

**DATED March 2015**

**NHS ENGLAND  
AND  
LEEDS CITY COUNCIL**

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**GRANT AGREEMENT:  
Funding for Leeds City Council to invest in services to benefit health and  
overall health gain: 2014/15**

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**THIS GRANT AGREEMENT** is made the                      day of        March 2015

**BETWEEN:-**

1.        **NHS ENGLAND** whose principal offices are at; and
2.        **LEEDS CITY COUNCIL (“the Council”)** whose principal offices are at [Civic Hall, Calverley Street Leeds LS1 1UR].

**BACKGROUND**

- (A)        **NHS England** is required by virtue of section 82 of the National Health Service Act 2006 (“the 2006 Act”) to co-operate with the Council in order to secure and advance the health and welfare of the people of Leeds.
- (B)        **NHS England** is empowered by section 256 of the 2006 Act to make payments to the Council towards expenditure to be incurred by the Council in connection with the performance of any of the Council’s functions which in the opinion of NHS England
  - (a) have an effect on the health of any individuals;
  - (b) have an effect on or are affected by any NHS functions; or
  - (c) are connected with any NHS functions.
- (C)        NHS England and the Council have agreed that NHS England will transfer this funding to spend on social care services which also benefit health and to improve overall health gain in Leeds, including for Domiciliary and Residential Care, and also to support increased integration between the NHS and Leeds City Council Adult Social Care.
- (D)        In consideration of the Council developing and maintaining the services NHS England has agreed to make payments to the Council to support the provision of the services for older people and disabled people in Leeds on the terms set out in this Agreement.

## 1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement these words and expressions have these meanings where the context allows:

“Accounting Year”	the period from 1 April in one year to 31 March in the next year;
“Agreement”	this grant agreement;
“Annual Contribution”	the sums of money set out Schedule 4 and payable by the Council to the Provider in accordance with the Contract.
“Sum”	the sums of money set out Schedule 1 and payable by NHS England to the Council in accordance with Clause 4;
“Annual Voucher”	the statement of compliance with conditions of grant and expenditure certification as set out in Schedule 2;
“Commencement Date”	the date upon which the Contract takes effect;
“Contract”	the contract to be entered into between the Council and the Provider for the provision of the Services a copy of which is annexed at Schedule 3;
“Health Project”	the health-related services described in the specification in the Contract;
“Legislation”	any Act of Parliament or subordinate legislation within the meaning of section 21(i) of the Interpretation Act 1978, any exercise of the Royal Prerogative and any enforceable community right within the meaning of section 2 of the European Communities Act 1972, in each case in the United Kingdom;
“Provider”	Leeds City Council with some commissioned services provided by external partners.
“Payments”	the sum payable by NHS England to the Council as described in Clause 4.2
“Services”	the services to be provided by the Leeds City Council and any Providers in accordance with the Contract;
“Specified Purpose”	to contribute to the payment for the provision of the Services under the Contract;
“Term”	the period during which the Agreement remains in effect;
“Termination Event”	the termination of the Agreement under Clause 6.1, 6.2 or 6.3;

“Working Day”

Monday to Friday inclusive in any week but excluding statutory holidays applicable in England.

## 1.2 In this Agreement

- 1.2.1 The expressions “NHS England” and “the Council” shall include their respective successors in title and assigns.
- 1.2.2 References to any Legislation, statute, statutory provision, statutory instrument or direction shall be construed as a reference to that Legislation, statute, statutory provision, statutory instrument or direction as replaced amended extended or re-enacted from time to time and shall include any subordinate legislation made under any Legislation, statute or statutory provision.
- 1.2.3 The headings are inserted for convenience only and shall be ignored in construing the terms and provisions of this Agreement.
- 1.2.4 References in this Agreement to any Clause or Sub-Clause Schedule or Paragraph of a Schedule without further designation shall be construed as a reference to the clause sub-cause schedule or paragraph of a schedule to this Agreement so numbered.
- 1.2.5 Words importing the singular include the plural and vice versa.
- 1.2.6 Words importing any gender include any other gender.

