This Agreement dated 6 September 2001:-

Is made between the following parties:-

Halton Borough Council
Runcorn/Widnes Primary Care Group
North Cheshire Health Authority

1. Definitions

1.1 "1999 Act" means the Health Act 1999.
1.2 "Regulations" means the NHS bodies and Local Authorities Partnership Arrangements Regulations 2000 (SI no 617)
1.3 "NCH" means North Cheshire Health
1.4 "HBC" means Halton Borough Council
1.5 "R/WPCG" means Runcorn/Widnes Primary Care Group
1.6 "Partners" means NCH, HBC, R/WPCG
1.7 "Client group" means adults with learning disabilities in respect of whom the Partners or any one of the Partners respectively have a statutory responsibility.
1.8 "Board" means an integrated commissioning board whose constitution functions and rules of procedure are set out in this agreement.
1.9 "A financial year" means a year commencing on 1st April and ending on the following 31st March.
1.10 "NHS functions" means such of the functions of NCH as are prescribed under Regulation 5 of the Regulations so far as they relate to the client group.
1.11 "Health Related Functions" mean such of the functions of HBC as are prescribed in Regulation 6 of the Regulations as far as they relate to the client group.

.

2 Nature of Agreement

2.1 Pursuant to Section 31 of the Act and the Regulations the Partners agree to establish and maintain on the terms set out in this agreement a pooled fund made up of contributions by the Partners out of which payment may be made towards the exercise of the NHS functions and the Health Related Functions.

3 Agreed Aims and Outcomes

3.1 The agreed aims of the pooled fund arrangements are:-

3.1.1 To develop an effective integrated commissioning of health and social care services for the client group.
3.1.2 To improve the range and mix of services for the client group, including take up of primary care and general health services.
3.1.3 To improve support for carers of the client group.
3.1.4 To provide better information for the client group and carers.
3.1.5 To distribute resources equitably among the client group.
3.1.6 To deliver cost efficiencies in the services to the client group.

3.1.7 To remove the disputes between the Partners in respect of the client group.
3.1.8 To set quality standards for service providers.
3.1.9 To set local performance indicators to provide a benchmark for continuous improvement.

3.2 The agreed outcomes of the arrangements are:-

3.2.1 Enhanced social inclusion of the client group.
3.2.2 Equitable provision of services for the client group
3.2.3 Maintenance of the client group in the community where practicable.
3.2.4 Improved life skills, independence and health lives for the client group.

4 Governance

4.1 The Partners shall establish the Board which shall be a joint committee within the meaning of Regulation 10 (2) of the Regulations.

4.2 The purpose of the Board is:

4.2.1 To develop an effective integrated commissioning of health and social care services for the client group.
4.2.2 To improve the range and mix of services for the client group, including take up of primary care and general health services.
4.2.3 To improve support for carers of the client group.
4.2.4 To provide better information for the client group and carers.
4.2.5 To distribute resources equitably among the client group.
4.2.6 To deliver cost efficiencies in the services to the client group.
4.2.7 To remove the disputes between the Partners in respect of the client group.
4.2.8 To set quality standards for service providers.
4.2.9 To set local performance indicators to provide a benchmark for continuous improvement..

4.3 The Board shall be constituted as follows:-

Executive Members

Halton Borough Council	-	Member with the Council Cabinet (or nominated substitute)
HBC Social Services Directorate	-	Executive Director of Social Care Housing and Health (or nominated substitute)
North Cheshire Health Authority	-	Chief Executive (or nominated substitute)

Runcorn/Widnes Primary - Chief Executive (or nominated substitute)

Non executive Members

Chair of Learning Disabilities Commissioning Board

Carer representative

User representative

Voluntary Sector representative

HBC Group Accountant for Social Services

Director of Housing (or nominated representative)

Minority Communities Representative

Executive Director of Education and Social Inclusion (or nominated representative

Director of Priority Services (Chester & Halton NHS Trust)

Service Director (Chester & Halton NHS Trust)

Independent Sector Representative

4.4 The Board has the right to co-opt non-voting members and invite non-voting individuals to attend for specific issues.

