

Chair: Ms J Crombleholme
 Enquiries to: Laura Latham
 07827 239332
 Laura.latham1@nhs.net

NHS Stockport Clinical Commissioning Group Governing Body Part 1

A G E N D A – T O F O L L O W

The next meeting of the NHS Stockport Clinical Commissioning Group Governing Body will be held at Regent House, Stockport at 10am on 27 April 2016

	Agenda item	Report	Action	Indicative Timings	Lead
11.	Report of the Chief Clinical Officer to include the following: <ul style="list-style-type: none"> South East Sector Memorandum of Understanding 	Written Report	To approve	11.45	R Gill
12.	Procurement of the MCP	Written Report	To approve	12:05	Mark Chidgey
Date, Time and Venue of Next meeting The next NHS Stockport Clinical Commissioning Group Governing Body meeting will be held on 25 May 2016 at Regent House, Stockport. Potential agenda items should be notified to stocccg.gb@nhs.net by 1 February 2016.					

Title	South East Sector Single Service Memorandum of Understanding, Confidentiality Agreement and Non-Disclosure Agreement		
Author	Jen Parsons		
Target Audience	South East Sector Programme Board		
Version	V0.3		
Created – date	06/01/2016		
Date of Issue			
Document Status	DRAFT		
File name and path	S:\Transformation\SERVTRAN\South East Sector\Governance		
Document History:			
Date	Version	Author	Details
14/12/2015	V0.1 – 0.2	Jen Parsons	First Draft including comments on principles from SES Programme Board
09/02/2016	V0.3	Jen Parsons	Incorporates a guidance note for Boards, redrafted Confidentiality Agreement and Non-Disclosure Agreement from Hempsons
Approved by:			
Governance route:			
Group	Date	Version	Purpose
South East Sector Programme Board	17/02/2016		
Purpose			
The purpose of this document is to provide guidance to Boards with regards to signing off the enclosed Memorandum of Understanding, Confidentiality Agreement and Non-Disclosure Agreement – to support collaborative working the South East Sector.			

Guidance note for SES Programme Board

As part of the continued collaboration between Parties in the South East Sector, a Memorandum of Understanding has been drafted to outline the basis of this collaboration. Following legal advice provided by Hempsons LLP, this document also includes two further agreements that are required to underpin this collaboration, and once signed, will be legally binding.

The purpose of this document is to bring together these separate documents into a single paper with a guidance note for the South East Sector Programme Board in advance of securing the necessary sign-offs from each Party's governing body.

The following table provides a summary of the purpose of each document, recommendations or points of clarification from Hempsons, and the required sign-off.

Document	Purpose	Recommendations / points of clarification	Sign-off
Memorandum of Understanding	<ul style="list-style-type: none"> This is a non-legally binding document that outlines the basis for collaboration in the South East Sector 	<ul style="list-style-type: none"> Note that the dates of the MoU, Confidentiality Agreement and Non-Disclosure Agreement will be set at the point when a finalised version of this paper is circulated for signature 	<ul style="list-style-type: none"> Chief Executive / Chair signature on behalf of each party's governing body – pages 6 and 7
Confidentiality Agreement	<ul style="list-style-type: none"> This is a legally binding agreement to ensure that the Confidential Information disclosed by and to the Parties in the context of their joint working arrangements remains confidential 	<ul style="list-style-type: none"> Paragraph 8.1 provides that each party's obligations under the agreement will continue for a period of 6 years from its termination. The parties should consider whether they are happy with this or whether they want to stipulate a longer period. Paragraph 10.2 says that the parties cannot give notice to each other by e-mail. The parties should be aware of this. If they want to be able to give notice by e-mail then Clause 10.1 will need to be amended. 	<ul style="list-style-type: none"> Chief Executive / Chair signature on behalf of each party's governing body – pages 12 and 13
Non-Disclosure Agreement	<ul style="list-style-type: none"> This is a legally binding agreement to ensure that any commercially sensitive information disclosed by and to the Parties in the context of their joint working is limited in 	<ul style="list-style-type: none"> The NDA currently envisages that any commercially sensitive information will be transferred between the parties by a third party Programme Director jointly 	<ul style="list-style-type: none"> Chief Executive / Chair signature on behalf of each party's governing body – pages 8 and 9

	purpose to exploring potential business opportunities between them and that, wherever possible, such information is anonymised and/or aggregated so as to minimise any potential breach of competition law	employed by them* <ul style="list-style-type: none"> • As per the Confidentiality Agreement above, paragraphs 5.1, and 7.1 and 7.2 concern the period of obligation following termination of the agreement, and the stipulation that parties cannot give notice to each other by email 	
--	--	---	--

*Hempsons recommend that an individual is identified by the parties to review the commercially sensitive information that is going to be shared by them to decide whether the information needs to be anonymised/ aggregated from a competition law perspective. Hempsons also recommend that this individual also keeps a record of the commercially sensitive information that is shared. The drafting of the NDA may need to be amended to reflect the arrangement that the parties put in place.

Memorandum of Understanding

South East Sector Collaboration

East Cheshire NHS Trust

Stockport NHS Foundation Trust

Tameside Hospital NHS Foundation Trust

NHS Eastern Cheshire Clinical Commissioning Group

NHS North Derbyshire Clinical Commissioning Group

NHS Stockport Clinical Commissioning Group

NHS Tameside & Glossop Clinical Commissioning Group

‘The Parties’

[insert date] 2016

IMPORTANT

This Memorandum of Understanding (MoU) and all discussions between the Parties and their representatives regarding the subject matter of this document are subject to contract and nothing in this document shall constitute a legally binding obligation on any Party to it. A separate Confidentiality Agreement and Non-Disclosure Agreement are legally binding documents that should be read in conjunction with this MoU.

1. Introduction

The Parties are providers and commissioners of a wide range of healthcare services for the populations of East Cheshire, Stockport, Tameside and Glossop and North Derbyshire (the South East Sector) and have agreed to collaborate with each other to implement Healthier Together in the South East of Greater Manchester and surrounding localities following the decision of the 12 Greater Manchester CCGs on the 15th July 2015. This Memorandum of Understanding does not seek to limit the scope solely to the Healthier Together implementation and leaves open the potential for the Parties to explore future collaborations on the delivery of other services beyond Healthier Together.

The purpose of this Memorandum of Understanding is to

1. Set out the principles on which the Parties will work together and the basis of this understanding
2. Set out the Healthier Together South East Single Service Mandate as the first 'collaboration' under this Memorandum of Understanding
3. Set out any legal agreements that are required alongside this Memorandum of Understanding.

2. Basis of understanding

The Parties have agreed to the following principles in relation to the proposed collaboration:

- To act in the best interests of service users and an engaged public
- To demonstrably improve the quality and clinical outcomes of the clinical services which the Parties provide to their patients
- To work as a partnership of equals
- To adopt an open and constructive relationship with each other in relation to the collaboration
- At all times to act in good faith towards one another
- To be cognisant of the sustainability of the system
- To manage all information supplied by other parties in a confidential manner (as per the Confidentiality Agreement).

3. South East Sector Single Service Mandate

NHS Stockport CCG, NHS Tameside & Glossop CCG and NHS North Derbyshire will formally amend their commissioning intentions in line with the Healthier Together decision. NHS Eastern Cheshire CCG have agreed to collaborate with the South East Single Service to fully understand the impact of the proposed changes; with an initial focus on General Surgery.

