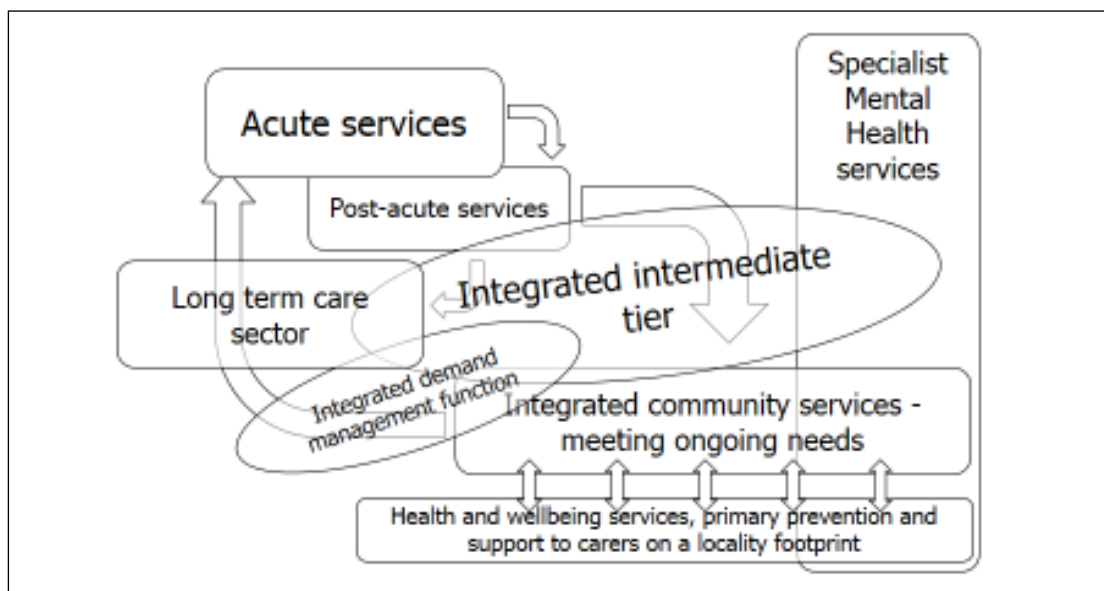
- To achieve the highest quality of seamless care with service users being at the heart of service planning, commissioning and delivery via a single Pooled Fund
- To increase the operational efficiency and economies of scale of the services and ensure sustainability of the rebalanced health and social care services
- To optimise the mix of service provision skills across health and social care and develop more rewarding jobs and careers for staff
- To support greater and more coordinated engagement with the third sector and carers
- To enhance creativity and problem solving within the various multidisciplinary services with quicker decision making
- To support the delivery of the Primary Care and Community Strategy for Wales, Welsh Older person's NSF, Fulfilled Lives Supportive Communities and the Welsh Government's Chronic Condition Model.

6. SERVICE DELIVERY OBJECTIVES

- 6.1 The Pooled Fund will fund a seamless range of services that reflect the needs of the local population, in line with the agreed policies and the services commissioned by the Partners. Within the defined scope it will fund the care for the residents of the Locality who present with health and social care issues by ensuring that the right care is provided at the right time, in the right place and at the optimum cost.
- 6.2 Early assessment will be delivered through an appropriate single process to assess the needs of service users. Where possible, interventions will be provided to people in their home for people who meet the prevailing eligibility criteria. The preference will be for time limited interventions, with publicly-funded longer-term support (outside the scope of these Intermediate Care services) only where absolutely necessary.
- 6.3 Intermediate care services will be planned and delivered according to a single model across providers so that the clinical and social care needs of the service user are met in the most effective way.
- 6.4 The Partners will ensure that the access pathway into specialist services is made easier for Service Users with intermediate care needs including referral pathways to allied services and also those provided by the third sector. Services may include a rapid mobile response to respond to Telecare activations and assist timely discharge from hospital pending a social work assessment.
- 6.5 The new arrangements will allow more effective service planning as the traditional barriers between health and social care definition and funding can be overcome by the Pooled Fund and a single management structure. This

will make the most efficient and effective use of public service and third sector resources together with carers in the community.