4.5 Any of the Partners may from time to time replace one or more of its representatives to serve on the Board.

4.6 Any member of the Board wishing to resign shall give written notice to the Commissioning Manager who shall report the matter to the Partner who has nominated the member. The Partner shall agree to the member's resignation and on what terms. Members from HBC & NCH shall cease to be members of the Board where their employment with or elected membership of HBC & NCH ceases.

4.7 Chairing - The Chair of the Board shall be a Member of the HBC Executive Board.

4.8 The Board will meet on a monthly basis. Agendas and supporting papers will be circulated to Executive and Non-executive members at least five working days in advance of the meeting. The papers shall be sent to members of the Board and to those persons and agencies who would normally receive them had the Partners themselves carried out the functions of the Board. Any items, which are deemed to be exempt from discussion in public or

before the press must be so marked and endorsed with the reason.

4.9 The Board will be deemed quorate when at least 3 of the 4 partners are present. These must include a representative from HBC and a representative from the Health Authority.

4.10 The minutes of all meetings shall be sent to the Members and the Board shall prepare and send to the Partners an annual report.

4.11 The Board shall adhere to the Terms of Reference and Constitution as laid in Annex A of this agreement.

5. The Pooled Fund

5.1 The Board will use the flexibilities described in Section 31 of the 1999 Act to set up a pooled budget for the commissioning of services for Adults with Learning Disabilities. The pooled budget will be administered in accordance with the Financial Protocols described in Annex C.

5.2 HBC will be the host for the pooled budget for the purposes of Regulation 7(4). The Director of Resources and Corporate Services, as the Council's Section 151 Officer, will be the Accountable Officer and will provide the financial administrative systems on behalf of the Partners.

5.3 The total contributions to be made available for commissioning services for adults with learning disabilities for 2001 - 2002 will be as follows (half year pro rata):

i) Halton Borough Council Social Care, Housing and Health Directorate: **£3,819,105**

ii) North Cheshire Health Authority: **£3,118,394**

5.4 Eligibility Criteria are defined in Annex B for the financial year 2001/2002. Taking account of current resources, only packages of care which meet the 'assessed needs' of adults with learning disabilities and their carers who are entitled under Category 1 will be eligible for services.

Adults with a learning disability which includes the presence of:

i) A significantly reduced ability to understand new or complex information, to learn new skills, with

ii) a reduced ability to cope independently,

iii) which started before adulthood, with lasting effect on development and;

iv) who would be entitled to statutory provision of services under;

a) National Health Service Act 1977 (a), Section 2 & 3 (1)
b) Housing Act 1985,1996
c) Carers and Disabled Children Act 1995
d) Community Care Direct Payments Act. 1996
e) Carers (Recognition and Services Act 1995
f) Mental Health Act 1983
g) NHS & Community Care Act 1990
h) Disabled Persons Act 1986
i) Chronically Sick & Disabled Persons Act 1970
j) Disabled Person Act 1944

This list is not exhaustive and may include any other related or subsequent legislation or policy guidance.

5.19 The assessment process will need to ensure that the distinctions between social care subject to charges levied by the local authority and health care free at the point of delivery are clear.

6 Commissioning Arrangements

6.1 The NHS functions shall be discharged by National Health Service Trusts or other NHS bodies as NCH shall specify. The Commissioning Manager shall be responsible for negotiating service level agreements and National Health Service contracts with the service providers on behalf of NCH and shall not exceed the NHS Allocation without the consent of NCH.

6.2 The Commissioning Manager shall negotiate all contracts for services with the independent sector (including services provided by the National Health Service Trusts exercising their income generation powers). The host partners enter into the contracts on behalf of the Partners on terms approved by the Board.