The scope and focus of the Healthier Together hospital programme is:

- Urgent, Emergency & Acute Medicine;
- General Surgery.

In addition, it is recognised that there are key services that are interdependent with the above services which will be included *to the extent of their dependency*, within the final Model of Care (Hospital Services):

- Anaesthetic Services;
- Critical Care;
- Clinical Support Services (e.g. Diagnostics).

Furthermore, programme documentation will also describe the enabling changes in local “Out of Hospital” services that will need to take place before changes to hospital services are made.

(Scope and focus of HT hospital programme taken from Terms of Reference for Greater Manchester Healthier Together Joint Committee V1.4)

4. Confidentiality

A separate legally binding Confidentiality Agreement has been drafted to be read in conjunction with this MoU to ensure that confidential information disclosed by and to the Parties in the context of this collaboration, remains confidential.

5. Non-Disclosure Agreement

A separate legally binding Non-Disclosure Agreement has been drafted to be read in conjunction with this Memorandum of Understanding to ensure that any commercially sensitive information disclosed by and to the Parties in the context of this collaboration is limited in purpose to exploring potential collaboration opportunities between them and that wherever possible such information is anonymised and/or aggregated so as to minimise any potential breach of competition law.

6. Review

The Memorandum of Understanding shall be reviewed by the Parties three years after the seven signatories have applied their signatures to this document. However any Party may withdraw from the Memorandum of Understanding at any time without penalty by informing the other Parties of their intention to do so in writing.

SIGNED ON BEHALF OF THE BOARD:

1) East Cheshire NHS Trust of Victoria Road, Macclesfield, Cheshire, SK10 3BL

Chief Executive

Date

2) Stockport NHS Foundation Trust of Stepping Hill Hospital, Poplar Grove, Stockport, SK2 7JE

Chief Executive

Date

3) Tameside Hospital NHS Foundation Trust of Fountain Street, Ashton-under-Lyne, OL6 9RW

Chief Executive

Date

4) NHS Eastern Cheshire Clinical Commissioning Group of New Alderley House, Macclesfield, Cheshire SK10 3BL

Chair

Date

5) NHS North Derbyshire Clinical Commissioning Group of Nightingale Close, Off Newbold Road, Chesterfield, S41 7PF

Chair

Date

6) NHS Stockport Clinical Commissioning Group of Regent House, Heaton Lane, Stockport, Cheshire SK4 1BS

Chair

Date

7) NHS Tameside & Glossop Clinical Commissioning Group of New Century House, Progress Way, Windmill Lane, Denton, Manchester, M34 2GP

Chair

Date

Confidentiality Agreement

- Note 1: *This Agreement is for use by Stockport NHS Foundation Trust, East Cheshire NHS Trust, Tameside Hospital NHS Foundation Trust, NHS Eastern Cheshire Clinical Commissioning Group, NHS North Derbyshire Clinical Commissioning Group, NHS Stockport Clinical Commissioning Group and NHS Tameside and Glossop Clinical Commissioning Group (the Parties) in the context of their South East Sector Collaboration. This includes, but is not limited to, the implementation of Healthier Together.*
- Note 2: *This Agreement has been drafted to ensure that the Confidential Information disclosed by and to the Parties in the context of their joint working arrangements remains confidential.*
- Note 3: *This Agreement is to be read in conjunction with the Non-Disclosure Agreement signed by the Parties on [Insert date].*
- Note 4: *This Agreement is intended to be legally binding.*

DATED

[XX] 2016

- (1) EAST CHESHIRE NHS TRUST;
- (2) STOCKPORT NHS FOUNDATION TRUST;
- (3) TAMESIDE HOSPITAL NHS FOUNDATION TRUST;
- (4) NHS EASTERN CHESHIRE CLINICAL COMMISSIONING GROUP;
- (5) NHS NORTH DERBYSHIRE CLINICAL COMMISSIONING GROUP;
- (6) NHS STOCKPORT CLINICAL COMMISSIONING GROUP; AND
- (7) NHS TAMESIDE & GLOSSOP CLINICAL COMMISSIONING GROUP

CONFIDENTIALITY AGREEMENT

INDEX

Clause	Page
1 Background	2
2 Definitions	2
3 Consideration	5
4 Obligations of the Parties and Representatives	5
5 Forced Disclosure	7
6 Reservation of rights and acknowledgement	8
7 Warranty and Indemnity	9
8 Term and termination	9
9 General legal provisions	9
10 Notices	10

THIS AGREEMENT IS MADE ON [XX] 2016

BETWEEN:-

- (1) STOCKPORT NHS FOUNDATION TRUST,
- (2) EAST CHESHIRE NHS TRUST,
- (3) TAMESIDE HOSPITAL NHS FOUNDATION TRUST,
- (4) NHS EASTERN CHESHIRE CLINICAL COMMISSIONING GROUP,
- (5) NHS NORTH DERBYSHIRE CLINICAL COMMISSIONING GROUP,
- (6) NHS STOCKPORT CLINICAL COMMISSIONING GROUP, and
- (7) NHS TAMESIDE & GLOSSOP CLINICAL COMMISSIONING GROUP

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

1 BACKGROUND

- 1.1 The Parties have entered into a memorandum of understanding on [Insert date] ('**the Memorandum**') which sets out the Parties' agreement to collaborate with each other to implement Healthier Together in the South East of Greater Manchester and surrounding localities following the decision of the 12 Greater Manchester CCGs on the 15th July 2015. The Memorandum also refers to the potential for the Parties to explore future collaborations on the delivery of other services beyond Healthier Together. This joint working will together be known as '**the Programme**'.
- 1.2 The Parties now wish to agree more detailed obligations with respect to the holding of such Confidential Information.
- 1.3 The Parties intend this Agreement to be legally binding.

2 DEFINITIONS

- 2.1 The following definitions will apply to this Agreement:
 - 2.1.1 **Business Day:** a day (other than a Saturday, Sunday or public holiday) when the banks in London are open for business.
 - 2.1.2 **Commissioner** means NHS England or a clinical commissioning group.
 - 2.1.3 **Confidential Information:**

- 2.1.3.1 *information (however recorded, preserved or disclosed) that is directly or indirectly disclosed, whether before or after the date of this Agreement, as part of or ancillary to the Programme; or*
- 2.1.3.2 *information relating to the nature, content or substance of any discussions and/or negotiations taking place concerning the Programme; or*
- 2.1.3.3 *information contained in any version of a business case of any Party; or*
- 2.1.3.4 *information contained in any documents entered into as part of the Programme; or*
- 2.1.3.5 *any other information that the Parties agree in writing is confidential; or*
- 2.1.3.6 *any information that would be regarded as confidential by a reasonable business person relating to:*
 - 2.1.3.6.1 *the business affairs, patients, customers, clients, suppliers, plans, intentions, or market opportunities of the Disclosing Party; or*
 - 2.1.3.6.2 *the operations, processes, product information, know-how, designs, trade secrets or software of the Disclosing Party; or*
- 2.1.3.7 *any information developed by the Parties in the course of the Programme;*

But does not include any information if:

