

***Hosting Agreement***  
***for the NHS Wales Performance and Improvement (NHS based)***  
***between***  
***Public Health Wales NHS Trust***  
***&***  
***The Welsh Ministers***

**Effective from 01 April 2025**  
**(review v0.8 – 28 August 2025 )**

## **1. PURPOSE AND SCOPE**

This Agreement is to enable and facilitate the hosting of the NHS Wales Performance and Improvement (NHS-based), formerly named the NHS Executive the '**Hosted Unit**', by Public Health Wales (PHW), the '**Host Organisation**', on behalf of the Welsh Ministers.

NHS Wales Performance and Improvement has been established under a Mandate from the Welsh Ministers as a 'hybrid' model with a Managing Director acting as Responsible Officer, reporting to the Chief Executive Officer of NHS Wales.

The Agreement sets out appropriate governance and reporting arrangements for the Hosted Unit. The Agreement is intended to ensure that hosting arrangements are clear and transparent and that the rights and obligations of all parties to this Agreement are documented and agreed.

The Hosted Unit shall comply with its responsibilities and obligations under this Agreement via a Declaration of Compliance (template attached at Appendix A).

## **2. PARTIES TO THIS AGREEMENT**

- 1.1 Public Health Wales, the '**Host Organisation**'
- 1.2 The Welsh Ministers, hereinafter referred to as '**Welsh Government**'

### **3. NATURE AND SCOPE OF THE HOSTING ARRANGEMENT**

The Host Organisation will provide core support services and facilities to enable the smooth running of the Hosted Unit, as set out in this Agreement.

The Hosted Unit comprises the Hosted Unit Staff and its activities and services will be structured within designated Hosted Unit Functions. Should other teams join the hosted arrangement, this will be managed via the change process (Appendix B).

The Host Organisation is **not** responsible or accountable for setting the direction for, or the work programme of, the Hosted Unit or for the delivery/quality or management of work undertaken by the Hosted Unit on behalf of Welsh Government or for any other service provided by the Hosted Unit.

This Agreement does not include those staff employed by Welsh Government (Health, Social Care and Early Years Group (HSCEYG)) designated to work in the senior team within Welsh Government. The Hosted Unit is **not** responsible for the direct provision of clinical services.

The Welsh Government is responsible for the validity, efficacy and approval of the Hosted Unit's work programme, any other work plans, and the allocation of the annual budget, and the Hosted Unit will, in fulfilling its obligations, not place the Host Organisation in a position whereby it breaches any Law, Regulation, Standing Order, Direction, Contract (employment or service provision), Measure or any other corporate governance requirement.

The Hosted Unit will at all times operate within the regulatory and governance framework of the Host Organisation and will provide assurance of such compliance in accordance with the assurance schedule at Appendix C to this Agreement.

### **4. STATUS OF THIS AGREEMENT**

This Agreement is not legally binding and no legal obligations or legal rights arise between the parties from it. The parties enter into this Agreement intending to honour its content and spirit.

This Agreement is one which is subject to S.7 of the NHS (Wales) Act 2006. In the event of a disagreement between the parties, the provisions of section 10 (Monitoring and Review) and section 11 (Disputes and Matters not Covered by this Agreement) shall apply.

The parties agree that they shall act:

- a) In the spirit of good faith
- b) In the interests of ensuring efficiency and value
- c) In the interests of maintaining quality at all times
- d) In accordance with any applicable Law, directions, orders, guidance or policy

## **5. SENIOR RESPONSIBILITIES & ACCOUNTABILITIES IN RELATION TO HOSTING ARRANGEMENTS**

### **5.1 Chief Executive Officer/Director General NHS Wales, Welsh Government**

The Chief Executive NHS Wales is an official of Welsh Government and provides overall strategic oversight of the NHS Wales Performance and Improvement, including responsibility for agreeing on behalf of Welsh Government the Hosting Agreement with Public Health Wales. Responsibility and accountability for the day-to-day operational management of the NHS Wales Performance and Improvement and discharge of the hosted units' responsibilities within the hosting agreement lay with its Managing Director as Responsible Officer and the wider Senior Leadership Team.

### **5.2 Managing Director (Responsible Officer)**

The Managing Director (appointed by the Welsh Ministers) will act as the Responsible Officer for the Hosted Unit, and, in respect of the obligations of this Agreement, will report to the Accountable Officer of the Host Organisation.

The responsible officer will provide oversight and accountability for NHS Wales Performance and Improvement with respect to operational arrangements and delivery. They will also provide assurance as required to the Host Organisation.

The Managing Director is not an Accountable Officer in their own right.

### **5.3 Accountable Officer**

In respect of the obligations of this Agreement, the Accountable Officer will be the Chief Executive of the Host Organisation.

