

**MEMORANDUM OF AGREEMENT**

**RELATING TO**

**WELSH HEALTH SPECIALISED SERVICES COMMITTEE**

**(WALES) DIRECTIONS 2009**

## MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT is made the **13 July 2021**  
BETWEEN

- (1) ANEURIN BEVAN UNIVERSITY LOCAL HEALTH BOARD, having headquarters at St Cadoc's Hospital, Lodge Road, Caerleon, Newport, NP18 3XQ
- (2) BETSI CADWALADR UNIVERSITY LOCAL HEALTH BOARD, having headquarters at Ysbyty Gwynedd, Penrhosgarnedd, Bangor, Gwynedd, LL57 2PW
- (3) CARDIFF AND VALE UNIVERSITY LOCAL HEALTH BOARD, having headquarters at 2nd Floor, Woodland House, Maes-y-coed Road, Cardiff CF14 4HH,
- (4) CWM TAF MORGANNWG UNIVERSITY LOCAL HEALTH BOARD, having headquarters at Ynysmeurig House, Navigation Park, Abercynon, Rhondda Cynon Taff, CF45 4SN.
- (5) HYWEL DDA UNIVERSITY LOCAL HEALTH BOARD, having headquarters at Ystwyth Building, St David's Park Carmarthen, SA31 3BB.
- (6) POWYS TEACHING LOCAL HEALTH BOARD, having headquarters at Mansion House, Bronllys, Brecon, Powys, LD3 0LS
- (7) SWANSEA BAY UNIVERSITY LOCAL HEALTH BOARD, having headquarters at 1 Talbot Gateway, Baglan Energy Park, Baglan, Port Talbot, SA12 7BR

### WHEREAS:

- A. In accordance with the Welsh Health Specialised Services Committee (Wales) Directions 2009 (2009 No.35), the LHBs are required to establish a Joint Committee for the purpose of jointly exercising its Delegated Functions and providing the Relevant Services from 1 April 2010.
- B. The Welsh Health Specialised Services Committee (Wales) Regulations 2009 (SI 2009 No 3097) make provision for the constitution of the Joint Committee including its procedures and administrative arrangements.
- C. Cwm Taf Morgannwg University Local Health Board (CTMUHB) has been identified as Host LHB to provide administrative support for the running of the Joint Committee and to establish the Welsh Health Specialised Services Team as per Direction 3(4) and Regulation 3(1)(d) and the interpretation

sections of both the Directions and the Regulations and the Joint Committee Standing Orders: Statutory Framework and Joint Committee Framework.

- D. The Joint Committee has been established in accordance with the Directions and Regulations to enable the seven LHBs in NHS Wales to make collective decisions on the review, planning, procurement and performance monitoring of agreed specialised and tertiary services (Relevant Services) and in accordance with their defined Delegated Functions. The Joint Committee therefore comprises, and is established by, all the LHBs.
- E. The LHBs have been given the financial responsibility for all of the specialised and tertiary health needs for their respective populations. Refer to Standing Order 1.1.
- F. The Directions and Regulations require that the Chief Executives of each of the 7 LHBs listed as Parties to this Agreement be members of the Joint Committee. This Agreement defines the governance arrangements for the Joint Committee and the agreed roles and responsibilities of the Chief Executives of the constituent LHBs as individual members of the Joint Committee. This is in accordance with their objective to make collective decisions as to the provision of national services as described above and in the interests of NHS Wales and the health needs of their individual populations. Refer to Standing Orders: Statutory Framework, NHS Framework and Joint Committee Framework (for governance arrangements); and to Standing Orders 1.2 and 1.3 (for membership, responsibilities and accountability).

## 1. INTERPRETATIONS

'the Act'	the National Health Service (Wales) Act 2006 (C.42)
'Associate Members'	the Chief Executives of Public Health Wales NHS Trust, Velindre University NHS Trust, Welsh Ambulance Services NHS Trust. Refer to Regulation 3(3) and Standing Order 1.2.6
'the Directions'	the Welsh Health Specialised Services Committee (Wales) Directions 2009 (2009/35)
'Chair'	the person appointed by the Minister to lead the Welsh Health Specialised Services Committee and to ensure it successfully discharges its overall responsibility on behalf of the LHBs. Refer to Regulation 4(1) and Standing Orders 1.3.4 to 1.3.6.
'Chief Executives'	the Chief Executives of the constituent LHBs
'Committee Secretary'	the person appointed by the Welsh Health Specialised Services Committee as its principal advisor on all aspects of governance. Refer to Standing Orders: The Role of the Committee Secretary.
'Role of the Joint Committee'	the role ascribed to the Joint Committee ascribed to the Joint Committee in section 4 of this Agreement. Refer to Standing Order 1.1.
'Dispute Process'	the arbitration process agreed with WG.
'WHSST Directors'	the Officer Members of the Joint Committee as defined in Regulation 3(2) of the Regulations.
'Host LHB'	Cwm Taf Morgannwg University Local Health Board
'Joint Committee'	the Welsh Health Specialised Services Committee established in accordance with the Directions and Regulations
'LHB'	Local Health Board established in accordance with s 11(2) of the Act
'Management Group'	the purpose of the Management Group is to be the Specialised Services Commissioning operational body

responsible for the implementation of the Specialised Services Strategy. It will underpin the commissioning of Specialised Services to ensure equitable access to safe, effective, sustainable and acceptable services for the people of Wales. The Membership of the Group is determined locally but as a minimum consists of LHB planning/commissioning representation and/or Finance representation.

- 'Management Team' the team appointed in accordance with paragraph 10.2 of the Agreement, comprising of the Lead Director, Medical Director, Finance Director and Nurse Director of Specialised and Tertiary Services. Refer to Regulations 3(2) and Standing Order 1.2.4.
- 'NHS Wales' the comprehensive health service for Wales established by the NHS (Wales) Act 2006 (C.42)
- 'Provider LHB' a LHB which provides specialised and tertiary services to the Joint Committee
- 'the Regulations' the Welsh Health Specialised Services Committee (Wales) Regulations 2009 (2009/3097 (W.270))
- 'Relevant Services' the planning and securing of specialised and tertiary services consisting of those functions and services listed in Annex (i) of the Welsh Health Specialised Services Committee (Wales) Directors 2009, and incorporated as Annex (i) in this Agreement, subject to any variations to those functions agreed from time to time by the Joint Committee.
- 'WG' Welsh Government as announced by the First Minister of Wales on 12 May 2011
- 'WHSST' the Welsh Health Specialised Services Team consisting of staff employed by the Host LB to provide the Relevant Services, including WHSST Directors.

## **2. CORPORATE IDENTITY**

- 2.1 The corporate identity for the Joint Committee will be in accordance with the Corporate Identity Guidelines issued by Welsh Government to LHBs. The Joint Committee will be referred to as the 'Welsh Health Specialised Services Committee' on stationery and signage.

## **3. PRINCIPLES**

- 3.1 The Joint Committee is a statutory committee established under sections 12 (1)(b) and (3), 13(2)(c), (3)(c) and (4)(c) and 203(9) and (10) of the Act. The LHBs are required to jointly exercise the Relevant Services. Refer to Standing Orders: Statutory Framework
- 3.2 The principle of subsidiarity will apply so that the Joint Committee will agree annually a List of Specialist Services which has approved by the Joint Committee as part of the Annual Planning process. The Joint Committee will be only responsible for the provision of those services which are identified in the List of Specialist Services. Any other service not identified in the List of Specialist Services will be the responsibility of each LHB to provide locally. Nothing in this paragraph shall prevent any LHB from exercising its discretion as to how to provide these services, either individually, or in conjunction with other LHBs or other bodies. Refer to Standing Order 1.1.2
- 3.3 Each LHB is accountable, through its statutory responsibilities, to use its resources to plan, fund, design, develop and secure the delivery of primary, community, in-hospital care services and specialised services for their population. For a number of national services, this can only be achieved by working collaboratively with all LHBs. The Joint Committee is established on this basis of a shared, national approach to the joint planning of specialised and tertiary services on behalf of each LHB, ultimately accountability to citizens and other stakeholders for the provision of specialised and tertiary services for residents within their area remains with individual LHBs. Refer to Standing Order 1.1.2.
- 3.4 In performing its role, the Joint Committee and each individual Chief Executive shall work in the wider interest of NHS Wales. In so doing, they shall work with all of the Joint Committee's appropriate partners and stakeholders in the best interests of NHS Wales. In so doing, the Joint Committee will take account of the following key principles:
- 3.4.1 Collaboration should be designed to deliver changes in services and demonstrable population benefit;

- 3.4.2 Collaboration should ensure a more extensive and consistent use of evidence supported by a robust analysis of need;
- 3.4.3 Collaboration must not diminish clinical engagement;
- 3.4.4 Collaboration should support LHBs in working together more effectively, in an open and transparent way, for the benefit of the local population;
- 3.4.5 Collaboration must enhance resource utilisation in the planning process to reduce duplication and overlap;
- 3.4.6 Collaboration should focus upon articulating need, reviewing evidence of good practice, designing models of care and producing clear service specification;
- 3.4.7 Collaboration should promote equity in service delivery.

Refer to Standing Orders 1.1 and 1.4

### 3.5 Each LHB acknowledges the following principles:

- 3.5.1 the Management Team will be held to account by the Joint Committee for the delivery of a strategy for the provision of specialised and tertiary services for Wales as well as providing assurance that the systems of control in place are robust and reliable.
- 3.5.2 that any decision taken and approved by the Joint Committee in respect of the provision of the Relevant Services is binding on the constituent LHBs and may not be undermined by any subsequent decision or action taken by a constituent LHB. Refer to Standing Order 1.1.5
- 3.5.3 that each individual LHB is responsible for the people who are resident in their area. This means that the Joint Committee of which each Chief Executive is a member is acting on behalf of the 7 LHBs in undertaking its role. Refer to Standing Order 1.1.2.
- 3.5.4 that their respective Chief Executives have an individual responsibility to contribute to the performance of the role of the Joint Committee and to share in the decision making in the interests of the wider population of NHS Wales. At the same time, they acknowledge their own Chief Executive's individual accountability to their constituent LHB and their obligation to

act transparently in the performance of their functions. Refer to Standing Orders 1.1.2 and 1.1.4.

3.5.5 that each Chief Executive as a member of the Joint Committee will require the Management Team of the Joint Committee to ensure that, in the timetabling of the annual work programme, sufficient time will normally be allowed to enable each Chief Executive to consult with their own LHB and appropriate local partners and stakeholders.

3.5.6 that when an individual Chief Executive is unable to attend a meeting of the Joint Committee, he/she will appoint in advance and identify to the Committee Secretary a deputy to attend on their behalf. The nominated deputy should be an Executive Director of the same organisation. Nominated deputies will formally contribute to the quorum and will have delegated voting rights. Refer to Standing Order 6.6.10 and 6.6.11

3.6 Each Chief Executive will agree to advise the Chair of any circumstances where it is considered that there may be a conflict of interest between the performance of the national planning functions of the Joint Committee and the effect of any such decision on the scope of the services which the constituent LHB provides. Refer to Standing Order 7: Values and Standards of Behaviour

3.6.1 where the Chair considers that the conflict is not clear he will consult with the remainder of the Committee and reach a collective view.

3.6.2 where the Chair decides that there is a clear conflict of interest the Chief Executive will be required to abstain from the discussion.