- 2.1.3.8 *the information is, or subsequently becomes, public knowledge other than as a direct or indirect result of the information being disclosed in breach of this Agreement or of any other undertaking of confidentiality addressed to the Party to whom the information relates (except that any compilation of otherwise public information in a form not publicly known will nevertheless be treated as Confidential Information); or*

- 2.1.3.9 *a Party can establish, to the reasonable satisfaction of the other Parties, that it found out the information or the information was, is or becomes available to a Party from a source not connected with the other Parties and that such source is not under any obligation of confidence in respect of that information; or*
- 2.1.3.10 *a Party can establish, to the reasonable satisfaction of the other Parties, that the information was known to the Party or lawfully in the possession of the Party before the date of this Agreement and that it was not under any obligation of confidence in respect of that information; or*
- 2.1.3.11 *the Parties agree in writing that it is not confidential or may be disclosed; or*
- 2.1.3.12 *a Party can establish, to the reasonable satisfaction of the other Parties, that it developed the information independently of the Confidential Information.*
- 2.1.4 **Disclosing Party:** a Party which discloses or makes available directly or indirectly Confidential Information.
- 2.1.5 **Memorandum** has the meaning given in Clause 1.1.
- 2.1.6 **Programme** has the meaning given in Clause 1.1.
- 2.1.7 **Programme Director:** the strategic director employed by the Parties to co-ordinate the Programme.
- 2.1.8 **Purpose:** to use the Confidential Information only for:
- 2.1.8.1 *the purposes of implementing the Healthier Together decision; and*
- 2.1.8.2 *considering, evaluating and developing other opportunities for working together.*
- 2.1.9 **Receiving Party:** a Party which receives or obtains directly or indirectly Confidential Information.
- 2.1.10 **Representative:** employees and agents of the Receiving Parties including for the avoidance of doubt the Programme Director and any professional advisers appointed by the Parties to assist with the Programme.

- 2.2 Clause headings will not affect the interpretation of this Agreement.
- 2.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 2.4 Words in the singular will include the plural and vice versa; words denoting the masculine gender include the feminine gender; words denoting persons include bodies corporate and unincorporated associations and partnerships.
- 2.5 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.

3 **CONSIDERATION**

In consideration of the benefits to all Parties in exchanging or otherwise disclosing Confidential Information for the Purpose (whether directly or through their Representatives) and in further consideration of each Party agreeing to pay the other Parties on demand GBP £1, the Parties agree to be bound by the terms of this Agreement.

4 **OBLIGATIONS OF THE PARTIES AND REPRESENTATIVES**

- 4.1 Each Receiving Party will, and will direct and procure that each of its Representatives will:
- 4.1.1 keep the Confidential Information confidential;
 - 4.1.2 use the Confidential Information only for the Purpose;
 - 4.1.3 not directly or indirectly disclose (or knowingly allow it to be disclosed) or make available, in whole or in part, any Confidential Information to any person who is not a Representative;
 - 4.1.4 take all reasonable steps to ensure that no Confidential Information is visible to, or capable of being overlooked by any person who is not a Representative;
 - 4.1.5 ensure the Confidential Information is not left unattended at any time;
 - 4.1.6 not alter, modify or vary any of the Confidential Information in any way (excluding the Programme Director, his/her team and any advisers appointed by the Parties who may do so pursuant to their advisory function under the Programme);
 - 4.1.7 apply the same security measures and degree of care to the Confidential Information as the Receiving Party applies to its own confidential

information, which the Receiving Party warrants as providing adequate protection from unauthorised disclosure, copying or use; and

- 4.1.8 inform the other Parties immediately on becoming aware, or suspecting, that any person who is not a Representative has become aware of Confidential Information.
- 4.2 The Receiving Party may only disclose the Disclosing Party's Confidential Information to those of its Representatives who need to know this Confidential Information for the Purpose, provided that:
 - 4.2.1 it informs these Representatives of the confidential nature of the Confidential Information before disclosure or upon signing this Agreement (whichever is the later) and obtains from its Representatives enforceable undertakings to keep the Confidential Information confidential in terms at least as extensive and binding upon the Representatives as the terms of this Agreement are upon the Parties; and
 - 4.2.2 at all times, it is responsible for these Representatives' compliance with the obligations set out in this Agreement.
- 4.3 The Parties also agree that Confidential Information may be disclosed to Commissioners where reasonably necessary in order to progress the Programme.
- 4.4 Representatives may only make such copies of, reduce to writing or otherwise record the Confidential Information as is strictly necessary for the Purpose and will:
 - 4.4.1 clearly mark all such documents as 'Confidential';
 - 4.4.2 ensure that all such documents supplied to them or made by them can be separately identified from their own information;
 - 4.4.3 use all reasonable endeavours to ensure that all copies within their control are protected against theft or unauthorised access.
- 4.5 If discussions in relation to the Programme cease, or one Party expresses its wish to cease to be part of the Programme, the remaining Parties will immediately:
 - 4.5.1 return to the relevant Disclosing Party all Confidential Information received;
 - 4.5.2 destroy or permanently erase all documents and materials and any copies supplied to them or made by them or by their Representatives containing, reflecting incorporating or based on Confidential Information; and

- 4.5.3 erase all of the Confidential Information from their computer systems or which is stored in electronic form (to the extent possible).
- 4.6 Nothing in Clauses 4.4 or 4.5 will require a Party to return or destroy Confidential Information or copies that the Party is required to retain by applicable law or to satisfy the rules or regulations of any applicable governmental or regulatory body to which such Party is subject and to the extent reasonable to permit the Receiving Party to keep evidence that it has performed its obligation under this Agreement.
- 4.7 Nothing in Clauses 4.4 or 4.5 will require a Party to destroy reports, analyses or similar documents prepared for the Parties' joint use by the Programme Director or any appointed advisers pursuant to their advisory function under the Programme.
- 4.8 Each Party will establish and maintain adequate security measures (including any reasonable security measures proposed by the other Parties from time to time) to safeguard Confidential Information from unauthorised access or use.
- 4.9 No Party will make, and will direct and procure that none of its Representatives will make, any public announcement concerning this Agreement, the Purpose or its prospective interest in the Purpose without the prior written consent of the other Parties (such consent not to be unreasonably withheld or delayed) except as is required by law or any governmental or regulatory body or by any court or other authority or competent jurisdiction.
- 4.10 No Party will make use of the other Parties' names or any information acquired through its dealing with the other Parties for publicity or marketing purposes without the prior written consent of the other Parties.
- 4.11 If a Party develops or uses a product or a process which, in the reasonable opinion of the other Parties, might have involved the use of any of the Disclosing Party's Confidential Information, the Party will, at the request of the Disclosing Party, supply to the other Parties information reasonably necessary to establish that the Confidential Information has not been disclosed.

5 FORCED DISCLOSURE

- 5.1 Subject to Clause 5.2, a Party may disclose Confidential Information to the extent required by law or any order of any court or other authority of competent jurisdiction or any competent judicial, governmental or regulatory body.
- 5.2 Before a Party discloses any information under this Clause 5, it will (to the extent permitted by law) use all reasonable endeavours to:

- 5.2.1 inform the other Parties of the full circumstances of the disclosure and the information that will be disclosed;
 - 5.2.2 consult with the other Parties as to possible steps to avoid or limit disclosure and take those steps where they would not result in significant adverse consequences to other Parties provided that nothing will prevent a Party from making any disclosure required by law or any governmental or regulatory body or by any court or other authority or competent jurisdiction; and
 - 5.2.3 where the disclosure is by way of public announcement, agree the wording with the other Parties in advance.
- 5.3 Each Party will co-operate with the other Parties if it decides to bring any legal or other proceedings to challenge the validity of the requirement to disclose Confidential Information.
- 5.4 If a Party is unable to inform the other Parties before Confidential Information is disclosed, it will (to the extent permitted by law) inform the other Parties immediately after the disclosure of the full circumstances of the disclosure and the information that has been disclosed.

