

WEST YORKSHIRE MENTAL HEALTH SERVICES COLLABORATIVE

DATE

30 April 2018

- 1. BRADFORD DISTRICT CARE NHS FOUNDATION TRUST**
- 2. LEEDS & YORK PARTNERSHIP NHS FOUNDATION TRUST**
- 3. LEEDS COMMUNITY HEALTHCARE NHS TRUST**
- 4. SOUTH WEST YORKSHIRE PARTNERSHIP NHS FOUNDATION TRUST**

**MEMORANDUM OF UNDERSTANDING
FOR WEST YORKSHIRE MENTAL HEALTH SERVICE COLLABORATIVE (WYMHSC)**

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6	15/03/18	0.6 Incorporating comments from audit committee chairs	Trust Company Secretaries/Governance lead
7	25/04/18	0.7 Incorporating comments from Boards	Trust Company Secretaries/Governance lead

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Date: TBC

This Memorandum of Understanding (**MoU**) is made between:

- (1) **BRADFORD DISTRICT CARE NHS FOUNDATION TRUST** of New Mill, Victoria Road, Saltaire, Bradford, West Yorkshire, BD18 3LD;
- (2) **LEEDS & YORK PARTNERSHIP NHS FOUNDATION TRUST** of 2150 Century Way, Thorpe Park, Leeds, West Yorkshire, LS15 8ZB
- (3) **LEEDS COMMUNITY HEALTHCARE NHS TRUST** of First Floor, Stockdale House, Headingley Office Park, Victoria Road, Leeds, West Yorkshire, LS6 1PF
- (4) **SOUTH WEST YORKSHIRE PARTNERSHIP NHS FOUNDATION TRUST** of Fieldhead, Ouchthorpe Lane, Wakefield, West Yorkshire, WF1 3SP

(each a "**Party**" and together the "**Parties**").

RECITALS

- (A) In entering into and performing their obligations under this MoU, the parties are working towards a collaborative programme including ownership and commitment to collaboration as set out in the West Yorkshire and Harrogate Health and Care Partnership (STP) ("**WYHHCP**").
- (B) The Parties together form the West Yorkshire Mental Health Services Collaborative ("**WYMHSC**") and have agreed to collaborate in delivering region-wide efficient and sustainable acute and specialist mental health services for patients. The Parties have formed Committees in Common ("**WYMHSC C-In-C**") which have the specific remit of overseeing a comprehensive system wide collaborative programme to deliver the objective of a more collaborative model of care for acute and specialist mental health services in West Yorkshire (WY). The intention being to deliver a system model, operating as a network, that is coherent, integrated, consistent (reducing unwanted variation) and focused on quality and value for the population and patients (the "**WYMHSC Collaborative Programme**").
- (C) This MoU is focused on the Parties' agreement to develop the detail in relation to the function and scope of the WYMHSC C-In-C; developing the principles that will underpin collaborative working and the timetable for implementation in order to tackle a number of significant operational, clinical and financial challenges for services in the WYMHSC service area.
- (D) The Parties recognise the different levels of provision of acute and specialist mental health services in portfolios of services and this will be reflected in any agreements the collaborative makes and managed through the Gateway Decision Making Process.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1. In this MoU, capitalised words and expressions shall have the meanings given to them in this MoU.
- 1.2. In this MoU, unless the context requires otherwise, the following rules of construction shall apply.
- 1.3. a reference to a "**Party**" is a reference to the organisations party to this MoU and includes its personal representatives, successors or permitted assigns and a reference to "**Parties**" is a reference to all parties to this MoU;

2. PURPOSE AND EFFECT OF MOU

- 2.1. The Parties have agreed to work together on behalf of patients and the population to deliver the best possible care, experience and outcomes within the available resources for acute and specialist mental health services in WY. The aim is for the Parties to organise themselves around the needs of the population rather than planning at an individual organisational level so as to deliver more integrated, high quality cost effective care for patients as detailed in Schedule 1. The Parties wish to record the basis on which they will collaborate with each other through the WYMHSC in this MoU.
- 2.2. This MoU sets out:
 - 2.2.1. the key objectives for the development of the WYMHSC;
 - 2.2.2. the principles of collaboration;
 - 2.2.3. the governance structures the Parties will put in place; and
 - 2.2.4. the respective roles and responsibilities the Parties will have during the development and delivery of the collaboration model.
- 2.3. In addition to the MoU, the Parties will seek to agree additional documents to manage the relationships for confidentiality, conflicts of interest and sharing of information between themselves in more detail.

3. KEY PRINCIPLES

- 3.1. The Parties shall undertake the development and delivery of the WYMHSC Collaborative Programme in line with the Key Principles as set out in Schedule 1 (the "**Key Principles**").

- 3.2. The Parties acknowledge the current position with regard to the WYMHSC and the contributions, financial and otherwise, already made by the Parties.