### **5.4 Named contacts**

The primary points of contact for this Agreement are:

- Chief Executive, PHW (For the Host Organisation)
- Chief Executive NHS Wales, HSCEY (For Welsh Government)
- Managing Director (Responsible Officer) (For the Hosted Unit)

### **5.5 Operational contacts**

On a day-to-day basis, for operational matters between the Host Organisation and the Hosted Unit relating to this Agreement, the contacts are:

- Board Secretary, PHW (For the Host Organisation)
- Assistant Director Corporate Governance and Business Support, NHS Wales Performance and Improvement (For the Hosted Unit)

## **6. RELATIONSHIP WITH HOST**

### **6.1 General**

The services and facilities covered by this Agreement may be provided directly by the Host Organisation or may be procured from third party providers, which may include distinct and separate service level agreements where appropriate, including, but not limited to the NHS Wales Shared Services Partnership (NWSSP) and Digital Health and Care Wales (DHCW).

In meeting its hosting obligations, the Host Organisation shall not be required to in any way act outside its statutory powers, duties, Standing Orders, Standing Financial Instructions or governance and legal obligations.

Welsh Government undertakes to indemnify the Host Organisation for any liability, losses, costs, expenses and claims (including all reasonable legal costs and expenses agreed in liaison with Welsh Government), that might arise in relation to the Hosted Unit's responsibilities as set out in this Agreement at section 6.3 (a) to (i) including the management of financial resources and in discharging its duties associated with the hosting arrangements and it will hold the Host Organisation harmless in respect of any claims whatsoever made by any third party arising out of the operations of the Hosted Unit ('operations' meaning the exercise of the Hosted Unit Functions). The management of any such claim will be undertaken by the Host Organisation, in conjunction with relevant input from the Hosted Unit and in liaison with Welsh Government. The Host Organisation shall immediately notify Welsh Government if any such claim or demand is made, or action brought against the Host Organisation. The Host Organisation shall, in liaison with the Managing Director (Responsible Officer), consult with Welsh Government on all substantive issues which arise during the conduct of such litigation and negotiations and shall in such conduct take due and proper account of the interests of Welsh Government. Welsh Government shall afford to the Host Organisation all reasonable assistance for the purpose of contesting any such claim or demand or action brought.

However, Welsh Government does not undertake to indemnify the Host Organisation for any liability, losses, costs, expenses and claims that arise as a result of the Host Organisation not meeting its hosting duties (as detailed in this Agreement, at sections 6.1 and 6.2). The Host Organisation is accountable for such claims and responsible for the management of such claims.

If any party receives any formal inquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier or requests for information made under the Freedom of Information Act 2000) in relation to hosting, the matter shall be promptly referred to the Accountable Officer and the Responsible Officer (or their nominated representatives). No action shall be taken in response to any inquiry, complaint, claim or action, to the extent that such response would adversely affect hosting, without prior involvement and discussion between them (or their nominated representatives).

Also refer to section 11, 'Disputes and matters not covered by this Agreement'.

## **6.2 The responsibilities of the Host Organisation**

The Host Organisation shall be responsible for providing the services and facilities in this Agreement (the further details of which are set out in Appendix D) to enable the smooth running of the Hosted Unit. In general, unless otherwise specified, these services and facilities will be equivalent to those provided to teams and services directly managed by the Host Organisation. The services and facilities provided to the Hosted Unit are funded by the annual levy (see section 7.6).

Where a need for the provision of additional services or facilities by the Host Organisation (not covered by this Agreement) is identified by either the Host Organisation or the Hosted Unit, this will initially be discussed between the operational contacts (section 5.4). Where the identified need cannot be met from within existing resources, a proposal, prepared by either the Host Organisation or the Hosted Unit, will be set out in a business case for consideration by the Managing Director which in turn will make a recommendation to the CEO of NHS Wales (HSCEYG). If the recommendation is agreed by the CEO of NHS Wales (HSCEYG), such services or facilities are to be funded in accordance with section 7.6 of this Agreement

In summary, the services and facilities to be provided by the Host Organisation include:

**(a) Human Resources/Workforce**

Comprehensive human resources services, including but not limited to access to support and advice; recruitment and selection support; ESR; payroll and expenses services; occupational health services; statutory and mandatory training; health, safety and welfare services, salary sacrifice schemes.

The Host Organisation will act as the employing body for all directly employed and seconded NHS staff within the Hosted Unit. As such, Hosted Unit staff will be employees of the Host Organisation and will abide by the Host Organisation's Policies, Procedures and Guidance and will be entitled to be treated as any other employee of the Host Organisation and have the benefit of all applicable policies and procedures.

The Host Organisation will, also, appoint and employ such staff as it may require to meet its obligations under this Agreement, to enable the smooth running of the Hosted Unit and provide all necessary corporate services and corporate management support, to include human resources, estates, procurement, financial management services, information technology and management, and governance.