6 RESERVATION OF RIGHTS AND ACKNOWLEDGEMENT

- 6.1 All Confidential Information will remain the property of the Disclosing Party. Each Party reserves all rights in its Confidential Information. No rights, including, but not limited to, intellectual property rights, in respect of a Party's Confidential Information are granted to the other Parties and no obligations are imposed on the Parties other than those expressly stated in this Agreement.
- 6.2 Except as expressly stated in this Agreement, no Party makes any express or implied warranty or representation concerning its Confidential Information, or the accuracy or completeness of the Confidential Information.
- 6.3 The disclosure of Confidential Information by a Party will not form any offer by, or representation or warranty on the part of, the Disclosing Party to enter into any further agreement in relation to the Purpose.
- 6.4 Each Party acknowledges that damages alone would not be an adequate remedy for the breach of any of the provisions of this Agreement. Accordingly, without prejudice to any other rights and remedies it may have, each Party will be entitled to the

granting of equitable relief (including without limitation injunctive relief) concerning any threatened or actual breach of any of the provisions of this Agreement.

- 6.5 Each Party will be liable to the other Parties for the actions or omissions of its Representatives under this Agreement, as if they were the actions or omissions of the Recipient.

7 WARRANTY AND INDEMNITY

- 7.1 Each Party warrants that it has the right to disclose its Confidential Information to the other Parties and to authorise the other Parties to use such Confidential Information for the Purpose.
- 7.2 Each Party will indemnify and keep fully indemnified the other Parties at all times against all liabilities, costs (including legal costs on an indemnity basis), expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and other reasonable costs and expenses suffered or incurred by the other Parties) arising from any breach of this Agreement by a Party and from the actions or omissions of its Representative.

8 TERM AND TERMINATION

- 8.1 If any Party decides not to become, or continue to be involved in any aspect of the Programme, it will notify the other Parties in writing immediately. The obligations of each Party under this Agreement will, notwithstanding any earlier termination of discussions between the Parties in relation to the Programme, continue for a period of 6 years from the termination of this Agreement.
- 8.2 Termination of this Agreement will not affect any accrued rights or remedies to which any Party is entitled.

9 GENERAL LEGAL PROVISIONS

- 9.1 This Agreement will be governed by the laws of England and the courts of England will have exclusive jurisdiction.
- 9.2 No variation or waiver of this Agreement or any part of it will be effective unless made in writing, signed by or on behalf of all the Parties and expressed to be such a variation or waiver.
- 9.3 This Agreement and the documents referred to in them are made for the benefit of the Parties, their successors and permitted assigns, and are not intended to benefit, or be enforceable by, anyone else.

- 9.4 The Parties will attempt to resolve any dispute between them in respect of this Agreement by negotiation in good faith.
- 9.5 Failure to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law will not constitute a waiver of that or any other right or remedy, nor will it preclude or restrict any further exercise of that or any other right or remedy.
- 9.6 No single or partial exercise of any right or remedy provided under this Agreement or by law will preclude or restrict the further exercise of that or any other right or remedy.
- 9.7 A Party that waives a right or remedy provided under this Agreement or by law in relation to another Party, or takes or fails to take any action against that Party, does not affect its rights in relation to any other Party.
- 9.8 Except as otherwise provided in this Agreement, no Party may assign, sub-contract or deal in any way with, any of its rights or obligations under this Agreement or any document referred to in it.
- 9.9 Nothing in this Agreement is intended to, or will be deemed to, establish any formal partnership between any of the Parties, constitute any Party the agent of another Party, nor authorise any Party to make or enter into any commitments for or on behalf of any other Party.
- 9.10 No person other than a Party to this Agreement will have any rights to enforce any term of this Agreement whether under the Contract (Rights of Third Parties) Act 1999 or otherwise.
- 9.11 This Agreement may be executed in any number of counterparts, each of which when executed will constitute an original of this Agreement.

10 NOTICES

Any notice required to be given under this Agreement, will be in writing and will be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier, to each Party required to receive the notice at the relevant Party's headquarters. Any such notice will be marked for the attention of the Trust/Clinical Commissioning Group's Secretary.

- 10.1 Any notice will be deemed to have been duly received:
 - 10.1.1 if delivered personally, when left at the address; or

- 10.1.2 if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day after posting; or
 - 10.1.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- 10.2 A notice required to be given under this Agreement will not be validly given if sent by e-mail.

DRAFT

Signed by the parties or their duly authorised representatives on the date set out above.

1) East Cheshire NHS Trust of Victoria Road, Macclesfield, Cheshire, SK10 3BL

Chief Executive

Date

2) Stockport NHS Foundation Trust of Stepping Hill Hospital, Poplar Grove, Stockport, SK2 7JE

Chief Executive

Date

3) Tameside Hospital NHS Foundation Trust of Fountain Street, Ashton-under-Lyne, OL6 9RW

Chief Executive

Date

4) NHS Eastern Cheshire Clinical Commissioning Group of New Alderley House, Macclesfield, Cheshire SK10 3BL

Chair

Date

5) NHS North Derbyshire Clinical Commissioning Group of Nightingale Close, Off Newbold Road, Chesterfield, S41 7PF

Chair

Date

6) NHS Stockport Clinical Commissioning Group of Regent House, Heaton Lane, Stockport, Cheshire SK4 1BS

Chair

Date

7) NHS Tameside & Glossop Clinical Commissioning Group of New Century House, Progress Way, Windmill Lane, Denton, Manchester, M34 2GP

Chair

Date

Non-Disclosure Agreement

- Note 1: This Agreement is for use by Stockport NHS Foundation Trust, East Cheshire NHS Trust, Tameside Hospital NHS Foundation Trust, NHS Eastern Cheshire Clinical Commissioning Group, NHS North Derbyshire Clinical Commissioning Group, NHS Stockport Clinical Commissioning Group and NHS Tameside and Glossop Clinical Commissioning Group (the Parties) in the context of their South East Sector Collaboration. This includes, but is not limited to, the implementation of Healthier Together.*
- Note 2: The purpose of this Agreement is to ensure that any commercially sensitive information disclosed by and to the Parties in the context of their joint working is limited in purpose to exploring potential business opportunities between them and that, wherever possible, such information is anonymised and/or aggregated so as to minimise any potential breach of competition law.*
- Note 3: This Agreement highlights the importance of the Programme Director as a third party intermediary in conveying such commercially sensitive information to the Parties.*
- Note 4: This Agreement should also assist the Parties in remaining as strategically independent entities prior to the entering into of any formal corporate structures as a result of the joint working.*
- Note 5: Adherence to the terms of this Agreement is designed to assist the Parties' legal position if any competition authority investigates the joint working.*
- Note 6: The Agreement must be executed before Commercially Sensitive Information is exchanged between the parties.*
- Note 7: This Agreement is to be read in conjunction with the Confidentiality Agreement signed by the parties on [Insert date].*
- Note 8: This Agreement is intended to be legally binding.*