## 2. COMMENCEMENT

- 2.1 This Agreement shall come into effect on the Commencement Date.
- 2.2 Subject to Clause 6, this Agreement shall remain in force till March 31<sup>st</sup> 2015

## 3. CONDITIONS OF TRANSFER

- 3.1 In consideration of the Council entering into the Contract with the Provider, NHS England shall pay to the Council the Sum in accordance with Clause 4, subject to the following conditions and Clauses 7, 8 and 13:
  - 3.1.1 that the Sum shall be used by the Council for the Specified Purpose and for no other purpose whatsoever without the prior written authorisation of NHS England;

- 3.1.2 that the Council shall regularly and frequently consult with NHS England over the content and operation of the Contract between the Council and the Provider;
- 3.1.3 that the Council shall promptly at NHS England's written request enforce the Provider's obligations in the Contract in relation to Health and Well Being Services on NHS England's behalf as though NHS England was itself a party to the Contract;
- 3.1.3 that receipt of the Annual Sum shall be accounted for by submission of the Annual Voucher in accordance with Clause 5; and
- 3.1.4 that the Council pays, unless otherwise agreed with NHS England, the Annual Contribution set out in Schedule 4 towards the cost of the provision of the Services.

#### **4. THE ANNUAL SUM**

- 4.1 Subject to Clause 4.3, NHS England shall pay the Sum for 2014/15 to the Council in accordance with Schedule 1.
- 4.2 Payment of the Sum shall be made to the Council in one payment as soon as is practicable following the signing of this agreement.
- 4.3 If the Provider (whether on one or more occasions) reduces the level of Services it provides under the Contract below the level of Services which it undertook to provide at the Commencement Date then NHS England shall be entitled to reduce the Annual Sum by a corresponding amount (whether on one or more occasions).
- 4.4 Unless otherwise stated all sums stated in this Agreement (including but not limited to the Annual Sum) are inclusive of all applicable Value Added Tax (if any) or of any successor tax.

#### **5. APPLICATION OF ANNUAL SUM AND PRODUCTION OF VOUCHERS**

- 5.1 The Council shall sign the memorandum of agreement set out at Schedule 5. The Council shall re-sign the memorandum of agreement if required by NHS England as a result of a change in the sums of money to be paid under this Agreement.
- 5.2 At the end of the Accounting Year the Council shall complete an Annual Voucher in the form set out at Schedule 2. This shall be authenticated on behalf of the Council by the officer responsible under s151 of the Local Government Act 1972 for the administration of its

financial affairs. The Council shall arrange for the voucher to be submitted to NHS England by no later than the following 31 December.

## **6. TERMINATION**

### **General**

- 6.1 Either party shall be entitled to terminate this Agreement immediately if as a result of any change in relevant Legislation, direction or guidance from any Secretary of State NHS England ceases to be empowered to provide funding under this Agreement.
- 6.2 Either party shall be entitled to terminate this Agreement forthwith if the other party is in material breach of its obligations under this Agreement and has been served with a written notice to remedy such breach within a reasonable time (not being less than thirty days) but it has failed to do so.
- 6.3 Where NHS England is terminating this Agreement for a breach of the Agreement or one of the specific provisions in this clause 6 it may rely on a single breach or on a number of breaches or repeated breaches that taken together constitute a material breach.
- 6.4 This Agreement shall automatically determine if the Contract is terminated for whatever reason.
- 6.5 If the Provider ceases or suspends its provision of services under the Contract for a continuous period in excess of 5 Working Days, or for an aggregate period of 10 Working Days in any period of 13 weeks, then NHS England may, notwithstanding any other provision of this Agreement terminate this Agreement by giving the Council not less than 7 days' written notice provided that such notice is given within one month of the last day on which the services so ceased or were so suspended.
- 6.6 Upon termination of this Agreement any provisions of this Agreement relating to any Accounting Year (or portion of an Accounting Year) prior to termination of this Agreement shall remain in full force notwithstanding termination and such termination shall be without prejudice to both parties' rights in respect of any antecedent breaches of this Agreement.
- 6.7 The termination of this Agreement shall not affect the coming into force or the continuation in force of any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination or expiry.

## **7. REPAYMENT**

- 7.1 Upon the happening of a Termination Event, the Council shall repay to NHS England any unexpended portion of the Sum less any amounts which are properly due to the Provider under the Contract.
- 7.2 If, in breach of Clause 3.1.1, the Council uses any of the Sum for anything other than the Specified Purpose then the Council shall repay the proportion of the Annual Sum used other than for the Specified Purpose immediately to NHS England.
- 7.3 If the Services are reduced under the Contract then the Council shall repay to NHS England an amount of the Sum which corresponds to the reduction in the Sum applied by NHS England pursuant to Clause 4.3.