Any financial liabilities resulting from the employment of Hosted Unit staff (e.g. costs associated with redundancy, termination or breaches of employment, disputes and health and safety matters) will be met from the budget agreed for the Hosted Unit. In the event that the budget has insufficient funds to meet or cover the liability, Welsh Government will underwrite the financial liabilities of the Hosted Unit (cross refer to section 6.1).

**(b) Scheme of Delegation**

To have in place such appropriate governance arrangements and Schemes of Delegation as may be necessary and required on the part of the Host Organisation to enable the Hosted Unit's role to be carried out.

The Hosted Unit's approach to delegation will be set out in the Host Organisation's Scheme of Reservations and Delegation that will be designed in cooperation with the Responsible Officer of the Hosted Unit.

### **(c) Policies and Procedures**

To provide advice to the Hosted Unit on compliance with the Host Organisation's policies, Standing Orders, Standing Financial Instructions, Procurement Rules, Human Resource policies, and other relevant policies and procedures and compliance with legislation.

### **(d) Audit (Internal and External)**

The Host Organisation, through the Shared Services arrangements, will provide an effective independent internal audit function as a key source of its internal assurance arrangements, in accordance with NHS Wales Internal Auditing Standards and any other requirements determined by the Welsh Government. The Shared Services internal audit plan for the Hosted Unit (which may be informed by the Host Organisation's Internal Audit Plan and may include additional audits specifically requested by the Hosted Unit), will be set out in an annex to the Host Organisation's Annual Internal Audit Plan and will be agreed with and provided to the Responsible Officer and the Audit and Corporate Governance Committee of the Host Organisation in advance of the reporting year.

The operating structure of the Hosted Unit brings its activities within the scope of NHS Wales Internal Audit and Welsh Government Internal Audit. Broadly, all hosting issues (as reflected in this Agreement) will be in scope for NHS Internal Audit. Policy issues, including the validation and approval of the Hosted Unit's work programme, budget, or other plans, will fall within Welsh Government Internal Audit's remit. Where audit need falls outside of those described above (e.g. performance issues), NHS and Welsh Government Internal Audit teams will jointly determine the audit approach. In all circumstances, both audit units should have access to all relevant documentation and personnel in the Host Organisation to fulfil audit requirements.

The Host Organisation will ensure that relevant external audit arrangements are in place which give due regard to the functions of the Hosted Unit.

The Responsible Officer, or their delegated representative from within the Hosted Unit's Senior Leadership Team, will attend the Host Organisation's Board Committees in accordance with the Assurance Schedule at Appendix C, or as requested by the Committee, to provide assurance to the Committees that the Hosted Unit is complying with this Agreement and to highlight any areas of risk or non-compliance. The Responsible Officer, or their delegated representative from within the Hosted Unit's Senior Leadership Team, may be required to attend other Board Committees of the Host Organisation where appropriate.

### **(e) Procurement/Contracting**

The Host Organisation will be the legal entity which enters into agreed procurement arrangements to include, but not restricted to, quotations, tenders, procurement contracts, service level agreements and terms of engagement commissioned by the Hosted Unit. This may include services for/to NHS Wales organisations funded by funding streams managed through the Hosted Unit. In this respect, no commitments for the procurement of goods and services will be entered into by Welsh Government and the full end-to-end procurement process will be managed via the Hosted Unit, with the Host Organisation and the support and guidance of NWSSP procurement services.

Tenders, procurement contracts, service level agreements and terms of engagement that have been agreed by the Hosted Unit in accordance with their accountability arrangements, allocations and Scheme of Delegation, will be entered into and signed by the Host Organisation on behalf of the Hosted Unit in accordance with the Host Organisation's procurement policy and Standing Financial Instructions and Standing Orders including, where required, Welsh Government noting or approval.

The Host Organisation shall not execute or, through performance create, any third party contract in respect of the Hosted Unit unless authorised to do so by the Responsible Officer.

The Hosted Unit will provide sufficient funds and other relevant resources to meet the requirements of all third party contracts entered into by the Host Organisation on behalf of the Hosted Unit.

The Host Organisation shall provide the Responsible Officer with drafts of all third party contracts and the Responsible Officer shall be entitled to require the Host Organisation to use its reasonable endeavours to negotiate such amendments to the terms of such contract as the Responsible Officer sees fit, subject to the requirements of the Public Contracts Regulations 2015 (as amended) and all applicable laws, Standing Orders and Standing Financial Instructions.

#### **(f) Financial Services**

The Host Organisation will ensure the provision of financial management services, will hold the management budget for the Hosted Unit and make payments and receive income as necessary (see Section 7).