4. PRINCIPLES OF COLLABORATION

- 4.1. The Parties agree to adopt the following principles including shared values and behaviours when carrying out the development and delivery of the WYMHS Collaborative Programme (the "**Principles of Collaboration**"):
- 4.1.1. address the vision - in developing WYMHSC the Parties seek to establish a model of collaborative care, to provide high quality, sustainable acute and specialist mental health services for the population, enabled by integrated solutions and delivering best value for the taxpayer and operating a financially sustainable system;
 - 4.1.2. collaborate and co-operate - establish and adhere to the governance structure set out in this MoU to ensure that activities are delivered and actions taken as required to deliver change collectively and in partnership with each other and the wider NHS;
 - 4.1.3. hold each other mutually accountable for delivery and challenge constructively - take on, manage and account to each other, the wider WYHHCP and the WYMHSC service area population for performance of the respective roles and responsibilities set out in this MoU;
 - 4.1.4. be open and transparent and act with honesty and integrity - communicate openly with each other about major concerns, issues or opportunities relating to WYMHSC and comply with the seven Principles of Public Life established by the Nolan Committee (the Nolan Principles) and where appropriate the NHS Foundation Trust Code of Governance (as issued by Monitor and updated in July 2014) including implementing a transparent and explicit approach to the declaration and handling of relevant and material conflicts of interests arising;
 - 4.1.5. adhere to statutory requirements and best practice - comply with applicable laws and standards including procurement rules, competition law, data protection and freedom of information legislation;
 - 4.1.6. act in a timely manner - recognise the time-critical nature of the WYMHS Collaborative Programme development and delivery and respond accordingly to requests for support;
 - 4.1.7. manage stakeholders effectively - ensure communication and engagement both internally and externally is clear, coherent, consistent and credible and in line with the Parties' statutory duties, values and objectives.
 - 4.1.8. deploy appropriate resources - ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this MoU; and
 - 4.1.9. act in good faith - to support achievement of the Key Principles and in compliance with these Principles of Collaboration.

5. GOVERNANCE

- 5.1. The governance structure (summarised below in Schedule 2) of this MoU provides a structure for the development and delivery of the WYMHS Collaborative Programme.

- 5.2. The governance arrangements will be:
- 5.2.1. based on the principle that decisions will be taken by the relevant organisations at the most appropriate level in accordance with each organisation's internal governance arrangements, particularly in respect of delegated authority;
 - 5.2.2. shaped by the Parties in accordance with existing accountability arrangements, whilst recognising that different ways of working will be required to deliver the transformational ambitions of the WYMHS Collaborative Programme. The Parties intend that there should be as far as permissible a single governance structure to help oversee and deliver the WYMHS Collaborative Programme in accordance with the Key Principles; and
 - 5.2.3. underpinned by the following principles:
 - (a) the Parties will remain subject to the NHS Constitution, their provider licence and their own constitutional documents and retain their statutory functions and their existing accountabilities for current services, resources and funding flows; and
 - (b) clear agreements will be in place between the providers to underpin the governance arrangements.

6. ACCOUNTABILITY AND REPORTING LINES

Accountability and reporting should be undertaken at the following levels within WYMHSC:

WYMHSC Committees in Common ("WYMHSC C-In-C")

- 6.1. The WYMHSC C-In-C will receive reports at each meeting from the Programme Executive highlighting but not limited to:
- 6.1.1. progress throughout the period;
 - 6.1.2. decisions required by the WYMHSC C-In-C;
 - 6.1.3. issues and risk being managed;
 - 6.1.4. issues requiring escalation to the WYMHSC C-In-C; and
 - 6.1.5. progress planned for the next period.

Under a standing agenda item, WYMHSC C-In-C will agree the key communications arising from its meetings that should be relayed to the Parties' respective organisations. The minutes, and a summary report from the Programme Director will be circulated promptly to all WYMHSC C-In-C Members as soon as reasonably practical for inclusion on the private agenda of each Parties' Board meeting. The Programme Director will provide a summary for sharing in the public domain.

WYMHSC Programme Executive

- 6.2. The WYMHSC C-In-C will hold each of the Parties' Chief Executives to account for the delivery of their sponsored workstreams within the WYMHS Collaborative Programme via the WYMHSC Programme Executive.

7. ROLES AND RESPONSIBILITIES

The Parties shall undertake the roles and responsibilities set out in this MoU to help develop the WYMHS Collaborative Programme in line with the Key Principles:

WYMHSC Committees in Common

- 7.1. The WYMHSC C-In-C comprises senior members of the Parties and provides overall strategic oversight and direction to the development of the WYMHS Collaborative Programme. It is chaired by existing Chairs of the Parties, on a rotational basis, as underpinned by principles of continuity and equity collectively agreed by members, for a minimum duration of 12 months.
- 7.2. The WYMHSC C-In-C shall be managed in accordance with the governance arrangements in section 5 and the Terms of Reference in Schedule 5.

WYMHSC Executive Group

- 7.3. The WYMHSC Executive Group will provide assurance to the WYMHSC C-In-C that the key deliverables are being met and that the development of the WYMHS Collaborative Programme is within the boundaries set by the WYMHSC C-In-C. It will provide management at programme and workstream level.

8. DECISION MAKING

- 8.1. The Parties intend that WYMHSC C-In-C individual Members will each operate under a model scheme of delegation whereby each WYMHSC C-In-C individual Members shall have delegated authority to make decisions on behalf of their organisation relating to:
 - matters falling under the scope of the WYMHSC C-In-C and agreed collaborative programme underpinned by a 'case for change' set out in Schedule 2;
 - the devolving of the Key Principles set out in Schedule 1; and,
 - in accordance with the WYMHSC Gateway Decision Making Framework set out in Schedule 4 on behalf of their respective organisations.

Each party will reflect in its individual Scheme of Delegation the authority delegated to its representatives on the WYMHSC C-In-C.