7 Complaints

7.1 Complaints will be administered via each Partner's 'Complaint Procedures' whilst joint procedures are developed.

8 Information Sharing

8.1 The sharing of information between staff who are working together delivering personal care, support, treatment and managing risk will be carried out in accordance with the Halton Learning Disabilities Partnership – Statement of General Principles for Sharing Learning Disabilities Information (See Annex D).

9 Staff and Accommodation Related to the Integrated Commissioning Fund's

9.1 The Board shall appoint a Lead Commissioning Manager who has been recruited and employed by the host partner.

9.2 The Commissioning Manager shall report to the Board and shall be responsible for reporting on the business plan and related financial activity.

10 Disputes

10.1 The Partners will act together in good faith to resolve any dispute which may arise under this agreement. If the parties are unable to resolve a dispute they will then attempt to resolve it with the assistance of a mediator to be appointed by the parties or in default of agreement to be appointed by the Secretary of State for Health. If the parties are unable within 28 days of the appointment of the mediator to resolve the dispute the matter shall be referred to the Secretary of State for Health who will either adjudicate on the point at issue or will direct the parties as to the method of dispute resolution.

11 Duration, Review and Termination

11.1 This agreement will continue from year to year until terminated in accordance with this agreement.

11.2 Any of the Partners may terminate the agreement by giving at least six months' notice expiring at the end of a financial year.

12 Support Conditions

12.1 The partners shall observe and perform in relation to the requirements of the agreement to be carried out under the contract the requirements of the Health and Safety at Work etc Act 1974 or of Regulations or Codes of Practice made under the authority of that Act and to comply with any lawful requirements of the Health and Safety Executive in relation to the Agreement.

12.2 Nothing in this Agreement confers or purports to confer on any third party any benefit or any right to enforce any term of this Agreement.

12.3 A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof.

12.4 This Agreement is personal to the partners. The partners shall not assign, novate, sub-contract or otherwise dispose of this Agreement or any part thereof without the previous consent in writing of the other partners.

12.5 The failure of any partner to insist upon strict performance of any provision of this Agreement or failure to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations of the partners under this Agreement or otherwise.

12.6 This Agreement shall be considered as a contract made in England and according to English Law and subject to the exclusive jurisdiction of the English Courts to which both parties hereby submit.

12.7 This Agreement constitutes the entire understanding between the parties relating to the subject matter of this Agreement and save as may be expressly referred to herein supersedes all prior representations, writings, negotiations or understandings with respect hereto.

12.8 Except as otherwise permitted by this Agreement no change to its terms will be effective unless it is in writing and signed by persons authorised on behalf of each of the partners.

12.9 Each partner shall in the performance of this Agreement comply with all legal requirements relevant to the Agreement.

SIGNED ON BEHALF OF NORTH CHESHIRE
HEALTH AUTHORITY BY

(duly authorised in that behalf) ……

SIGNED ON BEHALF OF HALTON BOROUGH COUNCIL

(duly authorised in that behalf)……

SIGNED ON BEHALF OF RUNCORN/WIDNES PRIMARY CARE GROUP

(duly authorised in that behalf)……..

Annex A

HALTON BOROUGH COUNCIL

NORTH CHESHIRE HEALTH AUTHORITY

RUNCORN & WIDNES PRIMARY CARE GROUP

TERMS OF REFERENCE/CONSTITUTION OF THE HALTON

LEARNING DISABILITIES PARTNERSHIP BOARD

The above organisations have responsibility for the provision of health and social care services for people with learning disabilities. The organisations agree to establish a Partnership Board for the commissioning of services through a single lead agency.

1. The Purpose of the Partnership

- To develop an effective integrated commissioning of health and social care services for the client group.
- To improve the range and mix of services for the client group, including take up of primary care and general health services.
- To improve support for carers of the client group.
- To provide better information for the client group and carers.
- To distribute resources equitably among the client group.
- To deliver cost efficiencies in the services to the client group.
- To remove the disputes between the Partners in respect of the client group.
- To set quality standards for service providers.
- To set local performance indicators to provide a benchmark for continuous improvement.