3.7 The Joint Committee will strive to make decisions by consensus, failing which it will make decisions based on a two thirds majority view held by the voting Joint Committee members present. In the event of a split decision, i.e., no two thirds majority view being expressed, the Joint Committee Chair shall have a second and casting vote.

#### **4. ROLE OF THE JOINT COMMITTEE**

4.1 The role of the Joint Committee as determined by the Welsh Ministers are (refer to Standing Order 1.1.4):

- Determine a long-term strategic plan for the development of specialised and tertiary services in Wales, in conjunction with the

Welsh Ministers;

- Identify and evaluate existing, new and emerging treatments and services and advise on the designation of such services;
- Develop national policies for the equitable access to safe and sustainable, high quality specialised and tertiary healthcare services across Wales, whether planned, funded and secured at national, regional or local level;
- Agree annually those services that should be planned on a national basis and those that should be planned locally;
- Produce an Integrated Commissioning Plan, for agreement by the Committee following the publication of the individual LHB's Integrated Medium Term Plans;
- Agree the appropriate level of funding for the provision of specialised and tertiary services at a national level, and determining the contribution from each LHB for those services (which will include the running costs of the Joint Committee and the WHSST) in accordance with any specific directions set by the Welsh Ministers;
- Establish mechanisms for managing the in year risks associated with the agreed service portfolio and new pressures that may arise;
- Secure the provision of specialised and tertiary services planned at a national level, including those to be delivered by providers outside Wales; and
- Establish mechanisms to monitor, evaluate and publish the outcomes of specialised and tertiary healthcare services and take appropriate action.

## **5. ANNUAL WORK PROGRAMME AND PLANNING**

5.1 The Joint Committee and its Management Team will adhere to the standards of good governance set for the NHS in Wales and which are based on Welsh Government's Citizen Centred Governance Principles. Refer to Standing Order: NHS Framework.

5.2 The Joint Committee will:

5.2.1 report to the individual LHBs on its activities. It is formally accountable to the individual LHBs in respect of its role carried

out on their behalf. Refer to Standing Order 9: Demonstrating Accountability.

5.2.2 lead and scrutinise the operations, functions and decision making of the Management Team. It will require the Management Team to report to it on its activities and it will hold the Management Team to account on behalf of the seven LHBs. Refer to Standing Order 1.1.6.

5.3 The Joint Committee will therefore require:

5.3.1 the Management Team to co-operate with them as members of the Joint Committee in securing agreed processes so that patients in Wales may have the equal opportunity to access new advances in treatment but in a way which ensures that services which no longer require collaborative planning are stepped down at the appropriate time to the individual LHBs as local providers.

5.3.2 the Management Team to prepare for their approval a Plan of Business for the year. They will also require the Management Team to agree with the Joint Committee an appropriate way of working. This will include submitting to the Joint Committee for discussion and agreement (following an appropriate internal and external consultation process) a Priorities Programme, an annual List of Specialised Services to be planned nationally and identifying the services to be stepped down for local provision, national Planning Policies and a Schedule of other appropriate policies for development and review on an annual basis.

5.3.3 in developing any new or amended policy the Management Team will prepare a suggested process which will be subject to an approved corporate standard for agreement by the Joint Committee.

5.3.4 the Management Team will undertake on an annual basis a mapping exercise of the Healthcare Standards which apply to the Joint Committee. An annual return will be submitted to the LHBs for inclusion in their annual return to Welsh Government.

5.3.5 a Quality and Patient Safety Sub Committee will be established to provide evidence based and timely advice to the Joint Committee to assist it in discharging its functions and meeting its responsibilities with regard to the quality and safety of healthcare. The Quality and Patient Safety Sub Committee will also provide assurance to the Joint Committee in relation to the

arrangements for safeguarding and improving the quality and safety of specialised healthcare services within the remit of the Joint Committee. The Quality and Patient Safety Sub-Committee will operate in accordance with the Terms of Reference annexed to the Standing Orders. Refer to Standing Order 4.0.3

- 5.3.6 the production of an Annual Report (to be prepared by the Committee Secretary) each year. Refer to Standing Order 9.0.2.
- 5.3.8 the Director of Finance for the Joint Committee to agree with the relevant Provider LHBs information requirements and reporting timescales to enable the Joint Committee to discharge its duties on behalf of each LHBs
- 5.3.9 the Management Team to act in accordance with the Welsh Language Scheme of the Host LHB in preparing papers on behalf of the Joint Committee. Refer to Standing Order 6.1.1.
- 5.3.10 the Lead Director to lead the consultation process on behalf of each LHB where the Joint Committee supports proposals which result in a major change in service provision.

## **6. ROLE OF CHAIR**

- 6.1 The LHBs acknowledge that the Regulations require that the Chair be appointed by the Minister for Health and Social Services as an independent appointment and in accordance with the Nolan Principles. It is further acknowledged that the Chair is accountable to the Minister for Health and Social Services and is required by the Minister to act in accordance with the terms of his/her Accountability Agreement. Refer to Standing Orders 1.2.1 and 1.3.6.
- 6.2 The Chair will:
  - 6.2.1 be accountable to the individual LHBs in relation to the delivery of the role of the Joint Committee exercised by the Committee on their behalf.
  - 6.2.2 be required to secure consensus where possible in the making of collective decisions in the wider interests of NHS Wales and in accordance with the individual obligations of the Chief Executives and the non-officer members.

- 6.2.3 the Chair will work in close collaboration with the Chairs of LHBs to ensure that the strategic development of Specialised and Tertiary Services meets the needs of NHS Wales.
- 6.2.4 the Chair will attend the All Wales Chairs Meeting at least twice a year.

## **7. APPOINTMENT AND ROLE OF NON-OFFICER MEMBERS**

- 7.1 Each non-officer member (including the Vice-Chair) appointed to the Committee in accordance with the Regulations is individually accountable to the Chair. Refer to Standing Orders 1.3.8 and 1.3.9.
- 7.2 The Chair will seek nominations from the Chair of each individual LHB for the appointment of a non-officer member. The Chair will determine and agree with the Chairs of the LHBs the appropriate process for the selection of the non-officer member but in so doing must take account of the following requirements: Refer to Standing Orders 1.4. 2 and 1.4.3
  - 7.2.1 A balanced knowledge and understanding amongst the membership of the needs of all geographical areas served which will include consideration as to whether the constituent LHB is regarded as a major provider of services to the Joint Committee;
  - 7.2.2 wherever possible, the overall membership of the Joint Committee reflects the diversity of the population.
- 7.3 The audit lead non-officer member role will be recruited through a fair and open recruitment process. To enable the WHSSC Independent Member Remuneration appointment arrangements to be consistent with the other two HB IM roles, with an emphasis on the skills required to participate in the Audit 7 Risk Committee (ARC). The audit lead IM will be required to attend the CTMUHB part 2 ARC meetings which WHSSC attends to discharge its audit and accountability requirements”

Each non-officer member will be required to acknowledge their individual responsibility to contribute to the performance of the Delegated Functions of the Joint Committee and to share in the decision making in the interests of the wider NHS Wales.

- 7.4 The Chair and non-officer members will participate fully in the Performance Review Process as set down by the Welsh Government. Refer to the appropriate Accountability Agreements.

## **8. STATUS AND ROLE OF ASSOCIATE MEMBERS**

- 8.1 The LHBs acknowledge that the Associate Members will attend the Joint Committee meetings on an ex-officio basis but in accordance with the directions will not have the right to vote in any meetings or proceedings of the Joint Committee. Refer to Standing Order 1.2.6.
- 8.2 Associate Members will be entitled to engage and participate in the discussions. It will be the responsibility of the Chair to secure that they may seek to influence and/or challenge the decision making by their participation during the course of the debate.

## **9. ROLE OF MANAGING DIRECTOR OF SPECIALISED AND TERTIARY SERVICES COMMISSIONING (LEAD DIRECTOR)**

- 9.1 The Lead Director will:
  - 9.1.1 be the head of the Management Team and will report to the Chair. In so doing the Director will be accountable to the Joint Committee in relation to its role delegated to the Management Team by the Joint Committee. Refer to Standing Order 1.3.10
  - 9.1.2 be accountable to the Chief Executive of the Host LHB in respect of the administrative arrangements supporting the operation of the team. Refer to Standing Order 1.3.10
- 9.2 The Lead Director is responsible for ensuring that the Joint Committee enters into suitable Health Care Agreements and Contracts with service providers for health care services. The Lead Director will need to ensure that regular reports are provided to the Joint Committee detailing performance and associated financial implications of all health care agreements. Refer to Standing Order 3: Reservations and Delegations of Joint Committee Delegated Functions.

## **10. MANAGEMENT ARRANGEMENTS**

- 10.1 In accordance with the Standing Orders, the Joint Committee may delegate certain functions to the WHSST Directors. Refer to Standing Order 3: Reservations and Delegations of Joint Committee Delegated Functions.
- 10.2 The Joint Committee will determine the nature and extent of any functions which it is appropriate to delegate to a Sub Committee and to the WHSST Directors.
- 10.3 The Joint Committee's approach to delegation will be set out in the Standing Orders, Standing Financial Instructions and Scheme of Reservations and Delegation.

- 10.4 The delegation of any function will be subject to regular review by the Joint Committee to ensure that the distribution of functions is accurately and appropriately described and continues to remain appropriate to respond to the requirements of the Joint Committee.
- 10.5 The LHBs acknowledge that the WHSST Directors will constitute the Management Team.
- 10.6 Any Chief Executive or other member of the Joint Committee who wishes to attend a Management Team meeting will agree their attendance with the Lead Director in advance.
- 10.7 The individual WHSST Directors are employed by the Host LHB but in exercising the performance of their functions they are individually accountable to the Joint Committee. Refer to Standing Orders 1.3.10 and 1.3.11.
- 10.8 The Management Group reports directly to the Joint Committee and membership includes the WHSST Directors and representation from the LHBs. The Membership of the Group is determined locally but as a minimum consists of LHB planning/commissioning representation and/or Finance representation. The purpose of the Management Group is to be the Specialised Services Commissioning operational body responsible for the implementation of the Specialised Services Strategy. It will underpin the commissioning of Specialised Services to ensure equitable access to safe, effective, sustainable and acceptable services for the people of Wales.

## **11. ROLE OF COMMITTEE SECRETARY**

- 11.1 The LHBs acknowledge that the role of the Committee Secretary is crucial to the ongoing development and maintenance of a strong governance framework within the Joint Committee, and is a key source of advice and support to the Chair and Joint Committee members. Independent of the Joint Committee, the Committee Secretary will be required to act as the guardian of good governance within the Joint Committee by: Refer to Standing Orders: The role of the Committee Secretary
  - 11.1.1 providing advice to the Joint Committee as a whole and to individual Committee members on all aspects of governance;
  - 11.1.2 facilitating the effective conduct of Joint Committee business through meetings of the Joint Committee, its sub-committees and Advisory Groups and producing an Annual Plan of Committee Business;
  - 11.1.3 ensuring that Joint Committee members have the right

information to enable them to make informed decisions and fulfil their responsibilities in accordance with the provisions of these Standing Orders;

- 11.1.4 ensuring that in all its dealings, the Joint Committee acts fairly, with integrity, and without prejudice or discrimination;
- 11.1.5 contributing to the development of an organisational culture that embodies NHS values and standards of behaviour; and
- 11.1.6 monitoring the Joint Committee's compliance with the law, Joint Committee Standing Orders and the framework set by the LHB and Welsh Government.