#### **(g) Legal Services**

The Host Organisation will appoint lawyers and other professional advisors (in consultation with the Host Organisation's procurement services team) on behalf of the Hosted Unit. The Host Organisation will agree with the Hosted Unit the terms and conditions of such engagements and give instructions accordingly on behalf of the Hosted Unit. To the extent any appointment made is chargeable to the Host Organisation (i.e. is not part of a pre-existing funding allocation with NWSSP), the Hosted Unit will meet the associated costs

#### **(h) Accommodation**

The Hosted Unit's core recurring budget includes provision to meet the costs of accommodation for Hosted Unit staff. If required, future premises and changes to the current arrangements may be leased, on behalf of the Hosted Unit, by the Host Organisation, subject to approval of Welsh Government (to be administered by the Hosted Unit). The cost of any such leasing arrangement shall be deemed to be included within the recurring budget, subject to any additional monies being available pursuant to section 7.3.

**(i) Information Governance**

As the host body, the Host Organisation will enter into data sharing agreements with other parties, as required, to enable the Hosted Unit to carry out the Hosted Unit Functions. As such, the Host Organisation shall be a signatory to such agreements and must be satisfied with their content. Any such agreements should be prepared by the Host Organisation and reviewed at least annually or upon any relevant organisational change.

The Host Organisation will provide the overall Caldicott Guardian and Senior Information Risk Officer (SIRO) role and function to the Hosted Unit in respect of the Hosted Unit Functions.

**(j) Information Technology**

The Host Organisation will, directly or via third parties such as Digital Health and Care Wales, provide the Hosted Unit with access to IT services and support including network infrastructure, file servers for document storage, desktop IT support, access to mobile services, procurement of new and replacement IT equipment. Where appropriate, this may require distinct and separate service level agreements to be entered into by the Host Organisation, with a third party, to enable the Hosted Unit to carry out the Hosted Unit Functions.

In cases where there is a change in the arrangements for server storage of files, the Host Organisation will ensure that the Hosted Unit's 'legacy' files are appropriately transferred or archived, at the discretion of the Hosted Unit.

**(k) All Necessary Corporate Services**

Including, but not limited to: Human Resources services, payroll, Occupational Health Service, governance advice, Information Governance, estates, facilities, Health and Safety, staff wellbeing support, Information Technology, statutory and mandatory training.

**(l) Research**

Hosting under this Agreement does not extend to delivery support for research, evaluation, ethics or research approval but the Host Organisation will provide professional advice, consistent with the other provisions within this Agreement.

**(m) Emergency Planning**

The Hosted Unit will have no role in Emergency Planning or response within the Host Organisation. Hosting under this Agreement does not extend to support for Emergency Planning or response roles, responsibilities or functions.

### **6.3 The responsibilities of the Hosted Unit**

The Hosted Unit shall be responsible for compliance with the governance arrangements of the Host Organisation in relation to all its activities and functions, as set out in this Agreement (and further details of which are set out in Appendix D). The Hosted Unit will also be responsible for providing assurance to the Host Organisation to confirm such compliance. The Hosted Unit will have particular responsibility for:

#### **(a) Compliance**

Hosted Unit staff will comply with the Host Organisation's Standing Orders, Standing Financial Instructions, and policies and procedures applicable to the activities of the Hosted Unit.

The Hosted Unit shall ensure that it, Hosted Unit staff and agents, shall in the course of this Agreement comply with all relevant legislation and meet relevant and agreed reporting requirements of the Host Organisation (also refer to 6.3(b)).

The Hosted Unit shall ensure that staff operate within appropriate policies and procedures established by the Host Organisation in support of legislative compliance. This includes but is not exclusive to legislation relating to health and safety, equality, diversity and inclusion, the Welsh Language, the well-being of future generations, the duty of quality, the duty of candour and information governance.

The Responsible Officer will ensure that all Hosted Unit staff undertake applicable statutory and mandatory training made available by the Host Organisation. With the exception of statutory and mandatory training (which shall be provided by the Host Organisation pursuant to section 6.2(a) of this Agreement), the responsibility for the organisation and funding of training and development of the Hosted Unit staff will rest with the Hosted Unit.

The Hosted Unit undertakes to exercise its role so as to have regard to the need to eliminate discrimination, and other prohibited conduct, in accordance with human rights and equality legislation.

#### **(b) Audit and Assurance**

The Responsible Officer will engage fully in all aspects of assurance relating to this Agreement. They, or their delegated representative from within the Hosted Unit's Senior Leadership Team, will attend relevant Host Organisation Board committee meetings as required by the Accountable Officer of the Host Organisation / relevant Committee Chair. Assurance will be provided in accordance with the Assurance Schedule (Appendix C), which will be reviewed and agreed between the parties annually, and all assurance reports will be provided at least 14 days prior to the relevant Committee meeting and in the reporting, form specified by the Host Organisation.

The Responsible Officer will ensure that the Hosted Unit engages fully in all audit work as outlined in the audit plans determined by NHS or Welsh Government Internal Audit or at the explicit involvement of the Auditor General.