- 6.6 The integrated care operational manager shall maintain an awareness and knowledge of the Council and Health Board's policies and procedures so far as they relate to the service and ensure that the service complies.



7. Key service delivery objectives shall include:-

- To reduce unscheduled hospital admissions through enhanced rapid response and more focus on reablement
- To reduce occupancy of hospital beds by residents of the Locality utilised for post-acute recuperation or step up.
- To reduce the number of placements in residential and nursing homes
- To reduce the need for ongoing domiciliary care packages through increased reablement and right-sizing care (regular objective reviews of needs and eligibility)
- To have reduced the hours of support that were provided at commencement of enabling intervention when leaving short term enabling services intervention.

8. SERVICE IMPROVEMENT OBJECTIVES

- 8.1 The Pooled Fund arrangement is being implemented as part of the Western Bay Community Services Project. It will support a range of service improvements as required and funded by the Partners.

- 8.2 The objectives for improvement will include:

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- Enhancement of access and the speed of referral by developing the common access point and improving the subsequent end-to-end pathways
- Embedding the new model of integrated care and ensuring the benefits are delivered as planned to patients, service users and each organisation
- Development of the support processes and improvement of efficiency by reducing duplication, improving business processes and reducing administration effort
- Optimisation of the skills mix across health, social care, third sector and carer provision and development of a cost effective working pattern make best use of the expanded intermediate tier
- Delivery of the intermediate care-related elements of wider business change programmes such as Changing For The Better and the Western Bay Programme
- Workforce development and enhancing job satisfaction and career options by addressing the traditional barriers to inter-disciplinary working and staff progression
- Capture and reporting of better information about service user outcomes, the use of resources and the cost of services for use in continuous improvement
- The development of a 'customer feedback' mechanism that records and acts on service user and carer comments and a 'stakeholder feedback' mechanism to capture ideas from referrers, Health and social care staff and the Third sector
- Development of an audit plan to evidence quality in relation to interventions and record keeping.
- Maximising the impact of the Budget by improving the resourcing processes, developing multi-disciplinary teams, enhancing cross-organisation team working, reducing operational duplication/administration and sharing equipment and facilities.

9. SERVICE PERFORMANCE MEASUREMENT

9.1 A set of measures will be adopted to monitor, report and improve the service. They will be produced monthly to demonstrate the extent to which the Partnership's objectives are being delivered.

9.2 They will include:

- Unscheduled care admissions

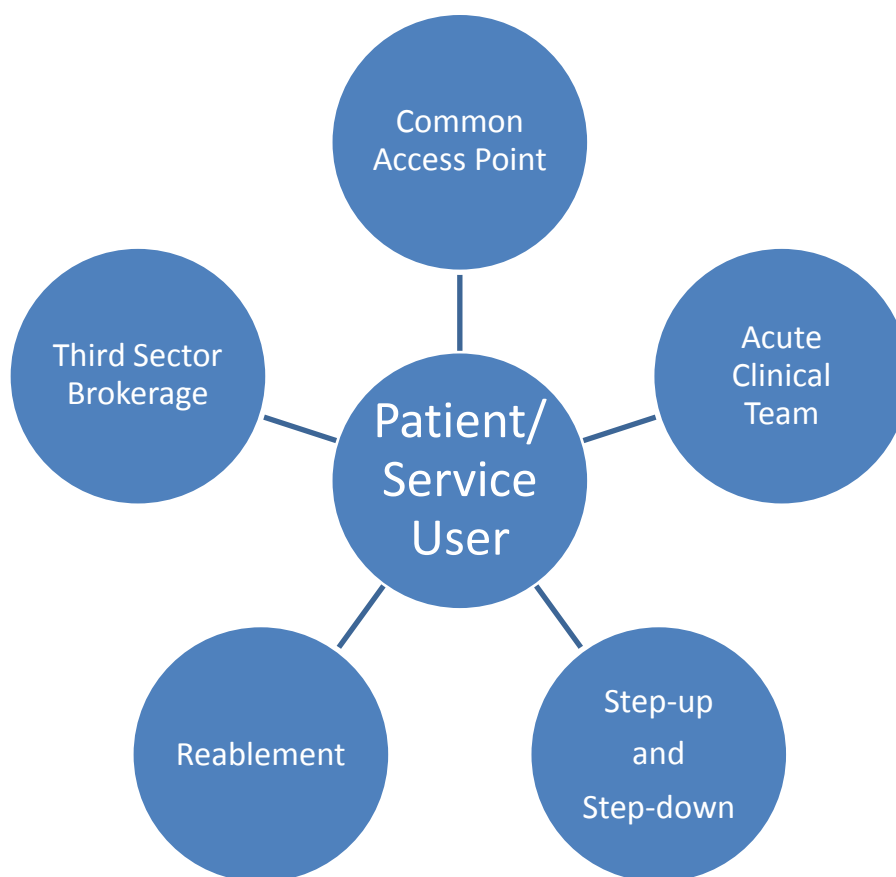
- Post-Acute bed occupancy Care Home admissions
- Support hour's reduction from Reabling service commencement to end of same intervention.