- 8.2. The Parties intend that WYMHSC C-In-C Members shall report to and consult with their own respective organisations at Board level, providing governance assurance that is compliant with their regulatory and audit requirements, for organisational decisions relating to, and in support of the WYMHSC Key Principles and facilitating these functions in a timely manner.

9. ESCALATION

- 9.1. If any Party has any issues, concerns or complaints regarding the WYMHS Collaborative Programme, or any matter in this MoU, such Party shall notify the other Parties and the Parties acknowledge and confirm that they shall then seek to resolve the issue by a process of discussion.
- 9.2. Subject as otherwise specifically provided for in this MoU, any dispute arising between the Parties out of or in connection with this MoU will be resolved in accordance with Schedule 3 (Dispute Resolution Procedure).
- 9.3. If any Party receives any formal or media enquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier or requests for information made under the Freedom of Information Act 2000) in relation to the development of the WYMHSC, the matter shall be promptly referred to the WYMHSC Programme Director in the interests of consistency, however recognising the request remains the responsibility of the receiving organisation.

10. CONFLICTS OF INTEREST

- 10.1. The Parties agree that they will:
 - 10.1.1. disclose to each other the full particulars of any relevant or material conflict of interest which arises or may arise in connection with this MoU, the development of the collaboration model or the performance of activities under the WYMHS Collaborative Programme, immediately upon becoming aware of the conflict of interest whether that conflict concerns the Parties or any person employed or retained by the Parties for or in connection with the development and delivery of the WYMHS Collaborative Programme; and
 - 10.1.2. not allow themselves to be placed in a position of conflict of interest or duty in regard to any of their rights or obligations under this MoU (without the prior consent of the other Parties) before participating in any action in respect of that matter.
 - 10.1.3. Comply with the terms of any agreed conflict of interest protocol as set out in paragraph 2.5 above.

11. FUTURE INVOLVEMENT AND ADDITION OF PARTIES

The Parties are the initial participating organisations in the development of the WYMHS Collaborative Programme but it is intended that other providers to the WYMHSC service area population may also come to be partners (including for example independent sector and third sector providers). Partner organisations may where appropriate be invited to meetings of the WYMHSC C-In-C as observers or through an additional stakeholders forum. If appropriate to achieve the key deliverables, the Parties may also agree to include additional party or parties to this MoU. If they agree on such a course the Parties will cooperate to enter into the necessary documentation.

12. COMPETITION AND PROCUREMENT COMPLIANCE

The Parties recognise that it is currently the duty of the commissioners, rather than the Parties as providers, to decide what services to procure and how best to secure them in the interests of patients. In addition, the Parties are aware of their competition compliance obligations, both under competition law and, in particular under the NHS Improvement/Monitor Provider Licence for providers, and shall take all necessary steps to ensure that they do not breach any of their current or future obligations in this regard. Further, the Parties understand that in certain circumstances collaboration or joint working could trigger the merger rules and as such be notifiable to the Competition and Markets Authority and NHS Improvement/Monitor and will keep this position under review accordingly.

The parties agree not to disclose or use any confidential information which is to be disclosed under the arrangements in a way which would constitute a breach of competition law.

13. REVIEW

13.1. A formal review meeting of the WYMHSC C-In-C shall take place 12 months after the date of implementation of this MoU (1st April 2018) or sooner if deemed as required by the Parties.

13.2. The WYMHSC C-In-C shall discuss and agree as a minimum:

13.2.1. the principles of collaboration;

13.2.2. the governance arrangements as set out in Section 5;

13.2.3. the scope of the WYMHS Collaborative Programme and individual workstreams;

13.2.4. the progress against the key deliverables; and

13.2.5. key decisions required in support of Schedule 4.

14. TERM AND TERMINATION

14.1. This MoU shall commence on 1st April 2018 (having been executed by all the Parties)

14.2. This MoU may be terminated in whole by:

14.2.1. mutual agreement in writing by all of the parties

14.2.2. in accordance with paragraph 15.2; or

14.2.3. in accordance with paragraph 1.5 of Schedule 3.

14.3. Any Party may withdraw from this MoU giving at least six calendar months' notice in writing to the other Parties, or the length of the remainder of any existing contract, whichever is longer. The MoU will remain in force between the remaining parties (unless otherwise agreed in writing between all the remaining parties) and the remaining Parties will agree such amendments required to the MoU in accordance with section 16.

14.4. In the event a Party is put into administration, special measures and/or is otherwise not able to perform its role under the WYMHS Collaborative Programme and this MoU, the remaining Parties shall be entitled to consider and enforce, on a case by case basis, a resolution of the WYMHSC C-In-C for the removal of the relevant Party from the MoU on a majority basis provided that:

14.4.1. reasonable notice shall have been given of the proposed resolution; and

14.4.2. the affected Party is first given the opportunity to address the WYMHSC C-In-C meeting at which the resolution is proposed if it wishes to do so.

14.5. This MoU shall be terminated in accordance with the provision at paragraph 14.2.

15. CHANGE OF LAW

15.1. The Parties shall take all steps necessary to ensure that their obligations under this MoU are delivered in accordance with applicable law. If, as a result of change in applicable law, the Parties are prevented from performing their obligations under this MoU but would be able to proceed if a variation were made to the MoU, then the Parties shall consider this in accordance with the variation provision at section 16.

15.2. In the event that that the Parties are prevented from performing their obligations under this MoU as a result of a change in applicable law and this cannot be remedied by a variation or a variation is not agreed by all Parties, then the Parties shall agree to terminate this MoU on immediate effect of the change in applicable law.