11.2 It is agreed that the Committee Secretary is directly accountable for the conduct of his/her role to the Chair of the Joint Committee. The Committee Secretary will also be accountable to the Board Secretaries of the LHBs to ensure that robust governance arrangements are in place for the Joint Committee.

## **12. RELATIONSHIP WITH HOST**

12.1 The responsibilities of the Host LHB are:

- 12.1.1 to appoint and employ such officers as may be required to support the commissioning of the Relevant Services and provide all necessary corporate services and management support, to include human resources, estates, procurement, banking and accountancy services, as may be required, including the making of payments to providers of the Relevant Services;
- 12.1.2 to provide advice to the Joint Committee on compliance with CTMUHB's policies, Standing Financial Instructions, Procurement Rules, Human Resource policies and other procedures;
- 12.1.3 to be the legal entity which enters into agreed tenders, procurement contracts, service level agreements and terms of engagement commissioned by the Joint Committee, and to ensure that the individuals appointed and employed to support the functions of the Joint Committee carry out those tasks which are stated in this Agreement to be the role of the Joint Committee;
- 12.1.4 to hold the management budget for the Joint Committee/Relevant Services and make payments and receive income as necessary;

- 12.1.5 to be authorised to appoint lawyers and other professional advisors (in consultation with the Host LHB's Procurement Services team), and to agree the terms and conditions of their engagement and give them instructions from time to time on behalf of the Joint Committee.
- 12.1.6 All banking arrangements are the responsibility of the host LHB.
- 12.2 The Host LHB will not be responsible or accountable for the planning, funding and securing of the Relevant Services save in respect of the residents within the area of the Host LHB. Refer to Standing Order 2.0.2
- 12.3 The Joint Committee will require the Host LHB to enter into a separate Hosting Agreement, annexed to this Agreement as Annex (ii) to record the agreed accounting arrangements and resulting responsibilities. Refer to Standing Orders: Joint Committee Framework.

### **13. ACCOUNTABILITY AND AUDIT & RISK COMMITTEE**

- 13.1 Audit & Risk Committee arrangements will be the responsibility of the Host LHB.
- 13.2 The WHSSC Director of Finance and the WHSSC Committee Secretary will attend all Audit & Risk Committee meetings held by the Host LHB.
- 13.3 The Audit Lead will provide reports to the Joint Committee following the Host LHB Audit & Risk Committee meetings.

### **14. PROCUREMENT**

- 14.1 Each LHB will ensure that appropriate internal arrangements are made to delegate their respective functions to the Joint Committee for the procurement of the Relevant Services. The Joint Committee (acting through the Host LHB) will establish collaborative commissioning and managerial arrangements to negotiate, agree and manage all aspects of service level agreements/contracts for the Relevant Services on such terms and for such purposes as may be agreed by the Joint Committee.
- 14.2 Agreed tenders, procurement contracts, service level agreements and terms of engagement will be entered into and signed by the Host LHB on behalf of the Joint Committee in accordance with the Host LHB's procurement policy and Standing Financial Instructions.

## **15. FINANCIAL PRINCIPLES**

- 15.1 The following represent the key financial principles to be adhered to by the LHBs:
- 15.1.1 to achieve financial neutrality and stability, where possible, for LHBs;
  - 15.1.2 to adopt a fair and practical approach to the challenges of establishing the Joint Committee and to the functioning of the Joint Committee;
  - 15.1.3 to ensure that funds are to be blocked back to the Joint Committee;
  - 15.1.4 to ensure that the status quo with England is maintained until further review;
  - 15.1.6 to ensure that a risk sharing methodology will be reviewed and agreed annually.

## **16. BUDGET AND FUNDING**

- 16.1 In accordance with the Joint Committee's Standing Orders, the Joint Committee must agree the total budget to plan and secure the Relevant Services delegated to it. The Joint Committee must also agree the appropriate contribution of funding required from each LHB. Refer to Standing Order 1.1.4
- 16.2 Each year the Joint Committee will prepare an annual plan which shall outline the funding requirements in relation to the Relevant Services and be analysed by each constituent LHB as providers and purchasers. Refer to Standing Order 1.1.4
- 16.3 Each LHB will be required to make available to the Joint Committee the level of funds outlined in the annual plan and calculated in accordance with paragraph 16.1. The funds shall be drawn down in cash on a monthly basis from each of the LHB's as proposed by the Director of Finance for the Joint Committee.
- 16.4 On a monthly basis, the Director of Finance for the Joint Committee shall prepare a report to the Joint Committee which outlines the performance of the Joint Committee, highlighting any variances from the original annual plan, in total, and also broken down to each LHB commissioner level.

- 16.4.1 in cases where the performance report highlights an adverse variance to the annual plan or where the report anticipates future unfunded cost pressures, the Joint Committee will be required to put in place contingency measures to ensure that a break-even position is maintained.
- 16.4.2 in cases where the performance report highlights a favourable variance to the annual plan, the Joint Committee shall be required to return the funding to each LHB in accordance with the risk sharing agreement.
- 16.5 The Joint Committee will comply with all Welsh Government financial monitoring arrangements. The Director of Finance of the Joint Committee is responsible for ensuring that a financial monitoring return is submitted to WG in the prescribed format and to the required deadlines.
- 16.6 Each LHB shall be bound by the decisions of the Joint Committee in the exercise of its delegated functions. Any disputes over the level of funding proposed by Joint Committee shall be referred to the Welsh Government for resolution by the Welsh Minsters.

## **17. GIFTS AND HOSPITALITY**

- 17.1 Each member of the Joint Committee is required to declare any gifts and hospitality in accordance with the Joint Committee Standing Orders to the Committee Secretary in relationship to their membership of the Joint Committee. The Committee Secretary will maintain a register of such declarations. Refer to Standing Orders: Values and Standards of Behaviour.

## **18. DISPUTES AND ARBITRATION**

- 18.1 In accordance with the principles set out at paragraph 3 of this Agreement, the LHBs will seek to work cooperatively with each other as constituent members of the Joint Committee, with the Joint Committee as a whole, and with the Management Team. Where there is an impasse which cannot be resolved by means of conciliation between appropriate individuals, then as a last resort the Chair will be requested to invoke the Dispute Process which is set out in the Business Framework (Annex (iii)).

## **19. CONCERNS**

### **19.1 Concerns about treatment funded through the Joint Committee arrangements**

Concerns notified about care and treatment will be dealt with by the organisation providing the treatment. Concerns will be considered under The National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011. Provider organisations must, as part of the contractual agreement, advise the LHB in which the patient lives that a complaint has been made and the LHB will ensure that this is reviewed in conjunction with the Quality and Patient Safety Sub Committee.

### **19.2 About individual patient funding decisions**

These concerns will be handled by the LHB in which the patient lives, in accordance with the All Wales Individual Patient Funding Request Policy agreed by the Welsh Government.

### **19.3 About any function of the Joint Committee, its staff or its performance**

Concerns notified about the function of the WHSS Team (for these purposes including Joint Committee members and WHSS staff), if not resolved internally, will be dealt with by the Host LHB on behalf of all LHBs in Wales.

19.4 An Operational Agreement will be developed between the LHBs which sets out clearly operationally how concerns will be dealt with.

### **19.5 Financial or other Redress**

When qualifying liability in tort has been determined, following an investigation of a concern, each constituent LHB is responsible for managing and funding the redress payment arising from their resident populations.

## **20. INDEPENDENT PATIENT REVIEWS**

20.1 Where a matter is considered to be a review of funding decisions it will be dealt with in accordance with the Review Process set out in All Wales Policy for Making Decisions on Individual Patient Funding Requests (IPFR).

## **21. COMMUNICATION**

- 21.1 The Committee Secretary and the Board Secretaries of the respective LHBs will develop a Communication Strategy to ensure robust communication methods are in place to support the operation of the Joint Committee.
- 21.2 Each LHB will ensure that they utilise appropriate mechanisms to facilitate active debate amongst stakeholders, professionals and communities served to ensure appropriate independent representation and participation on the planning of the Relevant Services.
- 21.3 Each LHB is responsible for responding to individual enquires concerning their individual geographical population. Where it is an issue relating to a decision made by the Joint Committee, for example, as to the planning of a service, then the Committee Secretary will be responsible for co-ordinating the response in consultation with the Board Secretaries for the respective LHBs.
- 21.4 Each Member of the Management Team is required to work in collaboration with their colleagues in the LHBs to ensure the planning of the Relevant Services.
- 21.5 Where a request under the Freedom of Information Act is received by the Joint Committee, the request will be dealt with in accordance with the Host LHB's Freedom of Information Act procedure. Where the request is considered to be an issue relating to a specific LHB and it relates to recorded information which is held by that LHB, then the request will be forwarded to the respective LHB to respond in accordance with the Freedom of Information Act Code of Practice.

## **22. INTERFACE WITH CLINICAL NETWORKS**

- 22.1 The arrangements with the Clinical Networks are set out at Annex (iv).

## **23. MENTAL HEALTH RESPONSIBILITIES**

- 23.1 It will be the responsibility of the Lead Director to prepare a report for each meeting of the Joint Committee (where appropriate) on the conduct by the Management Team of the Committee's responsibilities to mental health patients who are detained under the Mental Health Legislation including any requirement by the Crown Court or the Mental Health Tribunal to give evidence as to appropriate placement of a patient detained under the Mental Health Legislation.

## **24. CROSS BORDER SLA ARRANGEMENTS**

- 24.1 The Director of Finance of the Joint Committee will agree appropriate contracts with a defined list of English NHS Trusts and Foundation Trusts for the purposes of delivering specialised services for the Welsh population.
- 24.2 The Director of Finance for the Joint Committee will be responsible for securing that the contracts are cost effective and achieve the delivery of services of appropriate quality.
- 24.3 In the interests of simplified patient care pathways and reducing administrative complexity these contracts may include non-specialised activity.
- 24.4 The Director of Finance of the Joint Committee will prepare performance reports on these contracts for each Joint Committee meeting.
- 24.5 The Lead Director will ensure that NHS Wales continues to maintain and develop appropriate relationships with the counterpart specialised planning arrangements in England and Scotland. The Lead Director will represent the LHBs in this regard and will be given the appropriate delegated authority to do so. These arrangements currently include English Specialist Commissioning Groups, the Scottish National Services Division of Scotland, the National Specialist Commissioning Groups and the National Commissioning Advisory Group or National Commissioning Group for highly specialised services.

## **25. ROLE OF PUBLIC HEALTH**

- 25.1 A Service Level Agreement will be entered into between the Host LHB and Public Health Wales describing the services which Public Health Wales will provide to the Joint Committee and the process of engagement which will take place.

## **26. EQUALITY AND DISCRIMINATION**

- 26.1 The LHBs undertake, in relation to the provision of the Relevant Services by the Joint Committee to the public or any member of the public, to exercise the role of the Joint Committee so as to have regard to the need to eliminate discrimination, and other prohibited conduct, in accordance with human rights and equality legislation.

## 27. REVIEW

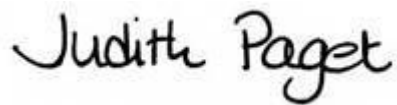
27.1 This Agreement will be reviewed on a bi-annual basis.