The Responsible Officer will provide all audit reports received together with management responses to the Chief Executive of NHS Wales following approval, the audit report and management response will be presented to the Host Organisation's Audit and Corporate Governance Committee meeting for assurance.

### **(c) Declarations of Interest**

Hosted Unit staff are required to declare any interests, gifts, hospitality and sponsorship, in accordance with the Host Organisation's Standing Orders and Standing Financial Instructions. The Responsible Officer will ensure that expressions of interest are proactively sought on an annual basis, that a register of all declarations is maintained and published in line with the Host Organisation procedures, and that any identified conflicts of interest are managed appropriately.

The Hosted Unit is responsible for its own register to collate, record and manage all such interests and will provide assurance to the Host Organisation in accordance with the Assurance Schedule at Appendix C.

### **(d) Management of Hosted Unit Staff**

The Responsible Officer will ensure that the appointment, management and appraisal of Hosted Unit staff, is undertaken within the Host Organisation's recruitment and workforce policies. Other than the provision of HR advice and selection tools, or as specifically requested by the Hosted Unit, the Host Organisation will have no role in the appointment or in the direct line management of the work of Hosted Unit staff.

To facilitate alignment with the policies and procedures of the Host Organisation, the Hosted Unit will ensure the appointments of all staff at Very Senior Management grades are approved by the Remuneration and Terms of Service Committee of the Host Organisation prior to appointment or announcement.

### **(e) Professional Accountability**

#### Nurses and Midwives

Professional lines of accountability for registered nurses/midwives will not sit with the Host Organisation.

Arrangements for the professional lines of accountability for registered nurses/midwives, i.e. those registered with the Nursing and Midwifery Council, will be through the professional leads within the Hosted Unit through to the Chief Nursing Officer or designated deputy.

#### Allied Health Professionals

Arrangements for the professional lines of accountability for registered allied health professionals, i.e. those registered with the Health Care Professions Council, will be through the professional leads within the Hosted Unit through to the Chief Allied Health Professions Advisor.

#### Doctors

Arrangements for the professional lines of accountability for registered medical doctors (i.e. those regulated by the General Medical Council) who are employed by the Host Organisation to work on behalf of the NHS Executive, will be connected to the Host Organisation as the designated body for revalidation and will be professionally overseen by the Medical Director of the Host Organisation.

Medical doctors who are not directly employed by the Host Organisation but are engaged to deliver clinical sessions in the Hosted Unit, will have a prescribed connection to their employing body. Clinical supervision and management will be overseen by the Hosted Unit, through a designated lead and the employing body. Professional lines of accountability for such individuals will not sit with the Host Organisation.

#### Others

Should the Hosted Unit comprise any other professionals for whom there is a requirement for professional lines of accountability, the Hosted Unit is responsible for making such arrangements. The Host Organisation will support the Hosted Unit in putting the necessary arrangements in place.

### **(f) Accommodation/Facilities**

Whilst the Host Organisation will be the legal tenant for accommodation/facilities, the Hosted Unit is fully responsible for their management, including finding suitable accommodation, maintenance, health and safety and any other relevant matter.

### **(g) Annual Governance Statement**

The Responsible Officer will provide an Annual Assurance Statement to the Accountable Officer of the Host Organisation in time for the May Audit and Corporate Governance Committee of the Host Organisation each year to confirm that they have complied with the hosting arrangements, highlighting any areas of concern, risk, or non-compliance. They will remain committed to on-going compliance for the forthcoming year. This statement will be informed by the annual review meeting and will inform the Host Organisation's Annual Governance Statement.

### **(h) Management and Escalation of Risk (including financial)**

The Responsible Officer is responsible for the management of risk within the Hosted Unit. The Hosted Unit will follow the Host Organisation's risk management framework guidance and will monitor and maintain a risk register for the Hosted Unit on the Host Organisation's Datix system. Any potential risks which could

impact on the business and safety of the Host Organisation will be escalated to the Chief Executive and the Executive with responsibility for risk in the Host Organisation and should feature in any assurance reports to relevant Board Committees of the Host Organisation. For the avoidance of doubt, only risks that relate to hosting obligations and any consequent impact on the Host Organisation should be escalated in this way. All other risks must be managed by the Hosted Unit through the Responsible Officer. The Host Organisation will maintain its own risk registers for this purpose.

The Responsible Officer will ensure that the Chief Executive of NHS Wales is appraised of any high risks and the arrangements for providing assurance regarding their management. The Host Organisation can request access to the Hosted Unit's risk register as required, to inform and provide assurance that the overall governance arrangements of the Host Organisation are being maintained. The Hosted Unit shall not refuse any such request for access by the Host Organisation.

The Responsible Officer will be responsible for ensuring any work that will impact on the services provided by the Host Organisation, including expansion in workforce and budget, is discussed and agreed with the Host Organisation.

#### **(i) Information Governance**

The Hosted Unit will design and implement systems, processes and procedures in relation to information access, processing and analysis across the Hosted Unit and ensure compliance with all information governance requirements.