16. VARIATION

This MoU may only be varied by written agreement of the Parties signed by, or on behalf of, each of the Parties.

17. CHARGES AND LIABILITIES

17.1. Except as otherwise provided, the Parties shall each bear their own costs and expenses incurred in complying with their obligations under this MoU, including in respect of any losses or liabilities incurred due to their own or their employee's actions.

17.2. No Party intends that any other Party shall be liable for any loss it suffers as a result of this MoU.

18. NO PARTNERSHIP

Nothing in this MoU is intended to, or shall be deemed to, establish any formal or legal partnership or joint venture between the Parties, constitute any Party as the agent of another Party, nor authorise any of the Parties to make or enter into any commitments for or on behalf of the other Parties.

19. COUNTERPARTS

- 19.1. This MoU may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this MoU, but all the counterparts shall together constitute the same agreement.
- 19.2. The expression "**counterpart**" shall include any executed copy of this MoU transmitted by fax or scanned into printable PDF, JPEG, or other agreed digital format and transmitted as an e mail attachment.
- 19.3. No counterpart shall be effective until each Party has executed at least one counterpart.

We have signed this Memorandum of Understanding on the date written at the head of this memorandum.

SIGNED by)
Duly authorised to sign for and on) Authorised Signatory
behalf of) Title:
BRADFORD DISTRICT CARE)
NHS FOUNDATION TRUST) DATE: 30 April 2018

SIGNED by)
Duly authorised to sign for and on) Authorised Signatory
behalf of) Title:
LEEDS & YORK PARTNERSHIP)
NHS FOUNDATION TRUST) DATE: 30 April 2018

SIGNED by)
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behalf of) Title:
LEEDS COMMUNITY HEALTHCARE)
NHS TRUST) DATE: 30 April 2018

SIGNED by)
Duly authorised to sign for and on) Authorised Signatory
behalf of) Title:
SOUTH WEST YORKSHIRE PARTNERSHIP)
NHS FOUNDATION TRUST) DATE: 30 April 2018

SCHEDULE 1

THE KEY PRINCIPLES

1. The continued challenge of ensuring the quality and financial sustainability of mental health services requires a more collaborative approach between providers ensuring that the best possible care can be delivered to people in WY making best use of the collective resources.
2. Through the WYMHS Collaborative Programme, the Parties Key Principles are to achieve sustainable, safe, high quality and cost effective acute and specialist mental health services across WY, based on clear integrated and standardised operating models, networks and alternative service delivery models where risk and benefits will be collectively managed. This will be achieved through addressing the following:
 - 2.1. Achieving the clinical and financial stability across the WYMHS service areas.
 - 2.2. Enhancing partnership working through collaboration between providers, leading to interdependency, care delivered by stream or pathway rather than by individual organisations and by collective provider responsibility.
 - 2.3. The approach to collaboration:
 - The Parties will work on the greatest challenges together to ensure high quality, sustainable mental health services now and in the future.
 - Reduce variation in quality by building on best practice and developing standard operating procedures and pathways to achieve better outcomes for people in WY.
 - Take a collaborative approach to the delivery of acute/specialist mental health services via clinical pathways and networked services (rather than individual place/provider led developments).
 - Developing 'centres of excellence' for the more specialist mental health services e.g. forensic services, Child and Adolescent Mental Health Services (CAMHS) Tier 4, adult eating disorders,
 - Delivering economies of scale in mental health service support functions
 - Build constructive relationships with communities, groups, organisations and the third sector to ensure there are lines of communication and ways of engaging on issues which have an impact on people's health and wellbeing
 - Ensure there is appropriate public engagement on those matters which need to be communicated more widely.

SCHEDULE 2

WYMHS COLLABORATIVE PROGRAMME APPROACH AND KEY STAGES

1. Purpose of the Collaborative Programme

The purpose of the collaborative programme is to reduce variation and deliver sustainable acute and specialist mental health services to a standardised model which is efficient and of high quality. In developing this programme the Parties will be designing services over a wider NHS footprint (the WYMHSC service area), thinking of different models of care and making collective efficiencies where the potential exists.

2. The WYMHS Collaborative Programme Approach

The Key Principles and five key steps to developing the WYMHS Collaborative Programme approach are set out in Schedule 1.

3. WYMHS Collaborative Programme Priorities

The WYMHS Collaborative Programme priorities are expected to be generated as a result of the following internal and external drivers;

- WYMHS clinical and operational sustainability priorities.
- WYMHS analysis of variation.
- West Yorkshire & Harrogate Health and Care Partnership (formerly STP).
- Regulatory requirements.

The structure of the programme will reflect these priorities as shown in the workstreams below (as at 1st April 2018):

Urgent & Emergency Care and Liaison: <ul style="list-style-type: none">• Mental health liaison• 24/7 crisis services	<ul style="list-style-type: none">• 40% reduction in unnecessary A&E attendance• 50% reduction of Section 136 Place of Safety• 24/7 crisis services
Suicide Prevention	<ul style="list-style-type: none">• A zero suicide approach to prevention (10% overall reduction in suicides by 2020/21 and 75% reduction in targeted services by 2022)
Care Closer to Home (Out of Area Placements): <ul style="list-style-type: none">• Adult acute• Psychiatric Intensive Care Unit (PICU)• Locked rehab and learning disabilities	<ul style="list-style-type: none">• Elimination of out of area placements for non specialist acute care within 12 months• Shared bed management function
Specialist Services: <ul style="list-style-type: none">• Child and Adolescent Mental Health services (CAMHS) tier 4• Low / medium secure forensic - Adult eating disorders	<ul style="list-style-type: none">• Elimination of out of area placement for children and young people• Development of new care models
Autism Spectrum Disorder (ASD) / Attention Deficit Hyperactivity Disorder (ADHD)	<ul style="list-style-type: none">• Reduction in waiting times for autism assessment

4. Key Workstream Stages

4.1 Workstream priorities will be developed in line with key stages based on a robust case for change (risk and benefit evaluation of workstream potential based on current service models) and best practice business case approaches for designing future operating models, developing and evaluating options.