**SIGNED under hand and delivered the day and year first above written**

SIGNED and DELIVERED

by **Aneurin Bevan University Local Health Board**

acting by



Nicola  
Prygodzicz  
Chief Executive

SIGNED and DELIVERED

by **Betsi Cadwaladr University Local Health Board**

acting by

Gill Harris  
Chief Executive

SIGNED and DELIVERED

by **Cardiff and Vale University Local Health Board**

acting by



Suzanne Rankin  
Chief Executive

SIGNED and DELIVERED

by **Cwm Taf Morgannwg University Local Health Board**  
acting by



Paul Mears  
Chief Executive

SIGNED and DELIVERED

by **Hywel Dda University Local Health Board**  
acting by



Steve Moore  
Chief Executive

SIGNED and DELIVERED

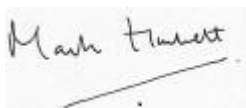
by **Powys Teaching Local Health Board**  
acting by



Carol Shillabeer  
Chief Executive

SIGNED and DELIVERED

by **Swansea Bay University Local Health Board**  
acting by



Mark Hackett  
Chief Executive

## Annex (i) to Memorandum of Agreement

### Services delegated from LHBs to WHSSC for planning and funding in 2023-2024

#### *Range of Services Commissioned by WHSSC*

<b>Assistant Director of Planning Lead</b>
Intestinal Failure
Home Parental Nutrition
Hyperbaric Oxygen Therapy

<b>Mental Health &amp; Vulnerable Groups</b>
High Secure Psychiatric Services
Medium Secure Psychiatric Services
All Wales Traumatic Stress Quality Improvement Initiative (Traumatic Stress Wales)
Gender Identity Services for Adults
Gender Identity Development Service for Children and Young People
Specialised Eating Disorder Services (Tier 4)
Mental Health Services for Deaf People (Tier 4)
Specialised Perinatal Services
CAMHS (Child and Adolescent Mental Health Services) Tier 4
Forensic Adolescent Consultation and Treatment Service (FACTS)
Neuropsychiatry

<b>Cancer &amp; Blood</b>
PET scanning
All Wales Lymphoma Panel
Specialist services for Sarcoma
Haematopoietic Stem Cell Transplantation (BMT)
Extra corporeal photopheresis for graft versus host disease
CAR-T therapy for lymphoma and acute lymphoblastic leukaemia
Thoracic surgery
Hepatobiliary cancer surgery
Microwave ablation for liver cancer
Brachytherapy (prostate and gynaecological cancers)
Proton Beam Therapy
Radiofrequency Ablation for Barrett's Oesophagus
Stereotactic Ablative Body Radiotherapy
Specialist service for Neuroendocrine Tumours
Peptide Receptor Radionuclide Therapy (PRRT) for Neuroendocrine Tumours
Hyperthermic Intraperitoneal Chemotherapy (HIPEC) for Pseudomyxoma Peritonei
All Wales Medical Genomics Service

Burns and Plastics
Specialist service for Paroxysmal Nocturnal Haemoglobinuria
Inherited Bleeding Disorders
Welsh Blood Service
Hereditary Anaemias specialist service
ECMO
Long Term Ventilation
Immunology
<a href="#">Hepatobiliary Surgery Cardiff</a>
<a href="#">Pancreatic Surgery Morriston</a>
<a href="#">Hepato Cellular Carcinoma (HCC) MDT</a>
<a href="#">Syndrome Without a Name (SWAN) Clinic</a>
<a href="#">Molecular Radio Therapy</a>

<b>Cardiac Services</b>
Cardiac Surgery
Heart Transplantation including VAD's
Electrophysiology, ablation and complex ablation
Complex Cardiac devices
Interventional Cardiology, (PPCI, PCI, PFO closures, TAVI, PMVLR)
Inherited Cardiac Conditions
Adult Congenital Heart Disease
Pulmonary Hypertension
Cystic Fibrosis
Cardiac Networks (SWSWCHD Network, NWNWCHD Network, All Wales Cardiac Network)
Bariatric Surgery

<b>Neurosciences &amp; Long Term Conditions</b>
Neurosurgery Emergency and elective neurosurgery (including stereotactic radiosurgery and Deep Brain Stimulation)
Neuroradiology (diagnostic and interventional undertaken by neuroradiologists)
Neurorehabilitation
Spinal rehabilitation
Artificial Limbs and Appliances Service including: <ul style="list-style-type: none"> <li>○ Wheelchair and special seating</li> <li>○ Prosthetics</li> <li>○ Orbital prosthetics</li> </ul>
Electronic assistive technology
Alternative Augmentative Communication (AAC)
Immunology for Primary Immuno Deficiency
Cochlear and BAHA
Rare Diseases – RDIG
<a href="#">Spinal</a>
<a href="#">Inherited White Matter Disorders</a>

<b>Women and Children</b>
Fetal Cardiology
Fetal Medicine
Neonatal
Neonatal Transport
Paediatric Cardiology

Paediatric Cystic Fibrosis
Paediatric Endocrinology
Paediatric ENT
Paediatric Gastroenterology
Paediatric Intensive Care
Paediatric Immunology
Paediatric Inherited Metabolic Disease
Paediatric Nephrology
Paediatric Neurology
Paediatric Neuro-rehab
Paediatric Oncology
Paediatric Radiology
Paediatric Radiotherapy
Paediatric Rheumatology
Paediatric Surgery
Paediatric Orthopaedic Surgery
Paediatric Infectious Diseases

<b>North Wales</b>
IVF

**Annex (ii) to Memorandum of Agreement**

**HOSTING AGREEMENT**

THIS HOSTING AGREEMENT is made the **14 March 2023**

BETWEEN

(1) CWM TAF MORGANNWG UNIVERSITY LOCAL HEALTH BOARD ("Cwm Taf Morgannwg UHB")

and

(2) ANEURIN BEVAN UNIVERSITY LOCAL HEALTH BOARD, having headquarters at St Cadoc's Hospital, Lodge Road, Caerleon, Newport NP18 3XQ,

BETSI CADWALADR UNIVERSITY LOCAL HEALTH BOARD, having headquarters at Ysbyty Gwynedd, Penrhosgarnedd, Bangor, Gwynedd, LL57 2PW,

CARDIFF AND VALE UNIVERSITY LOCAL HEALTH BOARD, having headquarters at 2nd Floor, Woodland House, Maes-y-coed Road, Cardiff CF14 4HH,

CWM TAF MORGANNWG UNIVERSITY LOCAL HEALTH BOARD, having headquarters at Ynysmeurig House, Navigation Park, Abercynon, Rhondda Cynon Taff, CF45 4SN,

HYWEL DDA UNIVERSITY LOCAL HEALTH BOARD, having headquarters at Ystwyth Building, St David's Park, Carmarthen, Sa31 3BB.

POWYS TEACHING LOCAL HEALTH BOARD, having headquarters at Mansion House, Bronllys, Brecon, Powys, LD3 0LS,

SWANSEA BAY UNIVERSITY LOCAL HEALTH BOARD, having headquarters at 1 Talbot Gateway, Baglan Energy Park, Baglan, Port Talbot, SA12 7BR,

Collectively established as the Joint Committee of WELSH HEALTH SPECIALISED SERVICES COMMITTEE ("Joint Committee").

WHEREAS:

(1) In accordance with the Welsh Health Specialised Services Committee (Wales) Directions 2009 (2009 No.35), the seven Local Health Boards are required to establish the WHSSC for the purpose of jointly exercising its Delegated Functions and providing the services from 1 April 2010.

(2) The Welsh Health Specialised Services Committee (Wales) Regulations 2009 (SI 2009 No 3097) makes provision for the constitution of the Joint Committee including its procedures and administrative arrangements.

- (3) Cwm Taf Morgannwg University Local Health Board has been identified as the Host LHB to provide administrative and management support as further described in section 2 for the running of the WHSSC and to establish the Welsh Health Specialised Services Team (WHSST).
- (4) This Agreement should be read in conjunction with the Memorandum of Agreement made between the 7 Local Health Board themselves which defines the governance arrangements for the Joint Committee and the agreed roles and responsibilities of the Chief Executives of the constituent LHBs as individual members of the Joint Committee.
- (5) The purpose of this Agreement is to outline what the accountability arrangements and resulting responsibilities will mean, both for Cwm Taf Morgannwg UHB and for the Joint Committee.

## **AGREEMENT**

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## **1. INTERPRETATION**

- 'the Act' the National Health Service (Wales) Act 2006
- 'Delegated Functions' those functions ascribed to the Joint Committee in section 4 of the Memorandum of Agreement and reproduced at Annex (i) 1.
- 'the Directions' the Welsh Health Specialised Services Committee (Wales) Directions 2009
- 'Director' the Director of Specialised and Tertiary Services appointed in accordance with regulation 3 (2) of the Regulations
- 'Joint Committee' the Welsh Health Specialised Services Committee established in accordance with the Directions and Regulations
- 'LHB' Local Health Board established in accordance with s 11(2) of the Act
- 'Management Team' the team appointed in accordance with paragraph 10.2 of the Memorandum of Agreement. Refer to Standing Order 1.2.4.
- 'Memorandum of Agreement' the agreement dated 1 April 2010 between the 7 LHBs and described at paragraph (4) of the recital
- 'NHS Wales' the comprehensive health service for Wales established by the NHS (Wales) Act 2006
- 'the Regulations' the Welsh Health Specialised Services Committee (Wales) Regulations 2009
- 'Relevant Services' the planning and securing of specialised and tertiary services consisting of those functions and services listed in Annex (i) of the Memorandum of Agreement, subject to any variations to those functions and services agreed from time to time by the Joint Committee.

'.

'WG'	Welsh Government as announced by the First Minister of Wales on 12 <sup>th</sup> May 2011.
'WHSST'	the Welsh Health Specialised Services Team consisting of staff employed by the Host Board to provide the Relevant Services

## **2. ROLE OF CWM TAF MORGANNWG UNIVERSITY LOCAL HEALTH BOARD**

The responsibilities of Cwm Taf Morgannwg UHB are:

- 2.1 To appoint and employ such officers as may be required to support the commissioning of the Relevant Services and provide all necessary corporate services and management support, to include human resources, estates, procurement, banking and accountancy services, as may be required, including the processing of orders and the making of payments to providers of the Relevant Services, with such officers being members of the WHSST;
- 2.2 To provide advice to the Joint Committee on compliance with Cwm Taf Morgannwg UHB's policies, Standing Financial Instructions, Procurement Rules, Human Resource policies and other procedures;
- 2.3 To be the legal entity which enters into agreed procurement arrangements to include, but not restricted to, quotations, tenders, procurement contracts, service level agreements and terms of engagement commissioned by the Joint Committee and to ensure that the individuals appointed and employed to support the functions of the Joint Committee carry out those tasks which are stated in Annex (i) to be the role of the Joint Committee;
- 2.4 To have in place such appropriate governance arrangements and Schemes of Delegation as may be necessary and required on the part of Cwm Taf Morgannwg UHB to enable the Joint Committee's role to be carried out;
- 2.5 To hold the management budget for the Joint Committee / Relevant Services and make payments and receive income as necessary;

- 2.6 To be authorised to appoint lawyers and other professional advisors (in consultation with Cwm Taf Morgannwg UHB's Procurement Services team), and to agree the terms and conditions of their engagement and give them instructions from time to time on behalf of the Joint Committee.
- 2.7 Cwm Taf Morgannwg UHB will not be responsible or accountable for the planning, funding and securing of the Relevant Services save in respect of the residents within the geographical area of responsibility of Cwm Taf Morgannwg UHB. Refer to Standing Order 2.0.2
- 2.8 In fulfilling its obligations and responsibilities under this Agreement, Cwm Taf Morgannwg UHB shall not be required to do or not do and shall not do or omit to do anything which does not comply with Cwm Taf Morgannwg UHB's statutory powers and duties, Standing Orders and Standing Financial Instructions, corporate governance requirements generally, procurement requirements or any legal obligations not covered by the foregoing.