Whilst the Host Organisation will provide the overall Caldicott Guardian and SIRO role and function (section 6.2 (i)), the Hosted Unit will assign a leadership role as an equivalent deputy role to these functions internally to ensure the Caldicott Guardian and SIRO of the Host Organisation receive sufficient information and assurance for them to discharge their role and function in respect of the Hosted Unit Functions.

A Joint Data Controller Agreement, incorporating a register of Data Sharing Agreements, will be maintained between Welsh Government and the Host Organisation to facilitate information governance requirements between the Host Organisation and the Hosted Unit. The Joint Data Controller Agreement and the Data Sharing Agreements incorporated onto the register are to be reviewed annually.

## **7. FINANCIAL ARRANGEMENTS**

### **7.1 Responsibility for the Hosted Unit's budget**

The Responsible Officer will have an authorisation limit of £100,000 and will specify an appropriate scheme of delegation for the management of the Hosted Unit's budget. Expenditure over £100,000 will need authorisation from the Host Organisation's Chief Executive (following discussion with the Responsible Officer and the Chief Executive NHS Wales/Director of Finance, Health Social Care and Early Years Group (HSCEYG)).

The Host Organisation will provide the Hosted Unit with monthly financial budget/expenditure reports. The Hosted Unit will be responsible for checking the accuracy of these reports and for reporting and explaining any variance of expenditure against budget profile.

Recurring and non-recurring changes to the budget will be determined and issued through the Annual Funding Agreement letter.

## **7.2 Budget management**

The Hosted Unit's budget will be a separate entity within the Host Organisation's ledger and will have its own monitoring return. Budget holders will be provided with an income and expenditure account and the following on the same basis as provided to the Host Organisation budget holders:

- Specified budget codes for the sole use of the Hosted Unit
- Budget holder reports and information
- Management accountancy support and advice, with first line advice being provided by a named member of the finance team
- Support and training on SFIs and Financial Control Procedures
- Payment of all supplier invoices in compliance with Public Sector Payment Policy
- Debtor accounts raised, production of statements and reminders, cash and banking services
- Internal and external audit services
- Access to procurement services, advice and support
- Appropriate access to the Oracle finance/procurement system
- Completion of statutory returns and annual accounts

## **7.3 Additional funding**

In addition to its core budget, as set out in the Annual Financial Allocation letter, the Hosted Unit may receive additional recurring or non-recurring income from Welsh Government /HSCEYG, for specific work undertaken or to be undertaken.

The Responsible Officer will ensure all arrangements for additional funding, and the terms under which the funding is being provided, are discussed and agreed with the Host Organisation.

## **7.4 Financial variances**

The Responsible Officer must ensure a break-even position each financial year and is responsible for informing the Director of Finance, HSCEYG and the Host Organisation's named contact, at the earliest practicable stage, of any significant forecast variances and, in particular, risks that may result in the underwriting provisions described in section 7.5 below being required.

In the event that there is a predicted under or overspend against the budget for the Hosted Unit in any year, the parties to this Agreement shall consider:

- in the case of an under spend, whether there are any alternative uses to which the funds can be put consistent with the role of the NHS

Executive, or whether funds should be returned to Welsh Government/HSCEYG.

- in the case of an over-spend, what steps can be taken to prevent the overspend arising
- any liability that exists as a result of any overspend will be covered by the Welsh Government.

## **7.5 Financial liabilities**

The Host Organisation shall be the responsible legal entity in relation to liabilities to third parties, save where excepted in this Agreement.

The activities of the Hosted Unit will be covered by the Welsh Risk Pool, via the Host Organisation, but will be subject to the normal excess arrangements.

Welsh Government will underwrite the financial liabilities of the Hosted Unit, where such liabilities cannot be met from within the NHS Executive's budget or are not covered by the Welsh Risk Pool. This includes any costs associated with redundancy, termination or breaches of employment contract, disputes and health and safety matters.

## **7.6 Levy to cover the costs of hosting the Hosted Unit**

The Host Organisation will charge a levy to cover the costs of hosting the Hosted Unit and which will be set/agreed between the Director of Finance, HSCEYG, and Chief Executive, PHW.

An annual levy will be agreed in advance, prior to the commencement of each financial year, taking into account the services and Hosted Unit staff anticipated for the relevant period, and inclusive of services provided via third parties, (including NWSSP and DHCW (unless those third party services and their costs are covered by separate and distinct service level agreements) as well as the consideration of uplift figures awarded by Welsh Government to reflect inflationary pressures, service pressures and the sustainability of services.

The levy will be reviewed, assessed and agreed each year.

