

APPENDIX 1

Risk Share Agreement from 2015/16 Section 75

RISK SHARE, OVERSPENDS AND UNDERSPENDS

- 1 To the extent that the pay for performance element of the Better Care fund is not available to the Pooled fund the partners have agreed :

that the CCG will manage this risk within its pooled fund, Pool Y. Performance Fund shortfalls may be deducted from the indicative scheme contributions from Pool Y in the Service Schedule.

- 2 The Partners agree that Overspends shall be apportioned in accordance with this Schedule 3.

Pooled Fund Management

- 3 For the avoidance of doubt, the Partners shall be responsible for expenditure of funds within the Pooled Fund hosted by them without reference, save for the reporting obligations of this Agreement, to the Better Care Fund Programme Board and may vire funds between Individual Schemes within that Pooled Fund, provided the total amount of that Pooled Fund is not exceeded without the prior approval of the Better Care Fund Programme Board.
- 4 It shall be a general principle that the treatment of any Overspend will be determined by the Better Care Fund Programme Board in an equitable manner. If the Better Care Fund Programme Board identifies poor management by a Lead Commissioner as a contributing factor to an Overspend it will give due consideration to that poor performance and the extent of the contribution of it to the overspend when determining the division of the Overspend.

In relation to the division of Overspends, the Better Care Fund Programme Board may:

- determine that the Partners should agree an action plan to reduce expenditure;
- identify underspends that can be vired from any other Fund maintained under this agreement or outside of this agreement and recommend their virement
- ask for more money from the Partners; and
- if no more money is available agree a plan of action, which may include decommissioning all or any part of the Individual Service to which the Overspend relates.

Overspend

- 5 The Better Care Fund Programme Board shall consider what action to take in respect of any actual or potential Overspends.
- 6 The Better Care Fund Programme Board shall, acting reasonably having taken into consideration all relevant factors including, where appropriate the Better Care Fund Plan and any agreed outcomes and any other budgetary constraints, agree appropriate action in relation to Overspends which may include (but is not limited to) the following:
 - 6.1 any action that can be taken in order to contain expenditure;

- 6.2 the viring of any underspends that can be vired from any other fund maintained under this Agreement;
- 6.3 the apportionment of any Overspend between the Partners, such apportionment to be just and equitable taking into consideration all relevant factors.
- 6.3.1 In apportioning any Overspend between the partners the Better Care Fund Programme Board shall consider:
- (a) first, whether it is just and equitable for the Overspend to be borne entirely by the Partner with Lead Commissioning responsibilities in respect of the Individual Scheme;
 - (b) second, whether it is just and equitable for the Overspend to be allocated between the Partners in proportion to their contributions to the Individual Scheme;
 - (c) third, whether some other apportionment of the Overspend is just and equitable.
- 5.3.2. In the absence of agreement of the Better Care Fund Programme Board as to the apportionment of any Overspend between the Partners, the Overspend shall be apportioned between the Partners in accordance with the commissioning responsibilities of each Partner in respect of the relevant Individual Scheme such that responsibility for Overspend (or part or parts thereof) will fall to the Partner or Partners with commissioning responsibility for the Service or Services to which the Overspend relates. For the avoidance of doubt, the Council will manage any Overspend in relation to Pool X and the CCG will manage any Overspend in relation to Pool Y.
- 7 The Partners agree to co-operate fully in order to establish an agreed position in relation to any Overspends.
- 8 Where there is an Overspend in a Non Pooled Fund at the end of the Financial Year or at termination of the Agreement or the Individual Scheme, such Overspend shall be met by the Partner whose financial contributions to the relevant Non Pooled Fund were intended to meet the expenditure to which the Overspend relates save to the extent that such Overspend is the fault of the other Partner.
- 9 Subject to any continuing obligations under any Service Contract entered into by either Partner, either Partner may give notice to terminate a Service or Individual Scheme where the Scheme Specification provides for such termination and where the Service does not form part of the Better Care Fund Plan.

Underspend

- 10 The Better Care Fund Programme Board shall consider what action to take in respect of any actual or potential Underspends.
- 11 The Better Care Fund Programme Board shall, acting reasonably having taken into consideration all relevant factors including, where appropriate the Better Care Fund Plan and any agreed outcomes and any other budgetary constraints, agree appropriate action in relation to Underspends which may include (but is not limited to) the following:
- 11.1 the viring of the Underspends to any other fund maintained under this Agreement;
- 11.2 the carrying forward of the Underspend into the next financial year in respect of the relevant Individual Scheme or its successor scheme or the carrying forward of the Underspend into the next financial year in respect of a different Individual Scheme;

11.3 the apportionment of any Underspend between the Partners, such apportionment to be just and equitable taking into consideration all relevant factors.

11.3.1 In apportioning any Underspend between the partners the Better Care Fund Programme Board shall consider:

- (a) first, whether it is just and equitable for the Underspend to be allocated entirely to the Partner with Lead Commissioning responsibilities in respect of the Individual Scheme;
- (b) second, whether it is just and equitable for the Underspend to be allocated between the Partners in proportion to their contributions to the Individual Scheme;
- (c) third, whether some other apportionment of the Underspend is just and equitable.

11.3.2 In the absence of agreement of the Better Care Fund Programme Board as to the apportionment of any Underspend between the Partners, the Underspend shall be apportioned between the Partners in accordance with the commissioning responsibilities of each Partner in respect of the relevant Individual Scheme such that the benefit of the Underspend (or part or parts thereof) will fall to the Partner or Partners with commissioning responsibility for the Service or Services to which the Underspend relates. For the avoidance of doubt, the Council will manage any Underspend in relation to Pool X and the CCG will manage any Underspend in relation to Pool Y.