### **3. EMPLOYMENT OF STAFF**

- 3.1 New Officers who are appointed to work with the Joint Committee from the 1 April 2010 will be employed by Cwm Taf Morgannwg UHB.
- 3.2 The Officers working with the Joint Committee, and comprising the Management Team and WHSST, will therefore be employees of Cwm Taf Morgannwg. They will be required to abide by Cwm Taf Morgannwg UHB's Policies, Procedures and Guidance and will be entitled to be treated as any other employee of Cwm Taf Morgannwg UHB and have the benefit of all applicable policies and procedures.
- 3.3 The Officers will also be accountable for their performance to the Joint Committee.
- 3.4 The human resource services which will be provided are identified at **Appendix B**.

### **4. PROCEDURES FOR TENDERS & PROCUREMENT**

- 4.1 Cwm Taf Morgannwg UHB will provide all the support services to the Joint Committee as described at **Appendix C**.

- 4.2 Agreed procurement arrangements via quotations, tenders, procurement contracts, service level agreements and terms of engagement will be entered into and signed by Cwm Taf Morgannwg on behalf of the Joint Committee in accordance with Cwm Taf Morgannwg UHB's procurement policy and Standing Financial Instructions.
- 4.3 Cwm Taf Morgannwg UHB shall not execute or, through performance create, any third party contract in respect of the Joint Committee unless authorised to do so by the Director.
- 4.4 The Joint Committee will provide sufficient funds and other relevant resources to meet the requirements of all third party contracts entered into by Cwm Taf Morgannwg UHB in pursuance of paragraph 4.3.
- 4.5 Cwm Taf Morgannwg UHB shall provide the Lead Director with drafts of all third party contracts and the Lead Director and/or the Joint Committee shall be entitled to require Cwm Taf Morgannwg UHB to use its reasonable endeavours to negotiate such amendments to the terms of such contract as the Lead Director and/or the Joint Committee reasonably see fit.

## **5. GOVERNANCE ARRANGEMENTS**

- 5.1 The Joint Committee will utilise Cwm Taf Morgannwg UHB's Committee arrangements to assist it in discharging its governance responsibilities.
- 5.2 Where the Joint Committee utilises Cwm Taf Morgannwg UHB's sub-committee arrangements such as the Quality, Safety and Risk Committee, Cwm Taf Morgannwg UHB will ensure that the appropriate responsibilities are afforded to the Joint Committee and the agenda is constructed to ensure relevant issues are to be properly managed to allow the Joint Committee to satisfy itself from a risk management and controls assurance perspective.
- 5.3 The Joint Committee will adopt the risk assessing mechanisms of the host subject to appropriate adaptation to take into account the specific functions WHSSC.
- 5.5 The Lead Director will provide reports from the Joint Committee to Cwm Taf Morgannwg UHB's Board in line with Cwm Taf Morgannwg UHB's scheme of delegation to enable Cwm Taf

Morgannwg UHB to assure itself that appropriate control measures are in place in accordance with the requirements of the Statement of Internal Control.

## **6. BUDGET AND FUNDING**

- 6.1 The Joint Committee will transfer funds to Cwm Taf Morgannwg UHB on a quarterly basis in advance to allow Cwm Taf Morgannwg UHB to perform its functions on behalf of the Joint Committee, provided that the Joint Committee may attach conditions to the expenditure of such funds.
- 6.2 The Joint Committee will meet Cwm Taf Morgannwg UHB's overhead costs reasonably incurred in the support of the Joint Committee as may be agreed by the Joint Committee acting reasonably at all times.
- 6.3 The Director of Finance for the Joint Committee will authorise the transfer of funds to Cwm Taf Morgannwg UHB in line with agreed funding levels, which funds shall be accounted for by Cwm Taf Morgannwg UHB as income to the Joint Committee.
- 6.4 Cwm Taf Morgannwg UHB will set up and manage an Income and Expenditure Account for the Joint Committee, namely a Joint Committee Account. This includes all the income for the Joint Committee received from the LHBs and all other Joint Committee expenditure. This account shall be separate from all other Cwm Taf Morgannwg UHB funds. The Director of Finance for the Joint Committee shall make decisions relating to expenditure from this account provided that Cwm Taf Morgannwg UHB shall not at any time be obligated to operate the Joint Committee Account in deficit.
- 6.5 The Director of Finance for the Joint Committee is responsible for ensuring that all relevant reports, financial information and commentary are provided to the Host LHB so that the appropriate monitoring return can be prepared.

## **7. OWNERSHIP OF ASSETS**

- 7.1 All assets (including intellectual property rights) acquired by Cwm Taf Morgannwg UHB in connection with the Joint Committee shall belong to Cwm Taf Morgannwg UHB but be held upon trust for the Joint Committee.

- 7.2 Cwm Taf Morgannwg UHB shall, to the extent it is legally entitled to do so, transfer ownership and any other rights in such assets to such party or body as the Joint Committee shall require and within such timescales as are reasonably required.
- 7.3 In the event that any income is derived from such assets or from their disposal, such revenues shall be regarded as part of the Joint Committee income and accounted for accordingly.

## **8. ACCOUNTABILITY ARRANGEMENTS**

- 8.1 The accountability arrangements of the Management Team and their relationship with Cwm Taf Morgannwg UHB are set out in Appendix D
- 8.2 The constituent LHBs will delegate to the Chief Executive of Cwm Taf Morgannwg UHB and the Chair of the Joint Committee their responsibility for performance appraisal and all employment related issues of the Lead Director. In exercising those responsibilities, the Chief Executive of Cwm Taf Morgannwg UHB is required to liaise with the Chief Executives of the constituent LHBs as members of the Joint Committee and the Chair of the Joint Committee.
- 8.3 The constituent LHBs will delegate to the Lead Director the performance appraisal of the individual members of the Management Team. In exercising those responsibilities, the Director is required to liaise with the Chief Executives of the constituent LHBs as members of the Joint Committee and the Chair of the Joint Committee.

## **9. DUTY OF CARE**

- 9.1 Cwm Taf Morgannwg UHB shall be responsible for ensuring that all reasonable skill, care and diligence are exercised in carrying out those services which it is required to perform under this Agreement properly and efficiently in accordance with this Agreement and the Memorandum of Agreement and its overall responsibilities under the Act and all other appropriate legislation. Cwm Taf Morgannwg UHB shall keep the Joint Committee informed of any foreseeable or actual changes in circumstances which are likely to affect its ability to comply with the terms of this Agreement as the Host LHB.

## **10. CWM TAF MORGANNWG UHB ORGANISATION**

- 10.1 Cwm Taf Morgannwg UHB shall provide and maintain an organisation having the necessary facilities, equipment and employees of appropriate experience, to undertake the specific functions and provide all the services identified in this Agreement
- 10.2 All personnel deployed on work relating to the Agreement must have appropriate skills and competence.

## **11. LEGISLATION**

- 11.1 Cwm Taf Morgannwg UHB shall ensure that it, and its employees and agents, shall in the course of this agreement comply with all relevant legislation, Welsh Government Directions and Guidance and procedures.

## **12. AUDIT**

- 12.1 Cwm Taf Morgannwg UHB, through the Shared Services arrangements, will provide an effective independent internal audit function as a key source of its internal assurance arrangements, in accordance with NHS Wales Internal Auditing Standards and any others requirements determined by the Welsh Government. Refer to Standing Order 8.1.1
- 12.2 Cwm Taf Morgannwg UHB will ensure that relevant external audit arrangements are in place which give due regard to the functions of the Joint Committee. Refer to Standing Order 8.3. External Assurance

## **13. MANAGEMENT OF CONCERNS (INCLUDING INCIDENTS, COMPLAINTS & CLAIMS)**

- 13.1 Paragraph 19 of the Memorandum of Agreement sets out the procedures to be followed for the management of concerns relating to the Joint Committee.
- 13.2 Where a matter is regarded as an individual concern, Cwm Taf Morgannwg UHB will only be responsible for the management of those concerns where qualifying liability in Tort is established, which relate to its geographical area of responsibility. In such circumstances, the Chief Executive of

Cwm Taf Morgannwg UHB will be responsible for investigating and responding to the concern in accordance with The National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011.

- 13.3 Individual concerns relating to patients resident outside Cwm Taf Morgannwg UHB's geographical area of responsibility will be referred to the Chief Executive of the LHB in the appropriate geographical area.
- 13.4 Where a matter is regarded as a concerns and where qualifying liability in Tort has been established, Cwm Taf Morgannwg will only be responsible for managing the arrangements for redress arising from its own resident population.
- 13.5 Where a matter is considered to be a review of funding decisions it will be dealt with in accordance with the Review Process set out in All Wales Policy for Making Decisions on Individual Patient Funding Requests (IPFR).

#### **14. MANAGEMENT OF FOIA / DPA REQUESTS**

- 14.1 Where a request under the Freedom of Information Act or Data Protection Act is received by the Joint Committee, the request will be dealt with in accordance with Cwm Taf Morgannwg UHB's procedures. Where the request is considered to be an issue relating to a specific LHB, other than Cwm Taf Morgannwg UHB, and it relates to recorded information which is held by that other LHB, then the request will be forwarded to the Board Secretary of the respective LHB to respond in accordance with the Freedom of Information Act Code of Practice.

#### **15. NOTICES**

- 15.1 Any notices served in respect of matters covered by this Agreement shall be sent to the Chief Executive of Cwm Taf Morgannwg on behalf of Cwm Taf Morgannwg UHB and the Lead Director on behalf of the Joint Committee.

#### **16. DISPUTE**

- 16.1 In the event of any dispute between Cwm Taf Morgannwg UHB and those involved in the Joint Committee, such dispute shall be escalated in line the Business Framework.

16.2 If such dispute cannot be resolved in accordance with the provisions of paragraph 16.1 it shall be referred to the Joint Committee and the Chief Executive of Cwm Taf Morgannwg UHB.

16.3 If such a dispute cannot be resolved in accordance with the provisions of paragraph 16.2, it shall be referred to Welsh Government's Minister for Health and Social Services for resolution.

## **17. GENERAL**

17.1 This agreement shall be capable of being varied only by a written instrument signed by a duly authorised officer or other representative of each of the parties.

17.2 No third party shall have any right under the Contracts (Rights of Third Parties) Act 1999 in connection with this Agreement.

17.3 This Agreement shall be governed and construed in accordance with the laws of England and Wales. Subject to paragraph 16, the parties hereby irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales.

17.4 In the event of Cwm Taf Morgannwg UHB's Board determining (acting reasonably) that the performance by Cwm Taf Morgannwg UHB of its obligations under this Agreement is having a detrimental or prejudicial effect on the Cwm Taf Morgannwg UHB's ability to fulfil its core functions, Cwm Taf Morgannwg UHB's Board may instruct the Lead Director and Cwm Taf Morgannwg UHB's Chief Executive to review the operation of this Agreement further to clause 16.

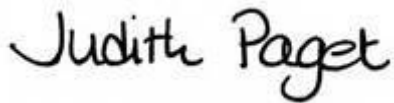
17.5 In carrying out a review of this Agreement further to clause 17.4, the Lead Director and Cwm Taf Morgannwg UHB's Chief Executive shall consider the source and manner of any detriment identified by Cwm Taf Morgannwg UHB's Board further to clause 17.4 and shall put forward such amendments and variations to this Agreement and the associated governance arrangements between the Joint Committee and Cwm Taf Morgannwg as they may consider appropriate.