4.2 The table below illustrates the sequence of stages of the workstream development process, this will be a scalable process and proportionate to the workstream:

Stage	Outputs	Key Requirements
1. Case for change (Proposal)	Detailed description of current services Gap/challenges relating to safety, resilience, quality, sustainability (Data analysis) Scope for improvement Evaluation framework Risk sharing approach	Clinical leadership and involvement External Experts and Clinical Senate involvement
2. Design the Future Operating Model	Standardise operating procedures Workforce models Capacity modelling Best Practice benchmarks for future performance Scale of improvement which can be achieved	
3. Develop Options	New Models of Care Organisational change Operational networks Alternative provider arrangements and service delivery models Commissioner requirements and consultation	
4. Evaluation & selection of the preferred option	Clinical (Quality) Financial/Legal/Regulatory Workforce Performance Quality impact assessments Equality impact assessments	
5. Implementation planning	Timescales Resources Evaluation and review delivery of benefits Management of risks and issues	

- 4.3 The WYMHSC Executive will be responsible for the execution and delivery of the programme governance and ensuring that a common approach is applied to all applicable workstreams (some workstreams may not require this approach) and that the workstream pipeline is managed within defined timescales.
- 4.4 Each workstream will have a WYMHSC Director (identified by the WYMHSC Collaborative Executive) and Senior Lead Clinical sponsor. The inputs at each stage will include:
- Clear articulated case for change i.e. use of data, standards etc.
 - Identification and use of organisational change/service improvement models
 - Targeted clinical/staff engagement and empowerment in order to lead the design and change e.g. facilitated workshops
 - Transparent options appraisal process
 - Quality impact assessments
 - Equality impact assessments
 - Use of external scrutiny
 - Appropriate commissioner engagement
 - Appropriate public/patient engagement
 - Governor engagement
- 4.5 The WYMHSC Executive and WYMHSC C-In-C will make decisions on the prioritisation and progressing of workstreams to the next stage as shown in the Decision Making Schedule and gateways (as set out in Schedule 4).

5. Risk and Gain Sharing Principles

- 5.1. Some WYMHSC projects developed under the workstreams will have the potential to disproportionately benefit participating WYMHSC organisations at the expense of others. The potential impact of the implementation of a project through a workstream will be established and set out within the 'Case for Change' stage (Gateway 1) and the 'risk gain share' model between the respective WYMHSC members affected by the project developed in preparation for selection of the preferred option at Gateway 3. The model will be tailored to each project and will be designed on the following principles reflecting that organisations are working for the delivery of better care and a more sustainable system for patients in the WYMHSC service area:
- 5.1.1. The costs of delivering the project will be met by all Parties in the proportions agreed and submitted within the submission for Gateway 3 so that the WYMHSC C-In-C can be clear when selecting the preferred option where the costs will be met from and how any losses may be reimbursed;

5.1.2. The allocation of net benefits from a project will be agreed based on one or a combination of these methods, the detail of which will be developed and agreed at Gateway 3 of decision making process :