10. SCOPE OF SERVICES

10.1 Functional Description

The scope encompasses a range of intermediate care services, specifically those which deliver improved local performance by allowing more flexible use of intermediate tier resources between Partners including:

- Interventions that provide an alternative to a hospital bed
- Interventions that support timely safe discharge from hospital
- Interventions that reduce or avoid the need for an ongoing domiciliary care package
- Interventions that reduce the need for long term residential care
- Interventions that reduce the need for long term nursing care or continuing health care
- Interventions that optimise independent living or improve carer's ability to manage
- Services and facilities that manage access to the above such as the Common Access Point.



The Pooled Fund will cover the full costs of this provision, as detailed in Schedule 3.

10.2 Service Description

The functions and services included within the scope of the Scheme are to be:

Function	Services included (as at the Commencement Date)
Common Access Point	The Gateway
Rapid Response	Acute Clinical Team
Planned Response	Reablement Service CRT Social Work Team Residential Intermediate Care Beds Medicines Management Team Assistive Technology

11. ELIGIBILITY

11.1 The recipients of the Service are to be:

- adults of 18 years of age or over
- who are normally resident within the Locality whether at home or in a residential setting
- with a clinical or social care issue that threatens their physical health or independence
- who require an Intermediate Care service that is funded by the Health Board or the Council (regardless of who provides it).

11.2 This does not include:

- Acute hospital care
- Funding for long term residential care home placements
- Continuing Health Care, apart from some assessments in the community,
- Mental Health or Learning Disability services, although these patients may also have needs that are within the defined scope of Intermediate Care,
- Palliative care, although some physical care to support District Nursing services may be included, Care provided by the Community Networks, the scope of which varies across Western Bay.

11.3 The Eligibility Criteria Threshold for services will be as per the funding organisations' prevailing policies. Any changes to the Eligibility Criteria threshold may result in changes to the funding requirements and this should be taken into account during the planning.

11.4 Access to services is available from a number of locations and across a number of channels and will develop over time. .

SCHEDULE 2:

**THE HEALTH BOARD'S NHS HEALTH CARE FUNCTIONS AND THE
COUNCIL'S HEALTH RELATED CARE FUNCTIONS**

THE HEALTH BOARD'S NHS HEALTH CARE FUNCTIONS

The LHB's NHS Health Care Functions of providing, or making arrangements for the provision of, Services:-

- (a) (i) under sections 2 and 3(1) of the National Health Service Act 1977, including rehabilitation services and services intended to avoid admission to hospital but excluding surgery, radiotherapy, termination of pregnancies, endoscopy, the use of Class 4 laser treatments and other invasive treatments and emergency ambulance services; and
- (ii) under section 5(1), (1A), and (1B) of, and Schedule 1 to, the National Health Service Act 1977; and
- (b) the Functions under sections 25A to 25H and 117 of the Mental Health Act 1983.