Where a need for the provision of additional services or facilities by the Host Organisation (not covered by this Agreement) is identified by either the Host Organisation or the Hosted Unit, this will initially be discussed between the operational contacts (section 5.4). Where the identified need cannot be met from within existing resources, a proposal, prepared by either the Host Organisation or the Hosted Unit, will be set out in a business case for consideration by the Senior Leadership Team which in turn will make a recommendation to the CEO of NHS Wales (HSCEYG). If the recommendation is agreed by the CEO of NHS Wales (HSCEYG), such services or facilities are to be funded in accordance with this section.

With the exception of the agreed levy to cover the hosting costs and any agreed costs arising from issues detailed in sections 7.1 and 7.3, no deductions will be made from the Hosted Unit's budget by the Host Organisation and the Host Organisation's Cost Improvement Programme savings targets will not be applied.

The Host Organisation will not fund the Hosted Unit's cost pressures, which must be funded within the agreed Hosted Unit's budget.

## **8. OWNERSHIP OF ASSETS (INCLUDING INTELLECTUAL PROPERTY RIGHTS)**

Unless otherwise agreed (see below) all assets (including Intellectual Property Rights) developed or legitimately acquired by the Hosted Unit shall be owned by the Host Organisation.

If the intellectual property is to be exploited in any way then terms will be agreed between all the parties in this respect.

In the event that any income is derived from such assets or from their disposal, such revenues shall be regarded as part of the Hosted Unit income and accounted for accordingly.

In some circumstances, the Host Organisation, on behalf of the Hosted Unit may enter into agreements (such as joint working arrangements with industry partners) where specific conditions relating to the ownership and exploitation of intellectual property may apply.

## **9. DATA PROTECTION AND FREEDOM OF INFORMATION**

All parties to this Agreement shall duly observe all their obligations under the Data Protection Legislation and the Freedom of Information Act 2000, which arise in connection with the performance of this Agreement. The parties to this Agreement shall ensure that any contract or agreement entered into as a result of this Agreement shall include all the mandatory UK GDPR generic standard clauses in respect of data protection, including a Schedule of Data Processing Activities.

For the purposes of data protection and freedom of information, all data and information held by the Hosted Unit will be deemed to be held by the Host Organisation. As a result, any requests for information under relevant Laws will be processed according to the Host Organisation's procedures. However, the Responsible Officer will be informed as soon as possible of any relevant requests received and discussion will take place with the Responsible Officer before any of the Hosted Unit's information is released to a third party. The Responsible Officer shall adhere to all statutory timeframes in respect of any relevant request received. The Responsible Officer will be responsible for sharing relevant requests, and responses provided, with the Welsh Government named contact. Where the request is considered to be an issue relating to recorded information which is held by Welsh Government, then the request will be forwarded to the Welsh Government named contact to respond in accordance with the Freedom of Information Act Code of Practice.

Welsh Government shall indemnify (and keep indemnified) the Host Organisation against each and every action, proceeding, liability, cost, claim, loss, expense

(including reasonable legal fees and disbursements on a solicitor and client basis) and demands incurred by the Host Organisation which arise directly from a breach by the Hosted Unit of its obligations under this agreement in relation to Data Protection Legislation, including without limitation those arising out of any third party demand, claim or action, or any breach of contract, negligence, fraud, wilful misconduct, breach of statutory duty or non-compliance with any part of the Data Protection Legislation by the Hosted Unit.

## **10. MONITORING AND REVIEW OF THIS AGREEMENT**

This Agreement will be reviewed annually from first review at the end of the 2026/27 financial year by all parties to ensure that it is operating effectively, and amendments may be agreed as required (and in accordance with Section 14 and the Change Control Procedure (Appendix B)).

The Responsible Officer will liaise regularly and as necessary with the nominated officer for the Host Organisation, to monitor the operation of this Agreement and resolve any practical issues that may emerge.

The frequency of formal review meetings will be twice per annum. The Chief Executive of NHS Wales, Accountable Officer, Responsible Officer and any other named contacts (section 5), and others as may be nominated, will meet formally at least twice a year (or more frequently at the request of either party) to undertake a mid-year and annual review of the respective discharge of responsibilities under the Agreement and issues relating to the Agreement.

At any time, if any party has any issues, concerns or complaints about hosting, or any matter in this Agreement, that party shall notify the other parties and the parties shall then seek to resolve the issue by a process of engagement to determine the nature of the issue, concern or complaint and to propose or take mitigating action. If the issue cannot be resolved by the named contacts (section 5) within a reasonable period of time, the matter shall be escalated to the Accountable Officer and the Deputy Chief Executive NHS Wales, who shall decide on the appropriate course of action to take. Whilst at any point in the process either party can refer a dispute with respect to these arrangements to the Welsh Ministers for determination, it is expected that all reasonable endeavours to resolve the matter are exhausted prior to such a referral.

Subject to the nature of the issue (including an actual or predicted increase or decrease in demand on services outlined in section 6.2 above), concern or complaint, it may be necessary for Welsh Government and the Host Organisation's Board to consider recommendations made and agree that this Agreement, the associated Levy and/or the associated governance arrangements are amended accordingly.