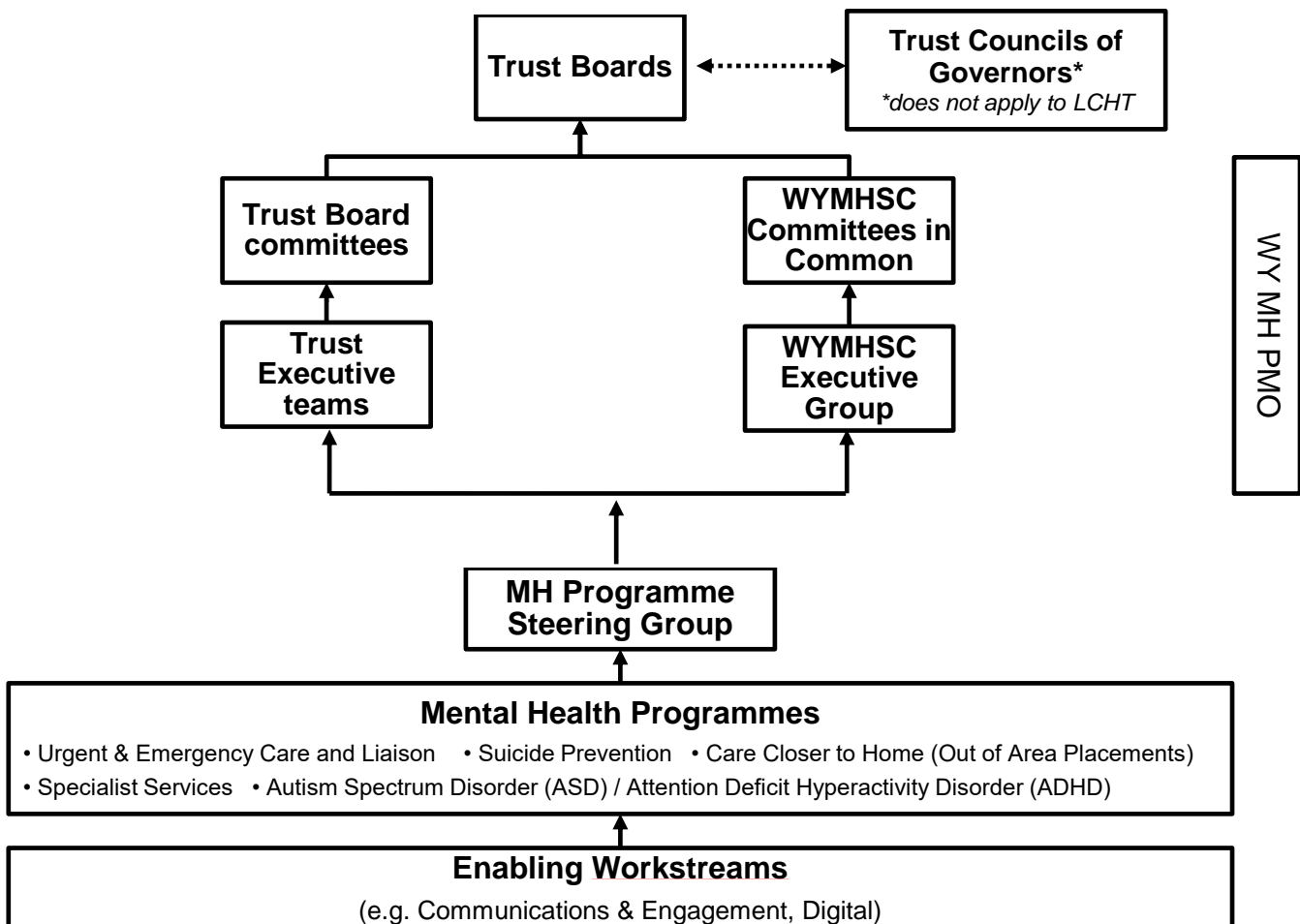
- equal gain share;
- proportional gain share; and/or
- successful contribution to the initiative.

5.1.3. The allocation of net benefits will be agreed between the relevant Parties based on the benefit and risk profile using these methods; and

5.1.4. The same principles will apply to the sharing of risks and costs in the event that a project does not deliver the anticipated net benefit.

6. High Level Programme Structure

The high level programme structure, linked to the West Yorkshire and Harrogate Health and Care Partnership (previously STP), is shown below:



SCHEDULE 3

DISPUTE RESOLUTION PROCEDURE

1. Avoiding and Solving Disputes

- 1.1 The Parties commit to working co-operatively to identify and resolve issues to their mutual satisfaction so as to avoid all forms of dispute or conflict in performing their obligations under this MoU.
- 1.2 The Parties believe that:
 - 1.2.1 by focusing on the agreed Key Principles underpinned by the five step approach as set out in the MoU and in Schedule 1;
 - 1.2.2 being collectively responsible for all risks; and
 - 1.2.3 fairly sharing risk and rewards in relation to the services in scope in the WYMHS Collaborative Programme.

they reinforce their commitment to avoiding disputes and conflicts arising out of or in connection with this MoU.

- 1.3 A Party shall promptly notify the other Parties of any dispute or claim or any potential dispute or claim in relation to this MoU or its operation (each a "**Dispute**") when it arises.
- 1.4 In the first instance the WYMHSC Programme Executive shall seek to resolve any Dispute to the mutual satisfaction of each of the Parties. If the Dispute cannot be resolved by the WYMHSC Programme Executive within 10 Business Days (a **Business Day** being a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business) of the Dispute being referred to it, the Dispute shall be referred to the WYMHSC C-In-C for resolution.
- 1.5 The WYMHSC C-In-C shall deal proactively with any Dispute on a "Best for Meeting the Key Principles" basis in accordance with this MoU so as to seek to reach a majority decision. If the WYMHSC C-In-C reaches a decision that resolves, or otherwise concludes a Dispute, it will advise the Parties of its decision by written notice. The Parties recognise that any dispute or operation of this procedure will be without prejudice to and will not affect the statutory duties of each Party. This MoU is not intended to be legally binding save as provided in paragraph 2.4 of the MoU and, given the status of this MoU (as set out in Section 2), if a Party disagrees with a decision of the WYMHSC C-In-C or the independent facilitator, they may withdraw from the MoU at any point in accordance with section 14 of the MoU.

- 1.6 If a Party does not agree with the decision of the WYMHSC C-In-C reached in accordance with the above, it shall inform the WYMHSC C-In-C within 10 Business Days and request that the WYMHSC C-In-C refer the Dispute to an independent facilitator in agreement with all Parties and in accordance with paragraph 1.7 of this Schedule.
- 1.7 The Parties agree that the WYMHSC C-In-C, on a “Best for Meeting the Key Principles” basis, may determine whatever action it believes is necessary including the following:
- 1.7.1 If the WYMHSC C-In-C cannot resolve a Dispute, it may request that an independent facilitator assist with resolving the Dispute; and
- 1.7.2 If the independent facilitator cannot facilitate the resolution of the Dispute, the Dispute must be considered afresh in accordance with this Schedule and in the event that after such further consideration again fails to resolve the Dispute, the WYMHSC C-In-C may decide to:
- (i) terminate the MoU; or
 - (ii) agree that the Dispute need not be resolved.