2 Specific Function of the Board

- Strategically plan services across the borough which broadly reflect
  i) levels of investment by each agency
  ii) equity in access according to need
- Provide the executive forum to manage the pooled budget
- To oversee and make recommendations on proposals for integrated provision
- Provide information to, consult and receive feedback from users/carers
- Provide information to, consult and receive information from voluntary/independent organisations.
- Identify opportunities for investment for capital and revenue schemes
- Oversee the implementation of the Joint Investment/Business Plan

The Board will be established by the Partners as a formal joint board with delegated executive powers.

3. Lead Agency

Halton Borough Council shall be the Lead Agency and will host and service the Board. The Local Authority will manage the pooled budget on behalf of the Partner Agencies and provide regular reports in accordance with the financial protocols.

Halton Borough Council will employ a Commissioning Manager who will be responsible for the preparation of the joint investment/business plan.

4. Membership of the Board

Executive Members

Halton Borough Council	Member with the Council Cabinet (or nominated substitute)
HBC Social Services Directorate	Executive Director of Social Care Housing and Health (or nominated substitute)
North Cheshire Health Authority	Chief Executive (or nominated substitute)
Runcorn/Widnes Primary	Chief Executive (or nominated substitute)

Non executive Members

Chair of Learning Disabilities Commissioning Board

Carer representative

User representative

Voluntary Sector representative

HBC Group Accountant for Social Services

Director of Housing (or nominated representative)

Minority Communities Representative

Executive Director of Education and Social Inclusion (or nominated representative

Director of Priority Services (Chester & Halton NHS Trust)

Service Director (Chester & Halton NHS Trust)

Independent Sector Representative

Non-Executive Members shall have the right to nominate substitutes

Non-Executive Members will not have voting rights

The Board has the right to co-opt non-voting members and invite non-voting representatives to attend for specific issues.

There will be an annual review of the composition of the Board which will be conducted by the Partners and non-executive members

5 Chairing of the Board

The Chair of the Board shall be a Member of the HBC Executive

6 Changes to the Constitution

The Partners and the Board may at all times review and make recommendations to the Council and the Health Authority with regard to any changes, which cannot be implemented with the agreement of both HBC and the Health Authority.

7 Decision Making Process

The Board will receive specific delegated powers from both the Council and the Health Authority respectively to make decisions on their joint behalf for the service area agreed at the setting up of the Partnership. These delegated powers will relate to the annually agreed business plan and related contributions.

The Board shall be deemed quorate when there is at least 3 of the 4 members of the Executive present. These must include a representative of the Council and a representative from the Health Authority.

8 Appointments

Non-executive representation will be restricted to one or two representatives. Where a stakeholder group has a significant number of individuals who may wish to join the Board. A nomination and election process will be administered by the Commissioning Manager. This process will take place in February 2002. Representation on the Board will be for two years.

9 Confidentiality

Board Members must accept the confidentiality of the contents of private reports to the Board.

10 Code of Conduct

The Board shall comply with the Local Government - Code of Conduct with regard to Board Members, including provisions regarding the need to declare all conflicts of interest.

11 Meetings and Administration

The Board will meet on a monthly basis. Agendas and supporting papers will be circulated to Executive and Non Executive Members at least five working days in advance of the meeting. Minutes and reports from the Board will be circulated via participation and service development groups.

Minutes of public items will also be circulated to HBC's Libraries and Information Services

(The format of these papers should take into account the need to make information accessible to the public)

12 Consultation

Participation Groups will meet bi-monthly. These groups will be the vehicle for consultation, involvement and feedback for users and carers. These groups will have the opportunity to comment upon and influence the Board's strategic plans.

13 Expenses and Support to Non-Executive Members

The Board shall make available resources to enable people to be non-executive members by:

i) Providing expenses or reimbursement of earnings, where this is not available through the person's role or employing/membership organisation.

ii) Allowing a supporter/friend to attend

iii) Resources/Facilities to meet specific needs of attendees eg Caring support, transport.