DATED

[XX] 2016

- (1) EAST CHESHIRE NHS TRUST;
- (2) STOCKPORT NHS FOUNDATION TRUST;
- (3) TAMESIDE HOSPITAL NHS FOUNDATION TRUST;
- (4) NHS EASTERN CHESHIRE CLINICAL COMMISSIONING GROUP;
- (5) NHS NORTH DERBYSHIRE CLINICAL COMMISSIONING GROUP;
- (6) NHS STOCKPORT CLINICAL COMMISSIONING GROUP; AND
- (7) NHS TAMESIDE & GLOSSOP CLINICAL COMMISSIONING GROUP

NON-DISCLOSURE AGREEMENT

INDEX

Clause	Page
1 Background	2
2 Definitions	3
3 Consideration	5
4 Obligations of the Parties and their representatives	5
5 Term and Termination	5
6 General legal provisions	6
7 Notices	7

THIS AGREEMENT IS MADE ON [XX] 2016

BETWEEN:-

- (1) STOCKPORT NHS FOUNDATION TRUST,
- (2) EAST CHESHIRE NHS TRUST,
- (3) TAMESIDE HOSPITAL NHS FOUNDATION TRUST,
- (4) NHS EASTERN CHESHIRE CLINICAL COMMISSIONING GROUP,
- (5) NHS NORTH DERBYSHIRE CLINICAL COMMISSIONING GROUP,
- (6) NHS STOCKPORT CLINICAL COMMISSIONING GROUP, and
- (7) NHS TAMESIDE & GLOSSOP CLINICAL COMMISSIONING GROUP

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

11 BACKGROUND

- 11.1 The Parties have entered into a memorandum of understanding on [Insert date] (**'the Memorandum'**) which sets out the Parties' agreement to collaborate with each other to implement Healthier Together in the South East of Greater Manchester and surrounding localities following the decision of the 12 Greater Manchester CCGs on the 15th July 2015. The Memorandum also refers to the potential for the Parties to explore future collaborations on the delivery of other services beyond Healthier Together. This joint working will together be known as **'the Programme'**.
- 11.2 The Parties have agreed a Confidentiality Agreement dated [Insert date] in respect of Confidential Information received under the Programme.
- 11.3 The Parties now wish to agree certain provisions with regard to any Commercially Sensitive Information they receive pursuant to the Programme.
- 11.4 The Parties recognise that the exchange of Commercially Sensitive Information can give rise to competition law issues which the Parties wish to avoid.
- 11.5 Specifically each Party wishes to agree that any Commercially Sensitive Information pertaining to the other Parties which they receive pursuant to the Programme will be used solely for the purpose of exploring opportunities in respect of the Programme.

- 11.6 The Parties also wish to agree that such Commercially Sensitive Information will be transferred to and from the Parties (whether individually or collectively) [via a third party intermediary jointly employed by the Parties].
- 11.7 The Parties also wish to agree that this third party intermediary will have due regard to any lawful need for Commercially Sensitive Information to be anonymised and/or aggregated before it is sent to them.
- 11.8 The Parties wish to limit disclosure of any Commercially Sensitive Information to those employees and representatives of the Parties who are directly involved in the Programme.
- 11.9 The Parties intend this Non-Disclosure Agreement to be legally binding.

12 DEFINITIONS

- 12.1 In this Agreement the following words and expressions will have the following meanings:

12.1.1 **Confidentiality Agreement:** the agreement between the Parties dated [Insert date];

12.1.1.1 **Confidential Information** has the same meaning as set out in the Confidentiality Agreement;

12.1.2 **Commercially Sensitive Information:** any and all trade secrets, confidential financial information and confidential commercial information, including without limitation, information relating to the terms of actual or proposed contract or sub-contract arrangements (including bids received under competitive tendering), future pricing, business strategy and costs data, as may be utilised, produced or recorded by any Party, the publication of which an organisation in the same business would reasonably be able to expect to protect by virtue of business confidentiality provisions. For the avoidance of doubt, Commercially Sensitive Information will also constitute Confidential Information;

12.1.3 **Data:** information, data and material recorded in any form and shared between any or all of the Parties including Confidential Information and Commercially Sensitive Information;

12.1.4 **Memorandum** has the meaning given in Clause 1.1;

12.1.5 **Programme** has the meaning given in Clause 1.1;

- 12.1.6 **Programme Director:** the strategic director employed jointly by the Parties to co-ordinate the Programme;
- 12.1.7 **Purpose:** to use the Confidential Information only for:
- 12.1.7.1 *the purposes of implementing the Healthier Together decision; and*
- 12.1.7.2 *considering, evaluating and developing other opportunities for working together;*
- 12.1.8 **Receiving Party:** a Party which receives or obtains directly or indirectly Confidential Information; and
- 12.1.9 **Representative:** employees and agents of the Receiving Party including for the avoidance of doubt the [Programme Director] and any professional advisers appointed by the Parties to assist with the Programme.
- 12.2 References to any statute, statutory instrument, regulations, directives or guidance are references to those as from time to time amended, replaced, extended or consolidated and includes any subordinate legislation for the time being in force made under it.
- 12.3 References to a particular government or statutory body or public organisation will be deemed to include a reference to any assign(s) of or successor(s) to such government or statutory body or public organisation or any body(bodies) or organisation(s) which has taken over any or all of either or both of the functions or responsibilities of such government or statutory authority or public organisation. References to other persons will include their successors and permitted transferees and assigns. References to the Parties will be construed accordingly.
- 12.4 Clause headings will not affect the interpretation of this Agreement.
- 12.5 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 12.6 Words in the singular will include the plural and vice versa; words denoting the masculine gender include the feminine gender; words denoting persons include bodies corporate and unincorporated associations and partnerships.
- 12.7 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.

13 CONSIDERATION

In consideration of the Parties providing Commercially Sensitive Information to each other in accordance with this Agreement, the Memorandum and the Confidentiality Agreement, and in further consideration of each Party agreeing to pay the other Parties on demand GBP £1, the Parties agree to be bound by the terms of this Agreement.

14 OBLIGATIONS OF THE PARTIES AND THEIR REPRESENTATIVES

14.1 The Parties will jointly and severally ensure that no Commercially Sensitive Information relating to their businesses or activities will pass, directly or indirectly (including via legal or other external advisors), from one Party to another Party (or any of its employees, agents or directors), save in accordance with the following cumulative conditions:

14.1.1 Commercially Sensitive Information may be passed solely for the Purpose; and

14.1.2 Commercially Sensitive Information shall only pass to those Representatives who are directly involved in the Programme; and

14.1.3 Commercially Sensitive Information shall only pass to any Party [via the Programme Director or his team where so directed by the Programme Director]; and

14.1.4 Commercially Sensitive Information must be anonymised and/or aggregated by the [Programme Director] before it is sent to the Parties where there is a reasonable risk that to do otherwise could breach any applicable laws including competition law.

14.2 The Parties agree that the [Programme Director] may need to seek legal advice on behalf of any or all of the Parties regarding any assessment of the Commercially Sensitive Information pursuant to Clause 4.1.4 and will share equally the cost of such advice.