THE COUNCIL'S HEALTH RELATED CARE FUNCTIONS

The Council's Health Related Functions are:-

- (a) the Functions specified in Schedule 1 to the Local Authorities Social Services Act 1970 except for the Functions under:-
 - (i) sections 22, 23(3), 26(2) to (4), 43, 45 and 49 of the National Assistance Act 1948;
 - (ii) sections 6 and 7B of the Local Authorities Social Services Act 1970;
 - (iii) sections 1 and 2 of the Adoption Act 1976;
 - (iv) sections 114 and 115 of the Mental Health Act 1983;
 - (v) The Registered Homes Act 1984; and
 - (vi) Parts VII to X and section 86 of the Children Act 1989; and
- (b) the Functions under sections 5, 7, or 8 of the Disabled Persons (Services and Consultation and Representation) Act 1986 except in so far as they assign Functions to a Local Authority in its capacity of a Local Education Authority.

SCHEDULE 3: RESOURCES:

Finance & Budget Setting

1. Introduction

- 1.1 This Schedule outlines the formula governing budget setting, outturn and balancing payments for Pooled Fund resources.
- 1.2 This Schedule provides details of the budgets, goods and services to be made available by the Partners for a Scheme.

2. Budget

- 2.1 For the Financial Year 2015/2016 the Budget for the Service shall be as set out in Appendix 1 to this Schedule notwithstanding that the Commencement Date is after the start of that Financial Year.
- 2.2 The initial budget planning assumptions of each Partner shall be shared by the Partner's financial leads and the Pooled Funds Manager shall ensure that any matters relating to the Pooled Fund of a particular Scheme that might have a material effect on planned expenditure or income are identified and reported to the JPB which shall be no later than 31 December prior to the commencement of any Financial Year provide the Partners a proposed budget for that Financial Year.
- 2.3 By 31st January before the commencement of the second or any subsequent Financial Year of the Term the Council and the Local Health Board shall advise each other of their anticipated budgeted expenditure in respect of that Financial Year. In the event that the amount of the anticipated budget alters during any formal budget approval process, then the one party shall advise the other party of that change without delay.
- 2.4 By 31st March before the commencement of any Financial Year the Council and the Local Health Board shall advise each other of their agreed budgeted expenditure on the Service for the following Financial Year.
- 2.5 The Budget as approved by the Partners will be presented by the Pooled Fund Manager to the JPB in each Financial Year for the Budget to be received by the JPB.

3. Calculation of Outturn and Balancing Payments

- 3.1 For the purpose of calculating the percentage contribution of the Partners, the outturn of expenditure and any balancing payments which may be required between Partners the provisions of Appendix 2 to this Schedule apply.

- 3.2 If there is any underspend of pooled budgets at the end of the financial year, the split should be based on the original percentage contribution agreed in Appendix 2 to this Schedule.

4. Financial Performance and Risk Sharing Arrangements

- 4.1 The Host Partner for the operation of the Scheme shall appoint a Pooled Funds Manager (and there may be a separate Pooled Funds Manager for each Scheme) with responsibility for the integrated management of the Pooled Fund, subject to the governance arrangements set out in Schedule 4 to this Agreement.
- 4.2 The Budget is to be used solely to achieve the aims and outcomes set out in Schedule 1 to this Agreement and which, with revision to the Schedule 3 for a Scheme and the performance framework as appended at Schedule 4 for a Scheme will comprise the Revised Annual Plan for a Scheme.
- 4.3 Each Partner will provide data to the Pooled Funds Manager by the following 20th of each month to enable the Pooled Fund Manager to submit reports to the JPB and Joint Management Board on a monthly basis on the financial information and spend as referred to as Schedule 3 and the information specified at the Appendix to Schedule 4.
- 4.4 Quarterly reports in summary will be provided to the JPB at its meetings or more frequently if required.
- 4.5 Information is to be reported separately in respect of Pooled Funds for each Scheme. The Partners agree to provide all necessary information to the Pooled Funds Manager in time for the reporting requirements to be met.
- 4.6 The Pooled Funds Manager shall ensure that action is taken to manage any projected under or overspends from the budgets relating to the Fund, reporting on the variances and the actions taken or proposed to the JPB.
- 4.7 If at any time during the Financial Year there is a projected under or overspend on the Fund the Pooled Funds Manager will prepare an action plan for presentation to and agreement of the JPB in order to manage the variance, for the particular scheme as quickly as possible.
- 4.8 The JPB will consider any action plan where required and amend if appropriate or agree additional actions to be taken to manage the variance.
- 4.9 The Pooled Funds Manager will provide monthly progress reports to the JPB on implementation of any action plan, until such time that the under or overspend has been dealt with to the satisfaction of the JPB keeping it informed at all times.