Annex B

Eligibility Criteria **Service Area: Learning Disability**

Service Eligibility Level	Relevant Legislation	Threshold criteria, including risk factors	Example situations	Desired outcomes of services	Examples of services which might appropriately be provided at this level
Category 1	Disability Discrimination Act 1996 NHS and Community Care Act 1990 Chronically Sick and Disabled Person's Act 1970 National Assistance Act 1948 Housing Act 1985/96 Carers and Disabled Children Act 2000 Community Care Direct Payments Act 1996 Carers (Recognition and Services Act 1995) Disabled Person Act 1944 Disabled Persons Act 1986 National Health Service Act 1997 Mental Health Act 1983	People with learning disabilities generally refers to: Adults who have:- i) Significantly reduced ability to understand new or complex information, to learn new skills with ii) A reduced ability to cope independently which iii) Started before adulthood (before the age of five) with lasting effect on development. People with learning disabilities whose life or health is at risk, for example because of a sudden change in care arrangements, eg the withdrawal, illness, or death of a carer, homelessness, the person is at risk of abuse, etc People with learning disabilities who are subject to Section 117 of the Mental Health Act (people discharged from hospital having been detained, where the local authority has a duty to provide aftercare services)	The person requires 24 hour care and supervision The person's actions put him/her at risk of causing physical damage to others or the person is threatening or committing physical damage to another person The person's actions put him/herself at risk, eg, a severe eating disorder or history of self-harm The person may be at risk of significant self-neglect if not supported, eg the person is unable to feed themselves or drink and there is a danger of malnutrition/dehydration The person's existing care arrangements have broken down The person is homeless The person would cease to be able to function in the community without continuing social work involvement The person or their carer is at risk of being abused	Be safeguarded against abuse, neglect, self-harm Manage the essential tasks of daily living Live in a safe home environment Maintain a satisfactory level of personal care Prevent family breakdown or breakdown of social networks Communicate effectively Be able to summon help	Residential Nursing Home care Complex Assessment work Therapeutic intervention Multi-disciplinary/joint work with specialist therapeutic provider teams Specialised day care Community support service Respite care Carer's assessment Supervision of medication Domiciliary care Personal care Shopping and pension collection Provision of meals Sitting service Access to education Help into employment Referral for specialist Benefits advice Supported accommodation Guardian Social supervisor Advocacy Multi-agency support Hospitalisation

Service Eligibility Level	Relevant Legislation	Threshold criteria, including risk factors	Example situations	Desired outcomes of services	Examples of services which might appropriately be provided at this level
Category 2	Disability Discrimination Act 1996 NHS and Community Care Act 1990 Chronically Sick and Disabled Person's Act 1970 National Assistance Act 1983 National Assistance Act 1948 Housing Act 1985 Housing Act 1996 Carers and Disabled Children Act 2000 Community Care Direct Payments Act 1996 Carers (Recognition and Services Act 1995) Disabled Person Act 1944 Disabled Persons Act 1986 National Health Service Act 1977 Mental Health Act 1977 Mental Health Act 1983	People with learning disabilities where there is a risk of breakdown of the present situation	**The level of dependency is high and the person's carer finds the physical and emotional strain of caring excessive, but wishes to be involved in the caring process** The person is socially isolated and requests daytime activities to alleviate loneliness The person has a pattern of self-neglect, which will lead to gradual deterioration of his/her living conditions over time The person is an adult returning from residential college or school, or is moving from Children's to Adult's Services The person is or has been resettled from a long stay institution The person is an adult subject to Guardianship under the Mental Health Act	Be safeguarded against abuse, neglect, self-harm Manage the essential tasks of daily living Live in a safe home environment Maintain a satisfactory level of personal care Prevent family breakdown or breakdown of social networks Communicate effectively Be able to summon help	Nursing residential or home care Complex Assessment work Therapeutic intervention Multi-disciplinary/Joint work with specialist therapeutic provider teams Specialised day care Respite care Carer's assessment Personal care Provision of meals Sitting service Access to education Help into employment Referral for specialist Benefits advice Supported accommodation Advocacy A need for an Appropriate Adult Support to maintain existing care Arrangements Focussed short-term piece of work eg counselling, teaching, advising or crisis intervention Interim or long term Care planning Multi-agency support Package Hospitalisation Rolling respite care