## **8. MEETINGS AND RECORDS**

- 8.1 The Council shall allow NHS England on reasonable notice to inspect all records, documents, correspondence with the Provider and other information as NHS England may reasonably require for the purpose of verifying the Council's observance and performance of the conditions of this Agreement.

## **9. EXCLUSION OF PREVIOUS ARRANGEMENTS**

The parties agree that this Agreement represents the entire agreement and understanding between the parties relating to the payment of the Annual Sum to the exclusion of any other arrangements or understanding informal or otherwise between the parties.

## **10. NOTICES**

- 10.1 Any notice required to be given by any party to another shall be in writing and shall be served by sending the same by registered post or facsimile transmission or by delivering the same by hand to the other party's principal address and any notice shall be deemed to have been served:-
- 10.1.1 48 hours after posting if sent by registered post; and
- 10.1.2 2 hours after transmission if a notice is sent by facsimile transmission save that where such deemed time of service is not during normal business hours the notice



shall be deemed to have been served at the opening of business on the next Working Day; and

10.1.3 immediately on delivery if served by hand

10.2 In proving service it will be sufficient to prove:-

10.2.1 in the case of a delivery by hand that the notice was delivered to or left at the correct address; or

10.2.2 in the case of a notice sent by registered post that the letter was properly addressed stamped and posted; or

10.2.3 in the case of a facsimile that it was properly addressed and dispatched to the correct number.

## **11. WAIVER**

No failure or delay on the part of NHS England to exercise any right or remedy under this Agreement shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy as the case may be and no waiver by NHS England of any breach of this Agreement shall be effective unless agreed by NHS England and the Council in writing.

## **12. ASSIGNMENT**

Neither party shall be entitled to assign or sub-contract its rights or obligations under this Agreement to any person without the prior written consent of the other party.

## **13. RELATIONSHIP BETWEEN THE PARTIES**

Neither party to this Agreement shall act as agent of or have the power or authority to bind or make any commitment on behalf of the other party or compromise the credit of the other party in any way nor shall this Agreement constitute a partnership between the parties and each party shall be responsible for its own obligations under this Agreement.

## **14. REVIEW AND ACCOUNT**

- 14.1 The parties shall, where so requested by either party, meet within five days of any notice at a place and time to be arranged between the parties but in default of such agreement at a place and time to be decided by NHS England acting reasonably.
- 14.2 Within five days of any notice (whether at a meeting arranged under Clause 14.1 or by email and telephone correspondence or otherwise) the parties shall, acting reasonably and in good faith on a full open book basis, compare the amount paid by NHS England to the Council with the amount actually incurred by the council or paid by the Council to the Provider under the Contract over the subsequent quarter. Where there is any shortfall in such amount paid by the Council to the Provider, the parties shall, acting reasonably and in good faith on a full open book basis, calculate a fair and reasonable rebate to NHS England of any proportion of the relevant Payment which was not paid on to the Provider, which the Council shall promptly refund to NHS England.
- 14.3 In addition to the review prescribed by Clause 14.1, the parties shall carry out a review of the arrangements contained in this Agreement and the Council shall provide such information as NHS England may reasonably require in connection with the review.
- 14.2 A written report of the review shall be prepared by the Council and agreed with NHS England and a copy of the report forwarded to NHS England within twenty-eight days of the review.

## **15. DISPUTES**

- 15.1 At the request of either party a representative of NHS England and a representative of the Council shall meet to discuss any issue arising from the terms and conditions of this Agreement.
- 15.2 Where an issue arises which cannot be determined or agreed by the representatives referred to in Clause 15.1 the matter shall be referred to a separate meeting convened for the purpose and including the Chief Executive of NHS England (or such other person as NHS England shall deem appropriate) and the Chief Executive of the Council (or such other person as the Council shall deem appropriate).

15.3 If the persons referred to in Clause 15.2 cannot resolve the matter within a reasonable period of time either party may require that the matter shall be referred to arbitration and the parties shall use reasonable endeavours to agree to the identity of the arbitrator. If an arbitrator cannot be agreed upon within a reasonable period either party may apply to the Chairman of the Institute of Arbitrators for the appointment of an arbitrator to resolve the dispute. The arbitrator shall act in accordance with the Arbitration Act 1996 and the parties shall bear the cost of the Arbitration in such proportions as the arbitrator shall determine. The Arbitrator's decision shall be final.