5. Construction of Budget and Basis of Contributions

For the avoidance of doubt, any personal contributions payable by Service Users towards any Council services will continue to be collected by the Council, and not form part of the Pooled Fund.

6. Resources Available and in Support of the Partnership Outside of Pooled Funds

6.1 Each Partner shall provide resources outside of the Pooled Fund, unless otherwise agreed by the JPB, for those activities deemed necessary to enable this Agreement to be discharged. These include, but are not limited to the following services:-

- Personnel
- Contracts and management functions
- Operations functions
- IT functions
- Finance functions
- Property functions

6.2 Where additional work in support of the Service outside of Pooled Funds is at the request of either Partner to the other Partner, a charge can be raised by mutual agreement of the Partners where this constitutes an additional expense for the requesting Partner.

7. Accommodation Arrangements for Services

The Partners shall continue to provide or make available the premises (or suitable alternatives) that they provided or made available for the purposes of the Service before the Commencement Date, with the same level of support services and facilities management.

8. Commissioning and Procurement Arrangements

8.1 The Partners agree that:-

8.1.1 The Financial, Procurement and Contract Procedure Rules of the Council will apply to all procurement activity undertaken by the Council

8.1.2 The Standing Orders and Standing Financial Instructions of the Health Board will apply to all procurement activity undertaken by the LHB.

- 8.1.3 Procurement activity will only be undertaken from the Pooled Fund in accordance with commissioning plans approved by the JPB.

9. Hosting and Administration of the Pooled Fund

- 9.1 The Pooled Fund Manager shall ensure that the Pooled Fund is maintained to national and professional standards and that the payment of suppliers' invoices complies with their payment terms, ensuring that no late payment charges are incurred by the Partners.
- 9.2 The Pooled Fund Manager shall be responsible for ensuring that appropriate financial systems are operational and in place for the Pooled Fund in order to provide the necessary control and production of financial information.

10. Information Requirements

- 10.1 The Pooled Fund Manager shall ensure that all financial and other information required by the Partners in relation to compiling performance statistics, statutory and other returns is made available by any agreed deadlines.
- 10.2 The Pooled Fund Manager shall ensure that all financial and other information required to measure performance against the Services, as set out at Schedule 4, is made available by any agreed deadlines.
- 10.3 The Pooled Fund Manager shall establish arrangements for making available all financial and other information necessary to assist the Partnership.

11. Audit arrangements

- 11.1 The Host Partner's auditors will be the external auditor of the Pooled Fund.
- 11.2 It shall be the responsibility of the Host Partner (if required) to include the Pooled Fund in its end of year accounting processes, produce the required memorandum of account in respect of the Pooled Fund and arrange for its audit in time for its inclusion in all Partners' year end accounts.
- 11.3 Should the annual audit letter contain any direct reference to the Pooled Fund, the Host Partner will send copies of the excerpts of the letter to the other Partners.
- 11.4 The cost of specific external audits required shall be borne by the Pooled Fund.
- 11.5 The appointed Auditor's reports on the Services commissioned and provided from the Pooled Fund shall be presented to the JPB and shall be made available to the Partners' internal auditors.
- 11.6 The Pooled Fund and the implications for the Services arranged from it will be incorporated into the risk assessed Internal Audit Programme of the Partners.
- 11.7 The costs of any required audits of the Service shall be borne by the Pooled Fund.

12. VAT

The VAT regime will operate in accordance with partnership structure (a) as referred to in the joint guidance issued by the Department of Health and HM Customs and Excise.