SCHEDULE 4

WYMHSC CIC DECISION MAKING

1. The Memorandum of Understanding (MoU) and Terms of Reference (TOR) for the WYMHSC Committee in Common (WYMHSC C-In-C) takes into consideration existing accountability arrangements of participating Trusts and decisions (where these apply to the services in scope in the collaborative) being made under a scheme of delegation.
2. Whilst it is recognised that some decisions taken at the WYMHSC C-In-C may not be of obvious benefit to all Parties, it is anticipated that the WYMHSC C-In-C will look to act on the basis of the best interests of the wider population investing in a sustainable system of healthcare across the WYMHSC service area in accordance with the Key Principles when making decisions at WYMHSC C-In-C meetings.
3. There are expected to be two categories of decision making:
 - **All parties will need to participate in the initiative** for reasons of interdependency, safety or financial viability. These decisions will be made on the basis of all the affected organisations reaching an agreed decision in common.
 - **Organisations will need to confirm their own commitment and involvement at key stages (Gateways)** in order to ensure the Business Case assumptions (benefits) and risks are robust, only trusts directly affected by the Case for Change (eligible constituency under paragraph 5 of this Schedule) will be able to make decisions (the Gateways) and once an organisation has committed to participate at a specific Gateway they cannot withdraw.
4. The WYMHSC 'Gateway' decision making mechanism should be used (where appropriate) to achieve agreements that will be binding across relevant members. The mechanism will follow a staged approach and unless new material comes to light, once progression has been made through the respective stages, progress will remain at the relevant stage that has been reached and will not 'fall back'. On agreement of progression through stages, members will commit to the next steps in developing the proposal.
5. All proposals brought before the WYMHSC C-In-C will require a detailed case for change. At this stage the WYMHSC C-In-C will determine if the proposal warrants further development and consideration and is appropriate to pass to the next stage of development. This stage will also consider which Parties would be directly or indirectly affected and eligible/required to vote (to be known as the eligible constituency).

6. The table below illustrates the 'Gateway Decision Making' Process:

Stage	Gateway	Outcome
Case for change (Proposal)	Gateway 1 Requires support of a simple majority	No fall back unless material new information All organisations participate in design phase
Develop Options	Gateway 2 Seek unanimous support by all parties eligible to make decisions	Options and Evaluation Framework agreed
Evaluation and selection of the preferred option	Gateway 3 Seek unanimous support by all parties eligible to make decisions	Application of agreed framework Identification of agreed option
Recommendation to Committee in Common	Gateway 4 Seek unanimous support by all parties eligible to make decisions	Proceed with formal agreements/contracts as required and implement plan

7. If a Party does not support a proposal then it will not be bound to act in accordance with that proposal as the Parties remain independent statutory bodies under the WYMHS Collaborative Programme.

8. Bilateral and Tripartite Agreements between Individual Trusts

8.1. The WYMHSC Gateway Decision Making Framework does not preclude any Party from developing bilateral or tripartite agreements with other trusts in WYMHS outside the Collaborative Programme. It is expected that there will be transparency in developing such agreements and the option for other WYMHS trusts to join an initiative and that the associated benefits and risks are appropriately considered in terms of the impact on other providers and the WYMHS Collaborative Programme.

8.2. Recognising that being part of the WYMHSC C-In-C does not preclude Parties alliances or existing relationships with other organisations.

- 8.3. Parties may wish to invite other organisations to be party to initiatives agreed by the WYMHSC C-In-C.

9. Forum for engaging with the wider system

- 9.1. The WYMHSC C-In-C could also be used as a forum to provide responses to queries and recommendations from the commissioners or the wider system (for example following a request from the WYHHCP) on specific issues.

SCHEDULE 5

WYMHSC Committees in Common -TERMS OF REFERENCE

THESE TERMS OF REFERENCE FORM PART OF THE WYMHSC MEMORANDUM OF UNDERSTANDING DEFINITIONS AND TERMINOLOGY ALIGN TO THE MEMORANDUM OF UNDERSTANDING

1. Scope

1.1. The WYMHSC C-In-C will be responsible for leading the development of the WYMHS Collaborative Programme and the workstreams in accordance with the Key Principles, setting overall strategic direction in order to deliver the WYMHS Collaborative Programme.

2. Standing

2.1. Members shall only exercise functions and powers of a Party to the extent that they are actually permitted to ordinarily exercise such functions and powers under that Party's internal governance.

3. General Responsibilities of the WYMHSC C-In-C

3.1. The general responsibilities of the WYMHSC C-In-C are:

- (a) providing overall strategic oversight and direction to the development of the WYMHS Collaborative Programme;
- (b) ensuring alignment of all Parties to the vision and strategy;
- (c) formally recommending the final form of the collaborative programme, including determining roles and responsibilities within the workstreams;
- (d) reviewing the key deliverables and ensuring adherence with the required timescales;
- (e) receiving assurance that workstreams have been subject to robust quality impact assessments
- (f) reviewing the risks associated with the performance of any of the Parties in terms of the impact to the WYMHS Collaborative Programme-recommending remedial and mitigating actions across the system;
- (g) receiving assurance that risks associated with the WYMHS Collaborative Programme are being identified, managed and mitigated;
- (h) promoting and encouraging commitment to the Key Principles;
- (i) formulating, agreeing and implementing strategies for delivery of the WYMHS Collaborative Programme;
- (j) seeking to determine or resolve any matter referred to it by the WYMHSC Programme Executive or any individual Party and any dispute in accordance with the MoU;