**16. GOVERNING LAW**

The Agreement shall be governed by and construed in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts.

**17. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

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

**18. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.

**IN WITNESS** whereof this deed is executed as a deed and is delivered on the date stated at the beginning of this deed.

**SIGNED AS A DEED AND DELIVERED BY**

Duly Authorised officer on behalf of NHS England

Duly Authorised Officer on behalf of NHS England

**SIGNED AS A DEED AND DELIVERED BY**

Duly Authorised Officer on behalf of Leeds City Council

Duly Authorised Officer on behalf of Leeds City Council

## **SCHEDULE 1**

### **SUM 2014/15**

£15,174,176 for Leeds City Council to invest in social care services to benefit health and to improve overall health gain and to ensure sustainability, consolidation and a whole system approach to deliver the Better Lives in Leeds programme. This focuses on Housing Care and Support, Integration with Health and Enterprise and includes supporting and developing transformation within; Homecare, Dementia care, Personalisation and investment in the Third Sector to support early intervention and prevention and expanded social capital

**SCHEDULE 2**

**SECTION 256 ANNUAL VOUCHERS**

.....COUNCIL

**PART 1 STATEMENT OF EXPENDITURE FOR THE YEAR 31 MARCH 2015**

(if the conditions of the payment have been varied, please explain what the changes are and why they have been made)

**PART 2 STATEMENT OF COMPLIANCE WITH CONDITIONS OF TRANSFER**

I certify that the above expenditure has been incurred in accordance with the conditions, including any cost variations, for each scheme agreed by NHS England in accordance with Directions made by the Secretary of State under Section 28A of the NHS Act 1977 as substituted by Section 1 of the Health and Social Services Adjudication Act 1983 and amended by section 29 of the Health Act 1999.

Signed.....

Date.....

Local Authority Chief Financial Officer (Section 151 Appointment), other relevant chief financial officer, or Chairman of voluntary sector organisation, as appropriate (see paragraph 6(2) of Directions)

Certificate of auditor appointed by the Audit Commission

The Statement of Responsibilities of grant-paying bodies, authorities, the Audit Commission and appointed auditors in relation to grant claims and returns, issued by the Audit Commission, sets out the respective responsibilities of these parties, and the limitations of our responsibilities as appointed auditors. I/We have:

- **examined the entries in this form (which replaces or amends the original submitted to me/us by the authority dated \_\_\_\_\_)\* and the related accounts and records of the authority in accordance with Certification Instruction A1 prepared by the Audit Commission for its appointed auditors; and**
- **carried out the tests specified in Certification Instruction HLG03 prepared by the Audit Commission for its appointed auditors, and I/we have obtained such evidence and explanations as I/we consider necessary.**

**(Except for the matters raised in the attached qualification letter dated \_\_\_\_\_)\* I/we have concluded that the entries are**

- **fairly stated; and**
- **in accordance with the relevant terms and conditions.**

**Signature \_\_\_\_\_ Name (block capitals) \_\_\_\_\_**

**Date \_\_\_\_\_**

*\*Delete as necessary*

**SCHEDULE 3**  
**THE CONTRACT**



## SCHEDULE 4

### CONTRIBUTION 2014/15

£15,174,176 for Leeds City Council to invest in social care services to benefit health and to improve overall health gain and to ensure sustainability, consolidation and a whole system approach to deliver the Joint Health and Well Being Strategy and in particular the Better Lives in Leeds programme. This focuses on Housing Care and Support, Integration with Health, and Enterprise and includes supporting and developing transformation within; Homecare, Dementia care, Personalisation and investment in the Third Sector to support early intervention and prevention and expanded social capital. This funding builds on previous years and allows for maintained funding as outlined below:

#### 1. Other Preventative Services: £1.500m

Service	Description	Funding (£000)	
		Adults	Children's
Older People's	Range of Third Sector (e.g. Neighbourhood Networks) to promote health and Well Being, Tackle Social Isolation	900	
Mental Health	Range of Third Sector MH services to promote well being and recovery as part of Leeds MH Framework	600	
<b>Sub-total</b>		1,500	

#### 2. Dementia Services: £1.600m

Service	Description	Funding (£000)	
		Adults	Children's
Day support	Range of day services inc. Peer Support	400	
Respite	Buildings and home based respite	400	
Care Home	Specialist Care home support	800	
<b>Sub-total</b>		1,600	