## **11. DISPUTES AND MATTERS NOT COVERED BY THIS AGREEMENT**

Issues may arise that are not explicitly covered by this Agreement. In such cases, and in the event of any disputes, all parties will seek to address these issues and identify appropriate solutions in the common interest of NHS Wales and the public served.

The process for addressing any concerns is as set out in section 10.

## **12. TERM AND TERMINATION**

This Agreement shall commence on 25th September 2025 and is an Agreement of indefinite duration unless terminated either by mutual agreement of both parties with a minimum of 12 months prior written notice, or by the Cabinet Secretary for Health and Social Care.

## **13. CONFIDENTIALITY**

The parties to this Agreement will keep confidential all matters relating to other parties business, staff, patients and any other matters which may be disclosed to them during the course of this Agreement. Parties to the Agreement will not permit information to be disclosed to any third party or to use or copy any such information except with the relevant party's written consent or as may be reasonably necessary for the proper management or provision of the Hosted Unit's Functions or Host Body services or to comply with legislation.

The provisions of this section shall apply during the continuance of the Agreement and indefinitely after its expiry or termination.

## **14. GENERAL**

No variation to the Agreement will be valid unless made in accordance with the Change Control Procedure at Appendix B, save for a variation made in accordance with section 7(12) and (13) of the NHS (Wales) Act 2006.

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

## **15. DEFINITIONS**

In this Agreement the words expressions below will be interpreted to have the meanings ascribed to them:-

**"Hosted Unit Staff"** means those employed by Public Health Wales to undertake the Hosted Unit Functions.

**"Hosted Unit Functions"** means the activities and services provided by the Hosted Unit, which will be structured as service areas (to be referred to as functions), namely Quality, Safety and Improvement; Digital, Data, Technology,

Innovation and Value; Networks; Planning; Performance and Delivery; Financial Planning and Delivery; Planned Care; Mental Health; Primary Care; and Urgent and Emergency Care; and any related expressions are to be interpreted accordingly.

**"Data Protection Legislation"** means all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

**"Hosted Unit"** means the NHS Wales Performance and Improvement (NHS based) and comprises the Hosted Unit Staff.

**"Intellectual Property Rights"** means any and all patents, trademarks, service marks, copyright, moral rights, rights in design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether now or in the future subsisting in the United Kingdom or any other part of the world together with all or any goodwill and accrued rights of action.

**"Law"** means any applicable legal requirements including, without limitation:

- (i) any applicable statute or proclamation or any delegated or subordinate legislation or regulation as applicable in England and Wales
- (ii) any retained EU law within the meaning of the European Union (Withdrawal) Act 2018 (EUWA) including without limitation retained:
  - a. EU case law within the meaning of section 6(7) of EUWA;
  - b. Direct EU legislation within the meaning of s.20(1) of EUWA;
  - c. Direct principal and minor EU legislation within the meaning of s.7(6) of EUWA; and
  - d. general principles of EU law within the meaning of s.6(7) of EUWA.
- (iii) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales
- (iv) requirements set by any regulatory body as applicable in England and Wales; and
- (v) any relevant codes of practice as applicable in England and Wales.

**'Operations'** means the exercise of the Hosted Unit Functions.

The signatories to this agreement are:

1. Chief Executive, Public Health Wales, on behalf of the Host Organisation

Signed:

Date:

2. Chief Executive, NHS Wales, on behalf of Welsh Ministers

Signed:

Date:

## Appendix A

Annual Declaration of Compliance



NHS Exec RO Annual  
Governance Compliar

## Appendix B

### Change Control Procedure

1. Changes may be proposed by any party to the Responsible Officer who, following liaison with the nominated officer for the Host Organisation (Section 5.3), will then discuss them with the Accountable Officer and Chief Executive NHS Wales (HSCEYG)
2. The changes may be agreed or rejected by either the Responsible Officer or the Accountable Officer or the Chief Executive NHS Wales (HSCEYG), subject to the nature of the change, it may be necessary for the Responsible Officer, Accountable Officer and Chief Executive NHS Wales (HSCEYG) to make a recommendation to the Welsh Government and the Host Organisation's Board
3. Any changes will be reported to the Board of the Host Organisation and to Welsh Government.
4. All parties will be notified of the decision and any resulting change will be recorded in writing and annexed to this Agreement.
5. Any dispute regarding the proposed changes will be dealt with by the escalation procedure set out at section 10 of this Agreement, except in that different officers of each body will deal with the dispute.

Date of change	Section number and detail

## Appendix C

Assurance Schedule

## Appendix D

Service provision documents structured as:

- Finance
- Estates, facilities, health & safety
- IT oversight/support
- People and organisational development
- Nursing Quality and Integrated Governance (Directorate)