13. Capital

The Pooled Fund shall not normally be applied towards capital expenditure. If a need arises for the transfer of any agreed capital funds between the Partners then, unless the Partners agree otherwise, the Partners shall use the grant making powers under Section 194 or Section 34 of the Act.

NPT Locality

	LA	Health	Total
<u>Common Access Point</u>			
Gateway Team	308,710	33,804	342,514
<u>Rapid Response</u>			
Acute Clinical Team		662,742	662,742
<u>Planned Response</u>			
Reablement Service	1,496,650	1,281,045	2,777,695
CRT Social Work Team	435,640		435,640
Residential Intermediate Care Beds		193,000	193,000
Medicines Management Team		135,408	135,408
Assistive Technology Team	392,170		392,170
Total	2,633,170	2,305,999	4,939,169
	53.3%	46.7%	

FINANCIAL CONTRIBUTIONS FORMULAE

1. For the purposes of the calculation set out in paragraph 3.3 the Local Authority initial budget expenditure shall be A the Local Health Board initial budget expenditure shall be B

2. **The total budget expenditure shall be represented by C and shall be calculated as follows:-**

$$A + B = C \text{ (total agreed budget expenditure)}$$

3. **The Council percentage of budgeted expenditure shall be represented by D% and shall be calculated as follows:-**

$$\frac{A}{C} \times 100 = D\%$$

4. **The Local Health Board percentage of budgeted expenditure shall be represented as F% and shall be calculated as follows:-**

$$\frac{B}{C} \times 100 = F\%$$

Outturn Expenditure

5. On or before 30th April each Partner shall provide a return to the other indicating its outturn expenditure on the service which shall be represented as follows:-

For the purposes of the calculation in paragraph 3.7:

Council outturn expenditure shall be	G
Local Health Board outturn expenditure shall be	H

6. **The total outturn expenditure shall be calculated as follows:-**

$$G + H = I \text{ (total outturn expenditure)}$$

7. **The Council percentage of outturn expenditure shall be calculated as:-**

$$\frac{G}{I} \times 100 = J\%$$

8. **The Local Health Board outturn expenditure shall be calculated as**

$$\frac{H}{I} \times 100 = K\%$$

9. **Balancing Payments**

10. In relation to the Council if J% differs from D% the balancing figure is calculated as follows:-

$$I \times D \div 100 - G = \text{balancing payment.}$$

11. In respect of the Local Health Board if K% differs from F% the balancing figure is calculated as follows:-

$$I \times F \div 100 - H = \text{balancing payment.}$$

12. Expenditure shall only be counted towards outturn and any balancing payment if that expenditure has been jointly approved specifically for that purpose by the JPB

**SCHEDULE 4: GOVERNANCE:
Approvals, Oversight & Performance**

1. Introduction

- 1.1 The Partners have agreed the governance arrangements set out in this schedule in furtherance of the aims and objectives as described in Clause 3 and Schedule 1 of the Agreement.
- 1.2 It is the intention of the Partners to review the governance arrangements at least annually as a part of the Annual Review process set out below and as at Clause 9 of the Agreement.
- 1.3 Any variation to the Agreement shall be effected through the mechanism of Clause 16 of the Agreement.
- 1.4 The arrangements set out in this schedule shall apply until such time as the Partners agree otherwise.
- 1.5 Any changes to the approved Scheme must be confirmed by the JPB.

2. Joint Partnership Board

- 2.1 The Joint Partnership Board (“JPB”) is collectively responsible for the tracking of progress of the Partnership Scheme, within their aims and objectives within any defined resources and the Western Bay Programme Strategy and Plan.
- 2.2 Schemes or Services may only be added to this Agreement under Clause 32 through the agreement of the Council and the Health Board.
- 2.3 Schemes or Services may be removed from this Agreement under Clause 32 through the agreement of the Council and the Health Board and as to be confirmed at the JPB.
 - 2.3.1 The JPB shall:
 - receive all reports required under this Agreement and agree actions or refer proposals for action back to the Partners for approval as the case may be.
 - review annually the operation of the Scheme which is the responsibility of the JPB for consistency with the Western Bay Programme strategy and plans;
 - consider progress on the Aims and Outcomes at Schedule 1 for the Scheme;