Service Eligibility Level	Relevant Legislation	Threshold criteria, including risk factors	Example situations	Desired outcomes of services	Examples of services which might appropriately be provided at this level
Category 3	Disability Discrimination Act 1996 NHS and Community Care Act 1990 Chronically Sick and Disabled Person's Act 1970 National Assistance Act 1948 Housing Act 1985 Housing Act 1996 Carers and Disabled Children Act 2000 Community Care Direct Payments Act 1996 Carers (Recognition and Services Act 1995) Disabled Person Act 1944 Disabled Persons Act 1986 National Health Service Act 1997 Mental Health Act 1983	People with learning disabilities who need regular, occasional or minimal support and who are at minimal risk of breakdown in their present situation	The person is experiencing some distress and would benefit from input or services to relieve strain or improve the quality of life, but there is no imminent risk of breakdown Help would prevent the person's current difficulties getting worse The person is functioning reasonably well, but may want specific low key input, eg, help with access to or information about drop-in centres, benefits, local resources, etc	Be safeguarded against abuse, neglect, self-harm Manage the essential tasks of daily living Live in a safe home environment Maintain a satisfactory level of personal care Prevent family breakdown or breakdown of social networks Communicate effectively Be able to summon help	Day care Personal care Provision of meals Carer's assessment Access to education Help into employment Referral for specialist Benefits advice Advocacy Re-direction to the voluntary sector Provision of written information

Service Eligibility Level	Relevant Legislation	Threshold criteria, including risk factors	Example situations	Desired outcomes of services	Examples of services which might appropriately be provided at this level
Category 4	Disability Discrimination Act 1996 NHS and Community Care Act 1990 Chronically Sick and Disabled Person's Act 1970 National Assistance Act 1948 Housing Act 1995/6 Carers and Disabled Children Act 2000 Community Care Direct Payments Act 1996 Carers (Recognition and Services Act 1995) Disabled Person Act 1944 Disabled Person Act 1986 National Health Service Act 1977 Mental Health Act 1983	The following will not be eligible for services from the Learning Disability team: People with brain damage acquired after 5 years of age, eg, through head injury, stroke, etc. People with complex medical conditions which affect intellectual function, eg, Alzheimer's Disease, Dementia, Huntington's Chorea People who have communication and severe physical or sensory disabilities which give the impression of substantial intellectual difficulties People with specific learning difficulties or educational difficulties, eg dyslexia, poor literacy or numeracy People who had a mainstream school education with no Statement of Special Educational Need.	Assistance with access to any other services that may be appropriate to meet needs Information on how people can institute the Complaints Procedure to appeal against decisions made	Be safeguarded against abuse, neglect, self-harm Manage the essential tasks of daily living Live in a safe home environment Maintain a satisfactory level of personal care Prevent family breakdown or breakdown of social networks Communicate effectively Be able to summon help	Assistance with access to any other services that may be appropriate to meet needs Information on how people can institute the Complaints Procedure to appeal against decisions made

Annex C

Adults with Learning Disability Partnership Board

Financial Protocol for the pooled budget

1. HBC will be the host for the pooled budget for the purposes of Regulation 7(4). The Director of Resources and Corporate Services, as the Council's Section 151 Officer, will be the Accountable Officer and will provide the financial administrative systems on behalf of the Partners.

2. The pooled budget will be subject to HBC's Constitution which includes its Financial Procedure Rules.

3. HBC should not incur any financial benefit or disadvantage from hosting the budget and should not incur any additional liabilities except for any unavoidable expenses incurred in the management of the pool such as additional bank charges and audit fees for which a provision will be made in the pooled budget. Any additional interest receivable will be credited to the pooled budget.