17.6 Cwm Taf Morgannwg's UHB Board shall consider the recommendations made further to clause 16.5 and may recommend to the Joint Committee and the Chief Executive of Cwm Taf Morgannwg UHB that this Agreement and the

associated governance arrangements are amended accordingly.

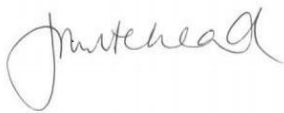
**SIGNED under hand and delivered the day and year first above written**

SIGNED and DELIVERED  
by Aneurin Bevan University Local Health Board acting  
by



Nicola Prygodzicz  
Chief Executive

SIGNED and DELIVERED  
by Betsi Cadwaladr University Local Health Board acting  
by



Gill Harris  
Chief Executive

SIGNED and DELIVERED  
by Cardiff and Vale University Local Health Board acting  
by



Suzanne Rankin  
Chief Executive

SIGNED and DELIVERED  
by Cwm Taf Morgannwg University Local Health Board  
acting by



Paul Mears  
Chief Executive

SIGNED and DELIVERED  
by Hywel Dda University Local Health Board  
acting by



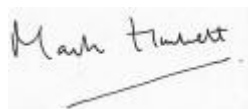
Steve Moore  
Chief Executive

SIGNED and DELIVERED  
by Powys Teaching Local Health Board  
acting by



Carol Shillabeer  
Chief Executive

SIGNED and DELIVERED  
by Swansea Bay University Local Health Board  
acting by



Mark Hackett  
Chief Executive

## **APPENDIX A**

### **Role of the Joint Committee**

The Joint Committees role is: (refer to Standing Order 1.1.):

- Determine a long-term strategic plan for the development of specialised and tertiary services in Wales, in conjunction with the Welsh Ministers;
- Identify and evaluate existing, new and emerging treatments and services and advise on the designation of such services;
- Develop national policies for the equitable access to safe and sustainable, high quality specialised and tertiary healthcare services across Wales, whether planned, funded and secured at national, regional or local level;
- Agree annually those services that should be planned on a national basis and those that should be planned locally;
- Produce an Integrated Commissioning Plan, for agreement by the Committee following the publication of the individual LHB's Integrated Medium Term Plans;
- Agree the appropriate level of funding for the provision of specialised and tertiary services at a national level, and determining the contribution from each LHB for those services (which will include the running costs of the Joint Committee and the WHSST) in accordance with any specific directions set by the Welsh Ministers;
- Establish mechanisms for managing the in year risks associated with the agreed service portfolio and new pressures that may arise;
- Secure the provision of specialised and tertiary services planned at a national level, including those to be delivered by providers outside Wales; and
- Establish mechanisms to monitor, evaluate and publish the outcomes of specialised and tertiary healthcare services and take appropriate action.

## APPENDIX B

### EMPLOYMENT OF STAFF

#### Identified human resources services

<b>Service</b>	<b>Description</b>
<i>Recruitment and Selection</i>	<ul style="list-style-type: none"><li>• To provide a comprehensive recruitment and selection service which complies with employment legislation and standards of good practice as directed by the Welsh Government.</li></ul>
<i>Employee Relations</i>	<ul style="list-style-type: none"><li>• To provide support to the Welsh Health Specialised Services Team in the management of sensitive issues relating to all employment policies including discipline, grievance, collective disputes, performance and capability, allegations of bullying and harassment whistle blowing and sickness absence etc.</li></ul>
<i>Policy Development</i>	<ul style="list-style-type: none"><li>• To develop, implement and advise on employment policies and procedures which comply with employment legislation and NHS guidance; and</li><li>• To provide training to WHSST Managers in the interpretation and use of policies and procedures.</li></ul>
<i>Remuneration and Payroll</i>	<ul style="list-style-type: none"><li>• To provide advice on pay (including assimilation to new A4C bands) and associated terms and conditions of employment;</li><li>• To provide a comprehensive payroll service; and</li><li>• To undertake the matching and evaluation of all new and revised roles.</li></ul>
<i>Training and Development</i>	<ul style="list-style-type: none"><li>• To provide appropriate training and development to WHSST.</li></ul>
<i>HR administration</i>	<ul style="list-style-type: none"><li>• To maintain securely employment records for WHSST and provide accurate workforce data and information as required.</li></ul>
<i>Occupational health</i>	<ul style="list-style-type: none"><li>• To provide a comprehensive Occupational health service to employees of WHSSC</li></ul>

## APPENDIX C

### 3.1 Procedures for Tenders & Procurement

<b>Service</b>	<b>Description</b>
Procurement (Tendering and ordering goods and services)	<ul style="list-style-type: none"><li>• Tendering for goods &amp; services in accordance with SOs and SFIs</li><li>• Entering into procurement contracts and agreements</li><li>• Raise orders for properly approved requisitions</li></ul>
Creditor Payments (Payment of suppliers, contractors and service providers)	<ul style="list-style-type: none"><li>• Pay all duly authorised invoices</li><li>• Deal with supplier queries etc</li><li>• Provide management information on payment performance in accordance with WAG requirements</li></ul>
Systems maintenance and administration (ORACLE)	<ul style="list-style-type: none"><li>• Process feeders into WHSSC ledger and maintain financial management system</li><li>• Maintain passwords and hierarchies (cost centre and approval)</li><li>• Oracle training as and when required including external training if required</li><li>• Access to help desk facility</li><li>• Undertake testing of upgrades</li><li>• Liaise with Oracle Central Team and All Wales groups</li></ul>
Accounting Services (bank accounts, annual accounts consolidation, VAT)	<ul style="list-style-type: none"><li>• Provision of bank accounts and petty cash facilities</li><li>• Consolidation of Annual Accounts and other returns as required by WG</li><li>• Provide VAT advice and consolidate VAT returns, including access to</li></ul>

- contracted out VAT advisory services
- Payment of Tax, National Insurance and Superannuation to appropriate authorities
  - Reconciliation of all accounts due against the payroll system
  - Responsible for the securing of internal audit service via external contract
  - Access to Local Counter Fraud Specialist
  - Advice on financial procedures and other issues of governance
  - Ensure appropriate external audit provision in place
- Financial Governance (internal and external audit, counter fraud, audit committee)

### 3.2 Estates, Facilities and IT Support

<b>Service</b>	<b>Description</b>
<i>Estates Maintenance</i>	<ul style="list-style-type: none"> <li>• To provide an efficient service in response to all aspects of estates maintenance in the running of the WHSSC offices.</li> </ul>
<i>Fire Safety</i>	<ul style="list-style-type: none"> <li>• To provide professional advice and support in relation to all aspects of Fire Safety ensuring compliance with legislation and guidance issued by the Welsh Government; and</li> <li>• To provide appropriate training to WHSST.</li> </ul>
<i>Health and Safety</i>	<ul style="list-style-type: none"> <li>• To provide a Health and Safety Policy statement as and when required. The Policy must comply with the requirements of the Health and Safety at Work Act. All other relevant rules and regulations must be observed at all times;</li> </ul>

- To be responsible for the testing, where appropriate, labelling and recording of all portable appliances in their ownership under the Electricity at Work Act 1989;
- To provide advice and support on the operational delivery of health and safety arrangements in WHSST in accordance with Cwm Taf Morgannwg UHB policies and procedures; and
- To provide appropriate training to WHSST.

#### *IT Support*

- To provide a comprehensive IT support service including :
  - User registration;
  - Resolution of faults reporting via the Helpdesk;
  - Purchase and set up new IT equipment;
  - Supply of printing consumables
- To provide support in relation to the management of files and databases;
- To ensure the secure storage of data, back up, restore and recovery

### 3.3 Others

<b>Service</b>	<b>Description</b>
Corporate Support	<ul style="list-style-type: none"> <li>• To provide access to the Board Secretary for advice and support on Corporate Governance matters as required.</li> </ul>
Welsh Language	<ul style="list-style-type: none"> <li>• Offer advice and information about the Welsh Language</li> <li>• Promote and encourage the use of Welsh within the workplace</li> <li>• Encourage the use of bilingual aids within the workplace such as signage, stationery etc</li> <li>• Provide Welsh Language taster lessons for staff</li> <li>• Give bilingual front-line telephone training</li> <li>• Translate small in-house, day-to-day, translations</li> </ul>

- Help co-ordinate the translation of larger documents
  - Attend public meetings to provide a Welsh Language service for Welsh speakers.
- Equality and Diversity
- To provide advice and information to the Welsh Health Specialised Services Committee;
  - To ensure the business of WHSSC is included within plans and policies of the Host LHB;
  - To develop a work plan and meet quarterly to review progress against the plan;
  - To ensure that relevant training is provided to the WHSST in relation to awareness raising and impact assessment;
  - To provide an assurance mechanism on behalf of the LHBs that robust processes are in place to meet the Equality and Diversity agenda
- Risk Management
- To provide advice and information on all areas of Risk Management to the Welsh Health Specialised Services Committee;
  - To support the development of a Risk Assurance Framework for WHSSC
  - To provide support (structure and advice) for the use of DATIX to facilitate the management of risk within WHSSC
  - To develop a work plan and meet quarterly to review progress against the plan
- Concerns
- To provide training and awareness for all staff in relation to the management of concerns;
  - To provide advice and support in relation to the concerns process;
  - To provide support (structure and advice) for the use of DATIX to facilitate the management of concerns within WHSSC To be responsible for all claims relating to staff and services commissioned which relate to Cwm Taf Morgannwg UHB Residents
- Information Governance
- To provide timely advice to all information governance related enquires;
  - To support the WHSSC Information Governance Group providing relevant advice as required;
  - To provide training and awareness for all staff in all areas of Information Governance

## **APPENDIX D**

### **Accountability Arrangements**

1. The Directions state that the LHBs will jointly exercise the Delegated Functions from 1 April 2010.
2. This means that the Delegated Functions are those of the individual constituent LHBs and not Cwm Taf Morgannwg UHB.
3. The Directions state that Cwm Taf Morgannwg UHB will exercise its functions so as to provide administrative support for the running of the Joint Committee and establish the WHSST.
4. The membership of the Joint Committee consists of the Chief Executives and the Chair, who is appointed by the Minister.
5. The Chair is directly accountable to the Minister.
6. The Director of Specialised and Tertiary Services is appointed as an Officer member of the Joint Committee to have such responsibilities as may be prescribed by the Joint Committee.
7. For the performance of the Delegated Functions on behalf of the Joint Committee and each constituent LHB, the Director can only be accountable to the Chief Executives of the constituent LHBs.
8. The Chief Executives of the Constituent LHBs are individually accountable to the Director General and Chief Executive of the NHS in Wales.
9. The Chief Executive of Cwm Taf Morgannwg UHB is only accountable to the Director General and Chief Executive of the NHS in Wales insofar as his/her functions relate to administrative support.
10. The Director of Specialised and Tertiary Services is jointly accountable to the Joint Committee and Chief Executive of Cwm Taf Morgannwg UHB.
11. The Finance Director of Cwm Taf Morgannwg UHB is only accountable to the Director of Finance for the NHS in Wales insofar as his functions relate to administrative support.

12. The Finance Director of the Joint Committee has a dual responsibility to the Joint Committee and to the Finance Director of Cwm Taf Morgannwg UHB.
13. The Audit Committee of the host LHB is the central means by which the Joint Committee ensures effective internal control arrangements are in place.