- (k) approving the appointment, removal or replacement of key programme personnel;
- (l) reviewing and approving the Terms of Reference of the WYMHSC Programme Executive;
- (m) agreeing the Programme Budget and financial contribution and use of resources in accordance with the Risk and Gain Sharing Principles;

4. Members of the WYMHSC C-In-C

- 4.1. Each Party will appoint their Chair and Chief Executive as WYMHSC C-In-C Members and the Parties will at all times maintain a WYMHSC C-In-C Member on the WYMHSC C-In-C.
- 4.2. Each WYMHSC C-In-C member will nominate a deputy to attend on their behalf. The Nominated Deputy will be a voting board member of the respective Party. The Nominated Deputy will be entitled to attend and be counted in the quorum at which the WYMHSC C-In-C Member is not personally present and do all the things which the appointing WYMHSC C-In-C Member is entitled to do.
- 4.3. Each Party will be considered to be one entity within the collaborative.
- 4.4. The Parties will all ensure that, except for urgent or unavoidable reasons, their respective WYMHSC C-In-C Member (or their Nominated Deputy) attend and fully participate in the meetings of the WYMHSC C-In-C.

5. Proceedings of WYMHSC C-In-C

- 5.1. The WYMHSC C-In-C will meet quarterly, or more frequently as required.
- 5.2. The WYMHSC C-In-C shall meet in private where appropriate in order to facilitate discussion and decision making on matters deemed commercially sensitive and by virtue of the confidential nature of the business to be transacted across the WYMHSC members. It is agreed by the Parties that the necessary checks and balances on openness, transparency and candour continue to exist and apply by virtue of the Parties each acting within existing accountability arrangements of the Parties' respective organisations and the reporting arrangements of the WYMHSC C-In-C into the Parties' Trust Boards.
- 5.3. The Parties will select one of the Parties' Chairs to act as the Chair of the WYMHSC C-In-C meetings on a rotational basis for a period of twelve months. There shall also be a Deputy Chair nominated. The Deputy Chair will be the succeeding chair of the C-In-C at the end of the incumbent Chair's term.
- 5.4. The WYMHSC CIC may regulate its proceedings as they see fit save as set out in these Terms of Reference.
- 5.5. No decision will be taken at any meeting unless a quorum is present. A quorum will not be present unless every Party has at least one WYMHSC C-In-C Member present.

- 5.6. Members of all Parties will be required to declare any interests at the beginning of each meeting.
- 5.7. A meeting of the WYMHSC C-In-C may consist of a conference between the WYMHSC C-In-C Members who are not all in one place, but each of whom is able directly or by telephonic or video communication to speak to each of the others, and to be heard by each of the others simultaneously.
- 5.8. Each WYMHSC C-In-C Member will have an equal say in discussions and will look to agree recommendations in line with the Principles of the WYMHSC Collaborative Programme.
- 5.9. The WYMHSC C-In-C will review the meeting effectiveness at the end of each meeting.

6. Decision making within the WYMHSC C-In-C

- 6.1. Each WYMHSC C-In-C Member will comply with the existing accountability arrangements of their respective appointing organisation and will make decisions which are permitted under their organisation's Scheme of Delegation.
- 6.2. Recognising that some decisions may not be of obvious benefit to or impact directly upon all Parties, WYMHSC C-In-C Members shall seek to pay due regard to the best interests of the wider population in investing in a sustainable system of healthcare across the WYMHSC service area in accordance with the Key Principles when making decisions at WYMHSC C-In-C meetings.
- 6.3. In respect of matters which require decisions where all Parties are affected the Parties will seek to make such decisions on the basis of all WYMHSC C-In-C Members reaching an agreed consensus decision in common in accordance with the Key Principles.
- 6.4. In respect of the matters which require decisions where only some of the Parties are affected, then the Parties shall reference the WYMHSC Gateway Decision Mechanism at Schedule 4 of the Memorandum of Understanding.

7. Attendance of third parties at WYMHSC C-In-C meetings

- 7.1. The WYMHSC C-In-C shall be entitled to invite any person to attend but not take part in making decisions at meetings of the WYMHSC C-In-C.

8. Administration for the WYMHSC C-In-C

- 8.1. Meeting administration for the WYMHSC C-In-C will be provided by the WYMHSC Programme Office, maintaining the register of interests and the minutes of the meetings of the WYMHSC C-In-C.
- 8.2. The Company Secretary/Governance lead of the incumbent Chair will have responsibility for providing governance advice and finalising agendas and

minutes with the Chair.

- 8.3. The agenda for the meeting will be agreed by the WYMHSC C-In-C Chair. Papers for each meeting will be sent from the Programme Office to WYMHSC C-In-C Members no later than five working days prior to each meeting. By exception, and only with the agreement of the Chair, amendments to papers may be tabled before the meeting.
- 8.4. The minutes, and a summary report from the Programme Director will be circulated promptly to all WYMHSC C-In-C Members as soon as reasonably practical for inclusion on the private agenda of each Parties' Board meeting. The Chair of the meeting will be responsible for approval of the first draft set of minutes for circulation to members. The Programme Director will provide a summary for sharing in the public domain.

9. Review

- 9.1. The WYMHSC C-In-C will review these Terms of Reference at least annually for approval by the Parties.