4. NCH will make contributions to the pooled fund via equal monthly instalments. Contributions to the pool will be made net of overheads but gross of Local Authority client income, as this must be clearly traceable back to HBC.

5. The Board will manage the pooled budget on behalf of the Partners.

6. Subject to confirmation from Customs & Excise, the pooled budget will be subject to HBC's VAT regime. This would enable the pool to recover Value Added Tax, subject to the host partner retaining ownership and management of goods purchased.

7. The Board will operate on the basis of a three year rolling strategy, which will be reviewed and approved by the Board annually. The Commissioning Manager, in consultation with the Partners, will prepare an annual budget and business plan based on the financial resources committed by each Partner, and approved by the Commissioning Board.

8) Contributions to the pooled budget by each partner will be determined by that partner in accordance with their own budget-setting process. Proposals for growth in the pooled budget, for example growth to base budget, use of specific grants or proposed bids for additional external funding, must be put via the Board to the Partners in good time for them to be considered as part of the budget-setting process of each Partner. Purchase of major capital items should be handled through Section 28 arrangements.

9) Pressures on the contribution from either Partner, such as the requirement to put forward proposals for savings from the existing budget, must be put to the Board as soon as these pressures become apparent. These pressures may include efficiency savings, either cash or non-cash.

10) The host partner will prepare monthly budget statements to compare actual expenditure to the business plan. The Commissioning Manager will report to the Board on a quarterly basis on performance against objectives and budget, with a monthly exception report.

11) Any variances between budget and actual spend will be brought to the attention of the Board, together with recommendations for action if necessary. These might include reduction of expenditure, virement of funds from underspending budget heads within the pool, subject to the Local Authority's Constitution, or strategic restructuring of services.

12) The Board will be responsible for ensuring that action is taken to contain any unforeseen expenditure within the pooled budget. Any over or underspend remaining at the end of the financial year will be apportioned between the Partners pro-rata to their original contributions but will not affect subsequent years' budgets.

13) At the year end HBC will prepare a Memorandum of Accounts within their statement of accounts which shows what has been received and spent. This Memorandum of Accounts will be sent to each of the Partners for inclusion in their statement of accounts in line with External Audit requirements.

14) If any of the Partners wishes to exit the joint commissioning arrangements, the pooled budget will be dissolved. Dissolution must take place at the end of the financial year and at least six months' prior notice must be given. All Partners will endeavour to fulfil their separate and joint commitments during the year of dissolution.

1. Introduction

1.1 **This joint Statement for the sharing of information is aimed to assist staff who are working together delivering personal care, support and treatment and managing risk posed by individuals in receipt of services.**

1.2 It is accepted that joint sharing of information needs to cover a range purposes. The following list details the main items:-

- Delivering personal care, support and treatment
- Risk Management
- Assuring and improving the quality of care and treatment
- Monitoring and protecting public health
- Managing and planning services
- Contracting for NHS/LA services
- Auditing NHS/LA accounts and accounting
- Investigating complaints and notified or potential legal claims
- Teaching and Training
- Statistical analysis
- Medical or health services/LA research into caring for people with Learning Disabilities

2. General Principles

2.1 It is vital that service users and carers can trust that personal information will be kept confidential and their privacy will be respected within professional and legal guidelines. However, it is important that those concerned with providing care to individuals have ready access to the information that they need to deliver it.

2.2 All staff have an obligation to safeguard the confidentiality of personal information. This is complying with law, with their contracts of employment, and in many cases with professional codes of conduct. All staff should be made aware that breach of confidentiality could be a matter for disciplinary action and provides grounds for complaint and possible legal action against them.