## **Annex (iii) to Memorandum of Agreement**



# **JOINT COMMITTEE BUSINESS FRAMEWORK**

**March 2023**

## **1. INTRODUCTION**

- 1.1 WHSSC in the exercise of its statutory duties is expected to maintain public confidence in a process which is free of actual conflict.
- 1.2 LHBs, who are constituent members of WHSSC, have differing or conflicting local priorities and objectives which may impede collaboration. Different priorities may arise from the immediate need to support local health services. Yet WHSSC is required to commission specialist services to the benefit of NHS Wales as a whole and acting in accordance with its statutory obligations.
- 1.3 WHSSC through each constituent member remains accountable for the commissioning decisions it makes and for ensuring that conflicts between the exercise of the commissioning and provider functions are managed appropriately.
- 1.4 The Chief Executive of each constituent LHB is personally accountable to NHS Wales for the good governance and accountability of WHSSC. This includes ensuring that WHSSC manages transparently any potential conflict of interest.
- 1.5 The purpose of this document is to set out a framework so that Members of the Joint Committee and sub-committees/sub groups have a clear understanding of the decision making processes.

## **2. KEY PRINCIPLES**

The Joint Committee will:

- 2.1 Support Members in striving to reduce the inequalities in access to and delivery of services for the populations the Members serve;
- 2.2 Support the cost effective utilisation of the funds made available by Members to commission specialised services;
- 2.3 In commissioning and procuring services, comply with all applicable statutory duties;
- 2.4 Establish Management Group which will ensure provider issues are dealt with at a local level.

- 2.5 At all times demonstrate value for money and an effective and efficient commissioning programme;
- 2.6 Ensure that the financial risks to individual Members of unforeseen/unplanned activity are minimised, and that inequalities in access to and delivery of services are reduced;
- 2.7 Review, plan, develop and monitor the Services in partnership with clinicians, providers and service users; and
- 2.8 Use, where practically possible, other mechanisms to keep Members updated in terms of progress rather than the formal Joint Committee meetings.

The following additional key principles will also apply:

- 2.9 Commitments made by the Joint Committee in accordance with the delegated powers will be binding on all Members until the Joint Committee agrees otherwise;
- 2.10 Whilst agreement on the proposed way forward can be discussed and agreed at other forums (e.g. CEO Peer Group) all decisions will be taken at Joint Committee meetings unless otherwise delegated; and
- 2.11 A standard facilitation/arbitration procedure will apply.

### **3. BUSINESS PROCESSES**

- 3.1. The Joint Committee's key business processes and products will be delivered through a clear and consistent annual business cycle. Each product that will be developed and implemented through appropriate structures that already exist and include:
  - 3.1.1 Chief Executive Peer Group
  - 3.1.2 Executive Directors Peer Groups
  - 3.1.3 Programme Teams
  - 3.1.4 Existing Governance structures

## **4. MEETINGS OF THE JOINT COMMITTEE**

### **4.1 General Principles**

- 4.1.1 The dates of Joint Committee meetings will be agreed in advance with the membership for a rolling period of one year.
- 4.1.2 It is expected that the Joint Committee will meet up to five times each year.
- 4.1.3 All reports will be concise and clear. The body (introduction to conclusion) of the report will be a maximum of six A4 pages in length, where reasonably practical.
- 4.1.4 The Annual Plan for Specialised Services will be agreed annually. Any requests for additional funding outside of the agreed annual planning business cycle will need to demonstrate exceptionality. *(Refer to the All Wales Policy on Dealing with Individual Funding Requests for guidance).*
- 4.1.5 All reports prepared for meetings of the Joint Committee will include a summary which will be no longer than one A4 page in length. This summary should include the title of the report, its purpose and the name of the responsible Executive Director. It should also clearly state what is required from the Joint Committee and outline the potential and/or likely implications of the decision.
- 4.1.6 All reports will be agreed by the Management Group before consideration by the Joint Committee.
- 4.1.7 The Joint Committee will not normally consider reports for information during the meetings. These will be circulated outside of the meetings. This will ensure that time is maximised during Joint Committee Meetings. Where further discussion and agreement is required on specific items this will be undertaken through the Management Group and the decision will be taken at the Joint Committee in accordance with the Governance and Accountability Framework.
- 4.1.8 All papers will be sent electronically to Joint Committee Members, Directors of Finance and

Directors of Planning (see *WHSSC Standing Orders* reference 6.5.3). Copies of the agenda and papers will also be available on the WHSSC website <http://www.whssc.wales.nhs.uk/>

- 4.1.9 On the occasions when the Chief Executive of the LHB is unable to attend the meeting, an Executive Director must be nominated to attend the Joint Committee meetings. The nomination must be approved by the Chair of the Joint Committee before the meeting (please refer to *WHSSC Standing Orders* reference 6.6.11). The nominated deputy should be an Executive Director of the same organisation. Nominated deputies will formally contribute to the quorum and will have delegated voting rights.
- 4.1.10 On the occasions where the Joint Committee meeting is not quorate (please refer to *WHSSC Standing Orders* reference 6.6.10), the Chair may seek the views of those Members present and request that the Committee Secretary writes to each Member of the Joint Committee to support the decisions.
- 4.1.11 In dealing with such issues requiring an urgent decision, and if timescales allow, the Chair may call a meeting of the Joint Committee using video or telephone conferencing facilities. Emails may also be used to gather views and/or reach a consensus. All such decisions will be ratified by the Joint Committee at its next formal meeting.

## **4.2 Confidential Agenda**

The Joint Committee will discuss items in confidence that would be exempt under the Freedom of Information Act 2000. Such items would generally be considered to be personal and confidential in nature or their disclosure would be otherwise prejudicial to the public interest.

## **4.3 Declaration of Interests**

Please refer to *WHSSC Standing Orders* reference 7.1.

## **4.4 Managing Conflict**

- 4.4.1 The Joint Committee must exercise its functions in a way which ensures that any conflicts of interest and local and prejudicial interests are dealt with as a preliminary to the decision making.

- 4.4.2 At each meeting any specific conflicts pertinent to an issue on the agenda must be declared at the start and then recorded in the Minutes. In each meeting the Chair will ask Members to agree as preliminary whether the conflicted LHB should remain in the meeting and/or be able to participate in the discussion and to what degree.

#### **4.5 Decision Making**

- 4.5.1 The Joint Committee will make decisions based on a two thirds majority view held by the voting Joint Committee members present. In the event of a split decision, i.e., no two thirds majority view being expressed, the Joint Committee Chair shall have a second and casting vote.
- 4.5.2 On reaching a Joint Committee decision, all members will support that decision and its consequences in every respect.

#### **4.6 Additional Items of Business**

The Chair will be notified in advance of any items of other business to be raised for discussion at a meeting of the Joint Committee (see *WHSSC Standing Orders* reference 6.5.2). Where this is not possible or in exceptional circumstances, items of other business may be raised by a member at the appropriate point on the agenda. Acceptance of items of other business is at the discretion of the Chair.

#### **4.7 Chair's Ruling**

The decision of the Chair of the Joint Committee on questions of order, relevancy and regularity and the Chair's interpretation of the Business Framework and the Governance and Accountability Framework shall be final. In this interpretation the Chair shall be advised by the Director of Specialised and Tertiary Services and the Committee Secretary.

### **5. MINUTES AND ACTIONS**

#### **5.1 Minutes**

- 5.1.1 The proceedings of each meeting of the Joint Committee will be formally recorded. The Committee Secretary will be responsible for the production of these minutes.

- 5.1.2 The Chair will be responsible for summarising action points and decisions after each item of business during the meeting.
- 5.1.3 The Director of Specialised and Tertiary Services will write out to all Joint Committee Members with a summary of the discussions and actions following the meetings.
- 5.1.4 Following a meeting of the Joint Committee, the Director of Specialised and Tertiary Services will review the accuracy of the unconfirmed minutes with the Committee Secretary, prior to submission to the Chair for approval.
- 5.1.5 Once reviewed and approved by the Chair, the unconfirmed minutes will be circulated to Joint Committee Members and the Board Secretary of each LHB.
- 5.1.6 At the next meeting of the Joint Committee, all members will review the minutes and confirm that they are an accurate record. If any changes are required, the amendments will be discussed and agreed at the meeting.
- 5.1.7 The Chair will sign a copy of the minutes when agreed as an accurate record. This creates an official record of the meeting.

## **5.2 Actions**

- 5.2.1 Actions resulting from the Joint Committee meetings will be summarised in tabular form which clearly indicates who is responsible and the agreed timescales.
- 5.2.2 The summary of actions should be circulated with the papers of the next Joint Committee meeting.

## **5.3. Briefing**

- 5.3.1 A Joint Committee Briefing summarising the key discussion and decisions at Joint Committee meetings will be distributed within 7 days of each Joint Committee meeting.

## **6. DISPUTE RESOLUTION**

- 6.1 In accordance with the Governance and Accountability Framework the Health Boards will seek to work cooperatively with each other as constituent Members of the Joint Committee. Where there is an impasse which cannot be reached by means of conciliation between appropriate individuals, then the dispute process set out in Annex (iii) of the Governance and Accountability Framework will be followed.
- 6.2 Disputes relating to the Hosting Agreement between Cwm Taf Health Board and the Health Boards will be dealt with in accordance with Section 16 of the Hosting Agreement.
- 6.3 Most disputes arising between the Commissioners and Providers should be managed and resolved locally. Where there is need for escalation, the objectives of the Welsh Health Specialised Services Committee (WHSSC) ("Joint Committee") Dispute Resolution Process are:
- 6.3.1 To resolve disputes promptly, transparently, fairly and consistently;
  - 6.3.2 To provide confidence to parties that the process is fair and transparent;
  - 6.3.3 To mitigate risks and protect the reputation of the NHS in Wales;
  - 6.3.4 To prevent where possible legal challenge or other external referral processes.
- 6.4 Facilitation and/or arbitration (Stage 1 and Stage 2) of disputes may be required in the following circumstances:
- 6.4.1 The Chair or any Member of the Joint Committee requests facilitation because an impasse has been reached between Members of the Committee.
- 6.5 Formal dispute resolution may be required in the following circumstances but shall not be limited to:
- 6.5.1 Any Provider dispute concerning the contractual agreement between WHSSC and the Provider which has not been able to be resolved with Officers of WHSSC;
  - 6.5.2 Any dispute concerning the contractual agreement between the Provider and WHSSC which has not

been able to be resolved with Officers of the Provider organisation;

6.6 This document should be read in conjunction with the Governance and Accountability Framework *Disputed Debts within the NHS in Wales Arbitration Process* (see Appendix A).

6.6.1 There is no formal arbitration process between England and Wales, however in the past disputes have been resolved through intervention by Welsh Government and DoH representatives.

6.6.2 The final decision made by the route followed is final and on completion the dispute cannot be taken through the alternative route.

## **6.7 Definitions**

6.7.1 *Locally*, within this section, means amongst the individuals raising the dispute.

6.7.2 *NHS Wales* refers to all Local Health Boards and NHS Trusts

6.7.3 *Member*, within this section, refers to both Voting Members, Officer Members and Associate Members of the Joint Committee.

## **6.8. Raising a Dispute**

6.8.1 In the case of any dispute arising out of or in connection with the Commissioning of Specialised Services for NHS Wales, the parties involved will make every reasonable effort to communicate and co-operate with each other with a view to resolving the dispute, before formally referring the dispute for local resolution.