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- review and confirm the Scheme and undertake any risk assessment and agree actions and recommendations arising following the review;
- provide an Annual report to the Western Bay Leadership Group and at such additional frequency as the JPB deems necessary
- consult further and agree actions where appropriate on any plan and progress on priorities as necessary to ensuring suitable consultation and Equality Impact Assessments are undertaken for any major changes to services arising from the Annual Plans for commissioning;

3. JPB Membership

3.1 The membership of the JPB will be as follows:-

i. The Health Board

.....

or a named deputy as required who will have the same rights on-behalf of the respective member for whom they are deputising. All deputies will be notified in writing to the other Partner.

ii. The Council

.....

or a named deputy as required who will have the same rights on-behalf of the respective member for whom they are deputising. All deputies will be notified in writing to the other Partner.

iii. The Pooled Fund Manager for a scheme and for who for the avoidance of doubt will be a non-voting member

3.2 Any change in membership of a Health Board member of the JPB will be notified in writing by the Authorised Officer of the Health Board to the Authorised Officer of the Council

3.3 Any change in membership of a Council member of the JPB will be notified in writing by the Authorised Officer of the Council to the Authorised Officer of the Health Board

3.4 If agreed by the JPB, additional invitees may be requested to attend their meetings; such invitees will attend in a non-voting capacity and will usually include the Partnership Lead Officers for any Scheme.

4. JPB Meetings

- 4.1 The JPB will meet three monthly and at a time and day to be agreed but in the absence of agreement set by the Authorised Officer of the host Partner.
- 4.2 A special JPB can be called at any time by a JPB member or an Authorised Officer where they deem it necessary.
- 4.3 The quorum for meetings of the JPB shall be a minimum of both members not counting the Pooled Funds Manager or other non-voting members listed at 3 above.
- 4.4 Decisions of the JPB shall be made unanimously
- 4.5 Minutes of all decisions shall be kept and copied to the Partners within fourteen (14) days of every meeting.
- 4.6 The JPB will be supported by a Joint Management Board for any agreed Scheme appointed pursuant to paragraph 6 of this Schedule.
- 4.7 The JPB members are authorised within the limits of delegated authority (which is received through their respective organisation's own schemes of delegation):-
 - To confirm the allocation of funding within the overall budget approved by the Health Board and the Council for any particular Scheme including any additional non-recurring contributions
 - To confirm additional non-recurring contributions approved by the Health Board and the Council for any particular Scheme to which they are a party, where anticipated future commitments are likely to exceed the aggregate contributions of the Health Board and the Council to the Pooled Funds confirmed or agreed pursuant to Clause 4 of this Agreement; and;
 - To authorise or enter into any Contract, for any particular Scheme to which they are a party, subject to the Contract Standing Orders of the Council or the Health Board where these are necessary for the achievement of Scheme aims and where such a contract will create a liability for both Partners beyond the end of the Financial Year of the Agreement;
 - To agree changes to the working arrangements of any Scheme provided that any amendments comply with the Agreement;
 - To review and agree annually for any particular, the schedule, plan, objectives, resources and the performance measures;

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- To consider progress on the Aims and Outcomes at Schedule 1 for each Scheme;
- To consult further and agree actions where appropriate on any plan and progress on priorities as necessary to ensuring suitable consultation and Equality Impact Assessments are undertaken for any major changes to services arising from the Partnership Arrangements;
- To agree the appointment of the Partnership Lead and the Pooled Fund Manager within 30 days of commencement of each Financial Year for each Scheme.