2.3 Whilst it is neither practicable nor necessary to seek an individual's specific consent each time that information needs to be passed on for the particular purpose of delivering care and treatment to the individual the person's informed consent, must be obtained whenever practicable and this should be reaffirmed at regular intervals. This is contingent on individuals having been fully informed of the uses to which

information about them may be put. All agencies concerned with the care of individuals should satisfy themselves that this requirement is met. i.e. Clinicians provide relevant information leaflets, supported by verbal explanation of its contents (in appropriate format and language).

2.4 Clarity about the purposes to which personal information is put is essential, and only the minimum identifiable information necessary to satisfy that purpose should be made available. Access to personal information should be on a strict **need to know** basis. (See Appendix A for details of "need to know".

2.5 If an individual wants information about themselves to be withheld from someone, or some agency, which might otherwise have received it, the individual's wishes should be respected unless there are exceptional circumstances. Every effort should be made to explain to the individual the consequences for care planning, but the final decision should rest with the individual.

2.6 The exceptional circumstances which override an individual's wishes when the information are:-

- Required by statute or court order,
- Where there is a serious public health risk of harm to other individuals
- Or for the prevention, detection or prosecution of serious crime
- Where there is a serious health risk of harm to self

(See Halton Borough Council – Joint Policy, and Procedures re Abuse Vulnerable Adults, para 2.2)

2.7 The decision to release information in these circumstances, where required, should be made by a nominated senior professional/manager within the agency, and it may be necessary to take legal or other specialist advice. **(ref** Caldicott)

2.8 There are also some statutory restrictions on the disclosure of information relating to:-

- HIV and AIDS, other sexually transmitted diseases, assisted conception and abortions (NHS Venereal Diseases) Regulation 1974 and 1991,
- Human Fertilisation and Embryology Act 1990 and Human Fertilisation and Embryology (Disclosure of Information) Act 1992
- Abortion Act 1991

2.9 Where information on individuals has been aggregated or anonymised, it must still only be used for justified purposes, such as audit. Care should be taken to ensure that individuals cannot be identified from this type of information. It is envisaged that the anonymising of

information will be an exception rather than the rule and authorised by a nominated senior professional/manager

3 Setting Parameters

3.1 There should be a nominated senior professional/manager, within each agency covered by this protocol, such persons will meet and take responsibility for agreeing amendments to the protocol, monitoring it operation, and ensuring compliance.

3.2 Each Agency is to develop local policies to ensure individuals, who need access to personal information for a defined legitimate purpose, can access this.

3.3 Specific consent is required prior to personal information being transferred for purposes other than those defined in this protocol, unless there are exceptional circumstances as outline above (see 2.6).

3.4 Where individuals are unable to give consent to information being shared, the decision should be made on the individual's behalf by those responsible for providing care, taking into account the views of user/patients and carers, with the individual's best interests being paramount. Where practicable, advice should be sought from the nominated senior professional/manager and the reasons for the final decision should be clearly recorded. The involvement of an advocate/solicitor could be useful in these situations.

4. Holding information, access and security

4.1 Staff should only have access to personal information on a **need to *know* basis,** in order to perform their duties in connection with one or more of the purpose defined above. Clinical and professional details should be available to those, but only those, involved in the care of the individual.

4.2 Each agency will take all reasonable care and safeguards to protect both the physical security of information technology and the data contained within it.

4.3 All personal files and confidential information must be kept in secure, environmentally controlled locations when unattended, eg in locked storage cabinets, security protected computer systems.

5 Access to Records

5.1 Whilst written and computerised records will be regarded as shared between the agencies, an individual's right of access to information contained in the records differs when it has been provided by a health professional from when it has been provided by Social Services staff.

Accordingly each agency's procedures for access to records will be complied with.

5.2 Service users (or persons authorised to act on their behalf) have statutory rights to know what information is held about them. Users have the right to access this information under the following legislation

Human Rights Legislation
Data Protection Act 1998 (for all records)

5.2 Information regarding a patient from a third party ie carer, held by either agency will be accessible with the agreement *of* that third party or subject to the provisions of the Data Protection Act 1998.