6.8.2 In the event of a dispute arising between two or more parties which cannot be resolved between "WHSSC" the Commissioner and the Provider, the parties should refer to section 6.6.6.

6.8.3 Disputes may arise over any aspect of a Heads of Agreement, or Service Level Agreement including that is deemed to be fair and reasonable, the management of performance variations and the imposition of penalties.

6.8.4 Where any conflicts are identified between the requirements of the Heads of Agreement and any national directives and circulars, the requirements of the latter shall take precedence.

6.8.5 All parties recognise that it is in the best interests of patients, the organisations themselves, and the services they provider, for any disputes to be resolved locally.

#### Local Dispute Resolution

6.8.6 The first level of resolution should be:

For WHSSC: Mr. Stuart Davies, Director of Finance or nominated Officer.

For Provider: Director of Finance or nominated Officer.

6.8.7 The second resolution shall be:

For WHSSC: The Director of Specialised & Tertiary Services

For the Provider: The Chief Executive

#### Formal Dispute Resolution

6.8.8 In the event that the dispute is not resolved at the local resolution stage one or more parties may submit a formal request for dispute resolution.

The request for formal dispute should be addressed to:

*Committee Secretary  
Welsh Health Specialised Services Committee  
Unit G1  
The Willowford  
Treforest Industrial Estate  
Pontypridd  
CF37 5YL*

6.8.8.1 The names of the parties to the dispute;

6.8.8.2 A brief statement describing the nature of the circumstances of the dispute and

outlining the reasons why the commissioner/providers are in disagreement; and

6.8.8.3 What has been done to try and resolve matters.

6.8.9 On receipt of formal referral for review of case, the request will be acknowledged within five working days.

6.8.10 The decision shall be so referred immediately upon receipt of such notice and the effect of that decision shall be suspended until the conclusion of dispute resolution.

6.8.11 A decision not required to be referred to dispute resolution within the time specified shall be binding on all Members.

6.8.12 A record of all disputes (formal and informal) will be maintained and will be made available to Members and the Chief Executive of NHS Wales (and their Executive team) on request.

## **6.9 Process for Dispute Resolution**

### **6.9.1 Stage 1 – Facilitation**

6.9.1.1 All parties involved in the dispute must try to reach an agreement. This will involve meeting to discuss and try to resolve the issues. All reasonable efforts must have been made (local resolution level 1 and 2).

6.9.1.2 A meeting is held which includes the following:

- a representative of the Chief Executive Officer for the LHB area of the Member(s) in dispute;
- an appropriate Director from the NHS organisation(s) in dispute; and
- a representative of WHSSC

6.9.1.3 The meeting will be chaired by the Chair of WHSSC or Vice-Chair and involve expert advice (clinical/commissioning/financial) where appropriate.

6.9.1.4 If resolution is reached, the process will conclude at this stage.

## 6.9.2 Stage 2 – Arbitration

6.9.2.1 Both the party raising the dispute and the Director of Specialised and Tertiary Services or deputy (acting on behalf of the Joint Committee) will produce a joint statement of facts as well as a separate report setting out their positions and submit them to the Chair of the Dispute Resolution Panel.

6.9.2.2 The Chair of the Dispute Resolution Panel may invite the Director of Specialised and Tertiary Services or deputy (acting on behalf of the Joint Committee) and the Member bringing their dispute to present their positions or they may choose to decide on the basis of the information submitted.

6.9.2.3 Each Member of the Panel hereby recognises and agrees the role and responsibility of the Dispute Resolution Panel in relation to dispute resolution both as part of any initial Facilitation process and, further, as part of any Arbitration process. In resolving any such dispute the Panel shall have regard to ensuring each Member is fulfilling its statutory responsibilities and ensuring the highest clinical standards and patient safety issues are upheld.

6.9.2.4 The decision of the arbitration process will be binding.

## **6.10 Dispute Resolution Panel**

6.10.1 Each formal dispute will be conducted by a panel appointed by the Chair of the Joint Committee. The panel will have a minimum of three members, including one member with commissioner and one member with provider experience. The panel may call on expert advice at its discretion. None of the

panel will have strong prior relationships with the key staff involved in the adjudication.

- 6.10.2 The exact make up of the panel and advice to be taken by it will be decided by the Chair and one Independent Member once Stage 1 (level 1 and 2) of the process has been completed and there has not been any resolution.
- 6.10.3 Disputes will be heard by the panel (where possible given the criteria outlined in 6.9) within 8 weeks of the dispute being raised formally.
- 6.10.4 The panel will make decisions based on a simple majority vote.

### **6.11 Dispute Resolution Panel Acceptance Criteria**

The panel will only accept disputes that meet the following criteria:

- 6.11.1 Stage 1 of the process has been completed but there is no resolution;
- 6.11.2 There must have been a full and frank disclosure of all relevant and applicable information. (This does not preclude the panel from asking for further information as it requires);
- 6.11.3 Individuals connected to the dispute should be able to make themselves available to provide further evidence as required;
- 6.11.4 There must be evidence that the party bringing the dispute has made reasonable effort to have this resolved at NHS Wales level, or can demonstrate that this was inappropriate, and that all other attempts at resolution have been completed;
- 6.11.5 All disputes must be formally lodged with the Dispute Resolution Panel within 3 weeks of the date the issue arose, otherwise the dispute will be invalid;
- 6.11.6 The dispute must not be not trivial, vexatious or an abuse of the Joint Committee Governance and Accountability Framework;
- 6.11.7 There must be adequate time to hear the dispute.

### **6.12 Timescales for Dispute Resolution**

The maximum timescales for action in relation to resolution of disputes is outlined below:

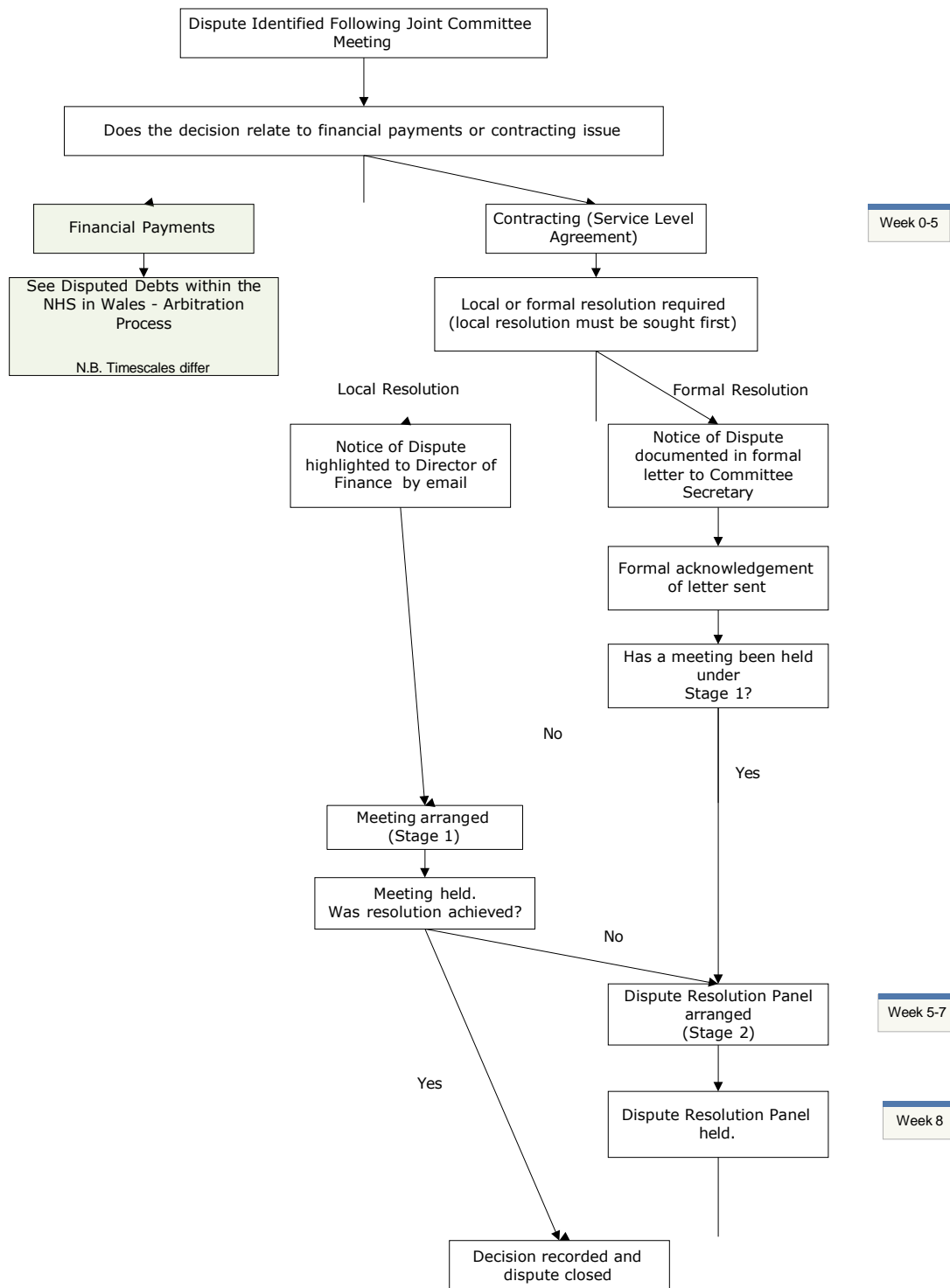
<b>Age of Dispute (weeks)</b>	<b>Action</b>
0 – 3	Referral of a dispute to resolution Local agreement sought
3 - 5	Escalation of dispute to formal stage of dispute resolution
5	Preparation for Panel (Stage 2)
6	Case Submission
7	Final Submission Deadline
8	Panel held and decision made

## **Appendix A**

### **Disputed Debts within the NHS in Wales - Arbitration Process**

Disputed debts between Welsh NHS organisations will be dealt with in accordance with the 'Disputed Debts within the NHS in Wales - Arbitration Process 2010/11' or such subsequent relevant arbitration process as is issued by or on behalf of Welsh Government from time to time.

## Flow Chart for Dispute Resolution



## **Annex (iv) to Memorandum of Agreement**

### **CLINICAL NETWORKS**

#### **Welsh Kidney Network (WKN)**

The Welsh Kidney Network (WKN) is established as a Sub-Committee of the Welsh Health Specialised Services Committee. This arrangement will be reviewed on a regular basis as part of the Governance and Accountability Framework for the Joint Committee.

The Chair of the Welsh Kidney Network will be accountable to the Chair and will be an Associate Member of the Joint Committee.

The Welsh Kidney Network will provide a national focus for planning and performance management of all renal services, work closely with each LHB to support service improvement, local planning, and resource management. It will be the focal point to inform the LHBs and WG on the effectiveness and efficiency of adult renal services in Wales as well as the strategic implementation of the Renal National Service Framework and performance against the Annual Operating Framework and the associated Local Delivery Plans.

The Welsh Kidney Network Chair / Lead Clinical Advisor will be directly accountable to the Chair of the Joint Committee but will also provide advice to WG through the Director of Strategy and Planning and the NHS Medical Director and Chief Medical Officer on an agreed sessional basis.

The Renal Network Manager will be managerially responsible to the Director of Finance and accountable to the Network Chair / Lead Clinical Advisor for the development and delivery of the Network objectives and work plan as appropriate to this role.