15 TERM AND TERMINATION

15.1 If any Party decides not to become, or continue to be involved in any aspect of the Programme, it will notify the other Parties in writing immediately. The obligations of each Party under this Agreement will, notwithstanding any earlier termination of discussions between the Parties in relation to the Programme, continue for a period of [6] years from the termination of this Agreement.

- 15.2 Termination of this Agreement will not affect any accrued rights or remedies to which any Party is entitled.

16 GENERAL LEGAL PROVISIONS

- 16.1 This Agreement will be governed by the laws of England and the courts of England will have exclusive jurisdiction.
- 16.2 No variation or waiver of this Agreement or any part of it will be effective unless made in writing, signed by or on behalf of all the Parties and expressed to be such a variation or waiver.
- 16.3 This Agreement and the documents referred to in them are made for the benefit of the Parties to them and their successors and permitted assigns, and are not intended to benefit, or be enforceable by, anyone else.
- 16.4 The Parties will attempt to resolve any dispute between them in respect of this Agreement by negotiation in good faith.
- 16.5 Failure to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law will not constitute a waiver of that or any other right or remedy, nor will it preclude or restrict any further exercise of that or any other right or remedy.
- 16.6 No single or partial exercise of any right or remedy provided under this Agreement or by law will preclude or restrict the further exercise of that or any other right or remedy.
- 16.7 A Party that waives a right or remedy provided under this Agreement or by law in relation to another Party, or takes or fails to take any action against that Party, does not affect its rights in relation to any other Party.
- 16.8 Except as otherwise provided in this Agreement, no Party may assign, sub-contract or deal in any way with, any of its rights or obligations under this Agreement or any document referred to in it.
- 16.9 Nothing in this Agreement is intended to, or will be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, nor authorise any Party to make or enter into any commitments for or on behalf of any other Party.
- 16.10 No person other than a Party to this Agreement will have any rights to enforce any term of this Agreement whether under the Contract (Rights of Third Parties) Act 1999 or otherwise.

16.11 This Agreement may be executed in any number of counterparts, each of which when executed will constitute an original of this Agreement, but all the counterparts will together constitute the same Heads.

17 NOTICES

Any notice required to be given under this Agreement, will be in writing and will be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier, to each Party required to receive the notice at the relevant Party's headquarters. Any such notice will be marked for the attention of the Trust/Clinical Commissioning Group's Secretary.

17.1 Any notice will be deemed to have been duly received:

17.1.1 if delivered personally, when left at the address; or

17.1.2 if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day after posting; or

17.1.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

17.2 A notice required to be given under this Agreement will not be validly given if sent by e-mail.

Signed by the parties or their duly authorised representatives on the date set out above.

1) East Cheshire NHS Trust of Victoria Road, Macclesfield, Cheshire, SK10 3BL

Chief Executive

Date

2) Stockport NHS Foundation Trust of Stepping Hill Hospital, Poplar Grove, Stockport, SK2 7JE

Chief Executive

Date

3) Tameside Hospital NHS Foundation Trust of Fountain Street, Ashton-under-Lyne, OL6 9RW

Chief Executive

Date

4) NHS Eastern Cheshire Clinical Commissioning Group of New Alderley House, Macclesfield, Cheshire SK10 3BL

Chair

Date

5) NHS North Derbyshire Clinical Commissioning Group of Nightingale Close, Off Newbold Road,
Chesterfield, S41 7PF

Chair

Date

6) NHS Stockport Clinical Commissioning Group of Regent House, Heaton Lane, Stockport,
Cheshire SK4 1BS

Chair

Date

7) NHS Tameside & Glossop Clinical Commissioning Group of New Century House, Progress Way,
Windmill Lane, Denton, Manchester, M34 2GP

Chair

Date

Each of these is a key step in progressing the Vanguard proposition and enabling the MCP to be established.

The CCG board approved progression of the Section 75 at the March meeting and are now considering the procurement process for the MCP. The provider board MOU will not be considered for approval by the CCG Governing Body as it is a provider agreement.

3.0 Approach and Rationale for the selected procurement process.

- 3.1 As stated above the commissioners have reviewed with legal advisers, the procurement regulations which relate to this procurement. As a result the commissioners wrote on the 14th April 2016 to the members of the Provider Board. This letter formally instigated the commencement process for the Multi-Speciality Community Provider (MCP).

The purpose of the letter was to request expressions of interest under regulation 118 of the Public Contracts Regulations 2015 for establishing a framework agreement for the provision of clinical and social care services using a Multi-Specialty Community Provider.

- 3.2 The rationale for the approach has been developed over a period of 12 months. A fundamental factor in selecting the approach was that in order to establish the MCP, there exist “fixed point” providers who are necessary members of the MCP and whose contracts or statutory requirements to provide services are outside of the scope of any SCCG / SMBC led procurement exercise. These providers are each represented on the Provider Board and are:-

- Stockport GP Practices – as represented by Viaduct Health
- NHS Stockport FT
- Stockport MBC

- 3.3 The NHS (Procurement Patients Choice and Competition) (No. 2) Regulations 2013 (the Section 75 Regulations) govern the procurement of the clinical and healthcare services from the “fixed point” providers through the MCP subject to the transitional arrangements set out in Regulation 120 of the Public Contracts Regulations 2015 (the PCR's). Procurement of the services to be commissioned on behalf of Stockport MBC will be under the light touch regime described in Section 7 of the PCR's or under Regulation 12.

The basis for these procurement arrangements will be that the fixed point providers listed above are necessary providers of the services, and will continue to be necessary providers after the MCP is established.

Accordingly and subject to the outcome of a detailed market assessment represented by the consultation process, we do not currently propose to enter into a competitive tender procedure for the first stage of the establishment of the MCP. .

We also believe that it will be necessary for each of the providers to undergo significant organisational development and change. In addition the Provider Board will need to consider partnerships outside of the membership of the provider board to access key skills and expertise, for example with regards to integration of pathways and alignment of processes across previously separate organisations.

4.0 Services within the scope of this procurement

- 4.1 This procurement is to establish an MCP for Stockport that will become responsible for a comprehensive outcomes framework for the Stockport population aged 65 and over. For clarity the services that will be provided by the MCP do not, at this stage, extend beyond the contracts which are currently delivered by the Provider Board members and are summarised in appendix 2. No assumptions have been made within this procurement that services delivered beyond this scope will in future be provided by the MCP. If in future the service scope increases then the commissioners will need to determine the appropriate process or processes for achieving this.
- 4.2 Appendix 2 sets out a schedule of the CCG funded services for our population that are within the initial scope of the MCP as they are:-
- Provided to the Stockport population aged 65 or over.
 - Funded by Stockport CCG.
 - Currently provided by Shadow Provider Board members.
 - Within scope of the budgets to be pooled or aligned by SCCG and SMBC.

5.0 Wider Considerations

- 5.1 The procurement of the Multi-Specialty Community Provider organisational form will not impact at the current time on the delivery of services by the existing contractors. Throughout the procurement process and beyond, the commissioners, aligned to the Stockport Together Programme will ensure that statutory duties relating to Equality Impact Assessment, public consultation and the Public Services (Social Value) requirements are met in full.