### 3. Joint Healthcare Teams/ working: £2.759m

Service	Description	Funding (£000)	
		Adults	Children's
Integrated Teams	13 Integrated Social Work Teams working with Health	2,000	
Programme Support	Programme Team to support integration programme across partners	759	
<b>Sub-total</b>		<b>2,759</b>	

### 4. Other: £9.315m

Service	Description	Funding (£000)	
		Adults	Children's
Home Care	Provision of care and support in the home	8,065	
Residential care	Provision of residential care and support	1,250	
<b>Sub-total</b>		<b>9,315</b>	

**Total: £15.174m**

Service	Total (£000)
Other Preventative Services	1,500,000
Dementia Services	1,600,000
Joint Healthcare Teams/ working	2,759,000
Other	9,315,176
<b>Total</b>	<b>15,174,176</b>

## SCHEDULE 5

### Memorandum of Agreement Section 256 transfer

Reference number.....

Title of scheme.....  
(the reference number and title of the scheme should give a unique identification of the scheme)

**1.0** How will the section 256 transfer secure more health gain than an equivalent expenditure of money in the NHS?

On 13th January 2011 the Government, through the Department of Health (Gateway document 15434), outlined further funding, as announced in the Spending Review and 2011/12 Operating Framework, to PCT's of additional monies to fund for Specific Allocations for Social Care. This covered three years. In the circular of 19<sup>th</sup> December 2012, Gateway reference 18568 it was identified that future the funding transfer to local authorities will be carried out by NHS England. A condition of this transfer that the local authorities agree with its local partners how the funding is best used within social care.

The notice highlights that:

*'The Board may use the funding transfer to support existing services or transformation programmes, where such services or programmes are of benefit to the wider health and care system, provide good outcomes for service users, and would be reduced due to budget pressures in local authorities without this investment. The Board may also use the funding transfer to support new services or transformation programmes, again where joint benefit with the health system and positive outcomes for service users have been identified'.*

1.1 In Leeds, agreement has been reached between Leeds North, Leeds South and East and Leeds West Clinical Commissioning Groups, NHS England and Leeds City Council that the funding be used to deliver the Better Lives in Leeds programme. This focuses on Housing Care and Support, Integration with Health and Enterprise and includes supporting and developing transformation within; Homecare, Dementia care, Personalisation and investment in the Third Sector to support early intervention and prevention and expanded social capital.

## 2.1 Principles

Under the auspices of the Transformation of Health and Social Care a set of agreed principles have been developed for services for Older People and people with long term conditions. These commit to: *All services for older people and people with long term conditions in Leeds will be safe, close as possible to someone's home, accessible, integrated, accessed by a single process, pro active, structured around an individuals need, and are flexible and that older people and people with long term conditions are able to participate fully in all aspects of their communities, are treated with dignity and respect, are able to remain independent, in control, and enjoy as good mental and physical health as possible.*

These principles will underpin this agreement and developments arising out of the use of the funding.

## 2.2 Measuring the impact

Adult Social Care will provide reports as required to the Integrated Health and Social Care Board and Health and well Being Board and NHS England as required on the Better Lives Programme

## 2.3 Governance

The Integration Board in will take oversight of the performance and implementation of this work and will report to the joint Transformation of Health and Social Care Board and Health and well Being Board

## 2.4 Expenditure

The £15,174,176 will fund additional costs to Adult Social Care arising out of the increased demand for services during the period in which changes to community care pathways and services are reconfigured. As well as supporting the maintenance of expenditure on Dementia services and on Third Sector Grants/Contracts that support early intervention and prevention and investment in integration and enterprise to support service transformation.

## 3.0 Financial details (and timescales):

The total amount of money to be transferred and amount in each year (if this subsequently changes, the memorandum must be amended and re-signed)

Year(s)	Amount	Capital	Revenue
2014/15	£15,174,176		£15,174,176

In the case of the capital payments, should a change of use as outlined in directions at paragraph 4(1) (b) occur, both parties agree that the original sum shall be recoverable by way of a legal charge on the Land Register as outlined in directions at paragraph 4(4).

4. Please state the evidence you will use to indicate that the purposes described at questions 1 & 2 have been secured.

These metrics are described in the overall vision for services agreed by the Transformation Board and will use the metrics described in Sections 1.3 and 2.2.

Signed	.....	for NHS England
	.....	Position
	.....	Date
	.....	for Leeds City Council
	.....	Position
	.....	Date