5. JPB Agendas

- 5.1 The JPB will follow a two part agenda. The first part will consider any reports from the Pooled Funds Manager.
- 5.2 The second part will consider any other matters of progress from the Joint Management Board

6. Joint Management Board

- 6.1 A Joint Management Board for the Scheme will assist the JPB in its activities through oversight of day to day management of the agreed Scheme.
- 6.2 The Joint Management Board will meet at a least 10 times per annum.
- 6.3 The membership of the Joint Management Board shall be agreed by the JPB upon admittance to the Partnership Arrangements and the JPB shall confirm the name of the officers comprising:
 - The Partnership Lead Officer from the Host Partner for any established Scheme
 - The Pooled Fund Manager from the Host partner for the Scheme
 - Other members comprising
 - One non-host partner officer
 - One Finance officer (Council)
 - One Finance officer (Health Board)

- 6.4 The role of the Joint Management Board will be to receive such information as is necessary and as outlined in the Scheme reporting framework and to assist the Partnership Lead and the Pooled Fund Manager in the review, and development of the draft Annual Plan (the objectives at Schedule 1) and any other actions deemed necessary or helpful to effective arrangements for of the Services from time to time.

7. The Pooled Fund Manager

The Pooled Fund Manager may delegate the day-to-day management of funds and objectives in accordance with the Host Partner Procedure Rules, Financial Regulations and such other applicable Scheme of Delegation.

8. Information Planning and Reports

- 8.1 The Pooled Fund Manager shall supply to the JPB and to the Joint Management Board on a monthly basis the financial and activity information as referred to as Schedule 3 on Resources and as set out at the Appendix to this Schedule 4 as the Financial and Activity Reporting Framework as amended from time to time for a particular Scheme.

- 8.2 The Pooled Fund Manager shall supply three monthly to the JPB meetings a summary report of performance and matters for its attention.

- 8.3 The Partnership Lead and the Pooled Fund Manager will refine the Aims and Outcomes set out in Schedule 1 into targets and performance measures to be agreed by the JPB from time to time and in any event by 30th July each year following a strategic and financial review to be led by the Joint Management Board

- 8.4 Preparation of the Revised Annual Plan for Financial Years after the initial Financial year of the Term will be according to the following process in each Financial Year:

- **October- December:** The Pooled Fund Manager will prepare a draft Revised Annual Plan. This will incorporate any proposed changes and will be in the form of a revised Schedule 1 of Service Aims and Outcomes, a draft Budget and any necessary revision of the Financial and Activity Reporting Framework content for JPB.

The JPB will consider the draft Revised Annual Plan

- **By 31st January:** The Pooled Fund Manager will submit to the JPB the draft Budget and a Final Draft Annual Plan for confirmation of their recommendation to the Partners for the next Financial Year
- **By 1st May:** The Pooled Fund Manager shall report to the JPB on the performance of the Service against any aims objectives or performance

measures which relate to the Service together with the general effect of the Scheme and in particular its effect on Service Users and the financial position of the Partners

10. Post-termination

The JPB shall continue to operate in accordance with this Schedule following any termination of this Agreement under Clause 11 of this Agreement insofar as is necessary to manage the effects of termination as at Clause 12 including any winding up arrangements.

APPENDIX: PERFORMANCE MANAGEMENT

Financial and Performance Reports

Neath Port Talbot Intermediate Care Scheme

	PERFORMANCE AREA	KEY DELIVERABLES	HOW MEASURED	FREQUENCY
1	Finance	Expenditure in line with profiled budget	Budget reports – reviewed at monthly review meetings	Monthly

A quarterly summary will also be submitted to the JPB along with necessary reports including progress on Objectives as set out at Schedule 1 and the following service performance data.

SERVICE ACTIVITY

- Domiciliary Package of Care starts
- Total Care home admissions
- Total >65 unscheduled admissions to hospital
- Post-acute bed occupancy by residents from NPT locality
- Total Rapid response clients
- Total Intake or review reablement clients
- Total Domiciliary or bed based intermediate care

CRT

Common Point of Access (known as Gateway in NPT)

Referrals managed:

- <24 hours
- <48 hours
- <1 week
- >1 week
- Total referrals received

Intake Reablement

- Hospital admissions prevented
- Hospital discharges supported
- Domiciliary POC hours prevented
- Care home admissions avoided

Rapid Response

- Hospital admissions prevented
- Hospital discharges supported
- Domiciliary POC hours prevented
- Care home admissions avoided