6.0 Next Steps.

- 6.1 Having initiated the procurement the next stage is to receive and assess the expressions of interest from the Provider Board members. Initial responses are due 14 days from the issue of the letter with more detailed replies required by the end of May. The CCG Board will therefore receive an update on the process at the May Governing Body meeting.

7.0 Request of CCG Governing Body.

- 7.1 The above approach has been developed in consultation with the Governing Body and Governing Body members. The Governing Body is now requested to formally endorse and approve the above approach for procurement of the MCP.

Procurement of the Stockport Vanguard Multi-specialty Community Provider



NHS Stockport Clinical Commissioning Group will allow people to access health services that empower them to live healthier, longer and more independent lives.

NHS Stockport Clinical Commissioning Group

7th Floor
Regent House
Heaton Lane
Stockport
SK4 1BS

Tel: 0161 426 9900 **Fax:** 0161 426 5999
Text Relay: 18001 + 0161 426 9900

Website: www.stockportccg.org

Executive Summary

The Governing Body is requested to consider whether any of the issues raised in this report require a higher level of escalation.
Please detail the key points of this report
<p>Summary</p> <ul style="list-style-type: none"> Fundamental to the Stockport Vanguard proposal is the creation of a new organisation – the Multispecialty Community Provider (MCP). This paper sets out the rationale for the procurement approach implemented by the joint commissioners (Stockport CCG with Stockport MBC). <p>Decisions</p> <ul style="list-style-type: none"> For the Stockport Governing Body to endorse and approve the approach to procurement for the Stockport MCP.
How does this link to the Annual Business Plan?
Establishment of the MCP is a fundamental requirement.
What are the potential conflicts of interest?
GPs will have an ownership interest in the future MCP.
Where has this report been previously discussed? Joint Commissioning Board
Clinical Executive Sponsor: Dr Ranjit Gill
Presented by: Mark Chidgey
Meeting Date: 27 April 2016
Agenda item: 12
Reason for being in Part 2 (if applicable)
Not applicable

1.0 Stockport Vanguard proposal

- 1.1 In 2014 the Stockport economy was successful in its bid to become a national Vanguard site. The proposition that we were selected to test was that through the development of a new integrated provider (the MCP) both health outcome benefits for our population and financial efficiencies for the Stockport economy could be achieved.
- 1.2 The Stockport Together programme has significantly focussed on service redesign of pathways and models of care. This paper however relates to an aligned but distinct piece of work which is to create a new organisation (the MCP) to lead the provision of the redesigned care pathways
- 1.3 Procurement rules and regulations exist that govern how both the CCG and SMBC are able to procure such services. Both organisations have taken legal advice and are satisfied that the approach described in this paper constitutes a legally compliant procurement approach

2.0 Commissioner and Provider Boards

- 2.1 Whilst much of the Stockport Together programme requires integrated work between organisations, the development of the procurement approach has been undertaken solely by the commissioners i.e. Stockport CCG with Stockport MBC.
- 2.2 To enable this clarity of role and separation of responsibility, two separate forums have been established namely a commissioning board and a provider Board. The membership of these groups is:-

Commissioner Board – NHS Stockport CCG and Stockport MBC

Provider Board - Viaduct Health (on behalf of GPs), Pennine Care NHS FT, Stockport NHS FT and Stockport MBC.

SMBC are members of both groups but have been represented by different directors to ensure that a separation is maintained.

- 2.3 The groups have operated at working group level and by themselves do not have decision making authority. However, the products that they have delivered for adoption through each relevant organisations governance include:-
 - The section 75 agreement for joint commissioning of c£200m of health and social care services.
 - The procurement process for the Stockport MCP.
 - The Memorandum of Understanding signed by the provider board members.

Each of these is a key step in progressing the Vanguard proposition and enabling the MCP to be established.

The CCG board approved progression of the Section 75 at the March meeting and are now considering the procurement process for the MCP. The provider board MOU will not be considered for approval by the CCG Governing Body as it is a provider agreement.

3.0 Approach and Rationale for the selected procurement process.

3.1 As stated above the commissioners have reviewed with legal advisers, the procurement regulations which relate to this procurement. As a result the commissioners wrote on the 14th April 2016 to the members of the Provider Board. This letter formally instigated the commencement process for the Multi-Speciality Community Provider (MCP).

3.2 The rationale for the approach has been developed over a period of 12 months. A fundamental factor in selecting the approach was that in order to establish the MCP, there exist “fixed point” providers who are necessary members of the MCP and whose contracts or statutory requirements to provide services are outside of the scope of any SCCG / SMBC led procurement exercise. These providers are each represented on the Provider Board and are:-

- Stockport GP Practices – as represented by Viaduct Health
- NHS Stockport FT
- Stockport MBC

3.3 The NHS (Procurement Patients Choice and Competition) (No. 2) Regulations 2013 (the Section 75 Regulations) govern the procurement of the clinical and healthcare services from the “fixed point” providers through the MCP subject to the transitional arrangements set out in Regulation 120 of the Public Contracts Regulations 2015 (the PCR's). Procurement of the services to be commissioned on behalf of Stockport MBC will be under the light touch regime described in Section 7 of the PCR's or under Regulation 12.

The basis for these procurement arrangements will be that the fixed point providers listed above are necessary providers of the services, and will continue to be necessary providers after the MCP is established.

Accordingly and subject to the outcome of a detailed market assessment represented by the consultation process, we do not currently propose to enter into a competitive tender procedure for the first stage of the establishment of the MCP. .

We also believe that it will be necessary for each of the providers to undergo significant organisational development and change. In addition the Provider Board will need to consider partnerships outside of the membership of the provider board to access key skills and expertise, for example with regards to

integration of pathways and alignment of processes across previously separate organisations.

4.0 Services within the scope of this procurement

4.1 This procurement is to establish an MCP for Stockport that will become responsible for a comprehensive outcomes framework for the Stockport population aged 65 and over. For clarity the services that will be provided by the MCP do not, at this stage, extend beyond the contracts which are currently delivered by the Provider Board members and are summarised in appendix 2. No assumptions have been made within this procurement that services delivered beyond this scope will in future be provided by the MCP. If in future the service scope increases then the commissioners will need to determine the appropriate process or processes for achieving this.

4.2 Appendix 2 sets out a schedule of the CCG funded services for our population that are within the initial scope of the MCP as they are:-

- Provided to the Stockport population aged 65 or over.
- Funded by Stockport CCG.
- Currently provided by Shadow Provider Board members.
- Within scope of the budgets to be pooled or aligned by SCCG and SMBC.

5.0 Wider Considerations

5.1 The procurement of the Multi-Specialty Community Provider organisational form will not impact at the current time on the delivery of services by the existing contractors. Throughout the procurement process and beyond, the commissioners, aligned to the Stockport Together Programme will ensure that statutory duties relating to Equality Impact Assessment, public consultation and the Public Services (Social Value) requirements are met in full.

6.0 Next Steps.

6.1 Having initiated the procurement the next stage is to receive and assess the expressions of interest from the Provider Board members. Initial responses are due 14 days from the issue of the letter with more detailed replies required by the end of May. The CCG Board will therefore receive an update on the process at the May Governing Body meeting.

7.0 Request of CCG Governing Body.

7.1 The above approach has been developed in consultation with the Governing Body and Governing Body members. The Governing Body is now requested to formally endorse and approve the above approach for procurement of the MCP.

Appendix 1: The fixed point providers

- 1. Viaduct Healthcare**
- 2. Stockport NHS Foundation Trust**
- 3. Stockport MBC**

1. Viaduct Healthcare:

Viaduct has been established as a corporate entity by the local GP consortium. The consortium proposes that Viaduct will act as a medium of communication between the partners and the local GP practices, which are autonomous partnerships or sole practitioners that provide NHS GMS and PMS services and other clinical and healthcare services under contracts negotiated with NHS England, NHS Stockport CCG, Stockport MBC and other service commissioners.

Management of certain aspects of the PMS and GMS contracts have now been delegated by NHS England to Stockport CCG, although at this stage these delegated activities will not be brought within the Stockport Together arrangements.

The GP practices are a fixed point in the local provision of clinical, health and social care services to the served populations. They are the principal providers of primary care clinical services. Critically the GMS and PMS contracts awarded to them are:-

1. awarded by processes outside of the scope of this procurement.
2. for the registered list which is fundamental to the successful delivery of the neighbourhood model.
3. contracts in perpetuity and cannot ordinarily be withdrawn or terminated by the CCG.

Consideration will need to be given to a GP practice population which changes through time. *Fundamentally it is the GP practice population and not Viaduct which is the fixed point.* However, Viaduct is the organisational form through which Stockport GP practices currently choose to use to act as a single organisational form.

For clarity if a GP practice resigned its membership of Viaduct then how this GP Practice was represented within the MCP would need to be planned and negotiated or determined.

2. Stockport NHS Foundation Trust (SFT)

SFT runs Stepping Hill Hospital, and some other specialist centres, as well as community health services across Stockport. Its specialist services include emergency medicine and specialist abdominal surgery, stroke, urology, trauma & orthopaedics

It is the only local provider of NHS acute, secondary and tertiary clinical services within the Borough of Stockport, and the only centre for the provision of accident and

emergency medical treatment. It is the principal strategic provider of medical services within the area of the proposed integrated services.

The above, in combination with the fact that neither the CCG nor SMBC are able to re-procure A&E services in isolation determines that SFT are a fixed point provider.

Its participation in the integrated services arrangements and engagement within the MCP is critical to the success of both developments.

3. Stockport MBC (SMBC)

SMBC has a statutory obligation to provide a range of adult social care services under various statutes. The principal group of employees who deliver the services are social workers. The nature of the services that the social workers deliver are set by central government but SMBC has a wide discretion as to how the social workers are organised. Thus, whilst SMBC must ensure that the services are available, it is not obliged to be the main provider of them and subject to specific rules, has flexibility in how they are provided. This flexibility rests with SMBC and its own decision making processes. Therefore a decision to include within any procurement cannot be enforced externally onto SMBC. This is why SMBC is both a fixed point provider and is also a party to the integrated commissioning arrangements.

SMBC has historically employed social workers within its adult social care service (ASCS), as this was a reasonable way to organise the ASCS when SMBC was the only ASC provider and the ASC budget was provided by SMBC alone. The proposal to integrate ASC with HC and have a pooled budget responsible for both HC and SC presents a new set of delivery arrangements. In future social workers will work with GPs and other healthcare professionals within a 'seamless' service in which HC and SC form part of a single spectrum of service provision. In this new arrangement, the ASCS may either remain coterminous within SMBC, be relocated in an existing provider organisation or be located in a separate entity specially established for that purpose. Which of these options is suitable will be to a large extent determined by the agreed relationship between SMBC and both the current provider board and the future MCP.

Providers who are not fixed points

There are a range of providers who deliver services within Stockport who have not been assessed as being fixed point providers based. It should be noted that:-

- Membership of the Provider Board is not restricted to the fixed point providers.
- The current provider board membership and future MCP membership may differ.
- It is possible for a fixed point provider to not be a member of the MCP. For example the MCP could establish a partnership arrangement or sub-contracting arrangement for provision of services and/or expertise.

- It is possible for non-fixed point providers to be members of the MCP.

Community Services

The commissioner view is that community providers (mental health and physical health) do not meet the criteria for fixed point providers. Therefore a response is requested on the approach and relationship of the future MCP with the current main community providers, these being:-

- Pennine Care FT
- Stockport NHS FT

It is not believed that Stockport CCG, in isolation from the provider board / MCP, could instigate a re-procurement of Community Services.

Appendix 2: Scope of Services

Stockport FT - Acute	A&E	Admissions	Out Patients	Admissions	Other	Grand Total
Accident & Emergency	£2,817,595	£0	£0	£392,139	£25,806	£3,235,540
Medicine	£0	£1,428,901	£3,585,298	£28,350,921	£388,680	£33,753,800
Other Specialties	£0	£1,162,196	£636,624	£8,941	£466,831	£2,274,591
Ophthalmology	£0	£1,271,172	£1,300,024	£9,742	£43,934	£2,624,871
ENT	£0	£388,895	£591,122	£104,964	£12,877	£1,097,858
Trauma & Orthopaedics	£0	£4,534,015	£1,046,636	£3,203,871	£44,692	£8,829,213
Surgery	£0	£4,241,592	£3,169,095	£3,460,990	£121,955	£10,993,632
Grand Total	£2,817,595	£13,026,770	£10,328,798	£35,531,569	£1,104,775	£62,809,506

Stockport FT - Community Services	Total
Community Rehab	£635,369
Continence Nurses	£386,974
District Nursing	£5,119,848
Nutrition & Diabetics	£152,724
Orthotics	£148,628
Palliative Care	£1,103,575
Podiatry	£1,094,737
Primary Care Physiotherapy	£286,264
Tier 2 Services	£895,824
Tissue Viability	£237,489
Wheelchair Service	£371,740
Other Community	£139,535
Grand Total	£10,572,706

GP Services	Pooled
Care Homes / Developments	£2,000,000
Flu	£90,000
Care Planning	£385,000
GMS LES Referral Management	£46,750
GMS LES Spirometry	£115,424
Viaduct 24 Hour Blood	£225,457
Grand Total	£2,862,631

Pennine Care	Pooled
Day Care Services	£1,784
Crisis Resolution Team / Home Treatment	£249,069
Community Mental Health Teams	£344,942
Rehabilitation & Recovery Services	£66,012
General Psychiatry	£6,042,360
Psychiatric Liaison	£627,615
Psychotherapy Service	£662
Psychological Therapy Service (non IAPT)	£54,092
Young Onset Dementia	£10,805
Memory Services / Dementia Services	£44,411
	£7,441,753

SMBC	Pooled
Funded Nursing Care	£2,501,757
Dementia	£7,500
FNC Continence Care	£31,800
Non-Acute Services for Older People	£3,808,000
Hub Investment	£1,450,000
Integrated Care (Hub Investment)	£525,000
End of Life Care (Hub Investment)	£100,000
Reablement	£1,204,000
Rapid Response	£960,000
Equipment	£630,000
People Powered Health	£210,000
S256 - FACS & Demographics	£3,695,000
S256 - Early Supported Discharge	£553,000
S256 - H&S Care Integration	£252,000
S256 - Telecare	£93,000
S256 - Equipment	£100,000
S256 - Social Care Protection	£122,000
ASC Demographics / FACS	£1,516,000
Care Act	£720,000
	£20,933,057