

**SOCIAL SERVICES  
AND  
WELLBEING (WALES) ACT 2014**

**ESTABLISHING A POOLED FUND**

**As Directed Under Section 169 of the Social Services and  
Wellbeing (Wales) Act 2014 and related Part 9 Statutory  
Guidance (Partnership Arrangements)**

## **CONTEXT FOR REGIONAL PARTNERSHIP BOARDS**

1. The Partnership Arrangements (Wales) Regulations 2015 require the establishment of pooled funds in relation to the exercise of care home accommodation functions as well as for other services.
2. The duties in relation to the care home accommodation functions, come into force on 6 April 2018.
3. Part 9 Statutory Guidance (Partnership Arrangements) issued in consequence of the Social Services and Wellbeing (Wales) Act 2014, state that Regional Partnership Boards will be expected to develop written agreements concerning any formal partnership arrangements which involve a delegation of functions.

See: <http://gov.wales/docs/dhss/publications/151218part9en.pdf>

### **Pooled Fund Arrangements**

4. A Pooled Fund is a formal partnership arrangement which requires a written agreement. This is often referred to as the “legal agreement”.
5. Although the explanatory notes and the framework attached are not themselves statutory, they are based on the relevant legislation and the statutory guidance.
6. While Partners will need to involve their legal advisors in drafting a local agreement, they should find that the framework helps to reduce some of the preparation required.
7. The model here is intended to promote discussion on several of the key matters to be addressed for successful operating.

### **Shared Development**

8. The framework has been developed with the assistance of Gwent regional officers and drawing upon their expertise in the management of a significant, existing regional wide Pooled Fund arrangement.
9. It has also been informed by a series of workshops held for participants from across regions to explore the work required in preparing a Pooled Fund arrangement to fulfil care home accommodation functions.

### **National Commissioning Board Market Analysis**

10. The National Commissioning Board has also carried out a pan - Wales Market Analysis which continues to inform regions on many of the commissioning issues to be considered in developing a coherent approach to accessible service provision for citizens.

## **Technical Advice**

11. Additional help and advice on the operation of Pooled Funds may be found in series of Advice Notes on matters prepared by the Welsh Assembly Government and as now available at: <http://www.wales.nhs.uk/sitesplus/829/page/48755>
12. A set of “Frequently Asked Questions” on the use of Pooled Funds is also available from your Regional Coordinator.

## **USE OF THE FRAMEWORK**

13. This is designed for use by Regional Partnership Groups through their Local Authority and Local Health Board partners for the pooling of funds. It should be adapted for local use. Comments in the margins of the document identify some drafting matters for consideration in the local preparation.

## **Purpose of Pooled Fund Agreements**

14. Regulations allow for the partners to enter arrangements for the establishment and maintenance of a fund which is made up of contributions from the partners and out of which payments may be made towards expenditure incurred in the exercise of National Health Service functions or health-related (Local Authority) functions.
15. This is the ‘Pooled Fund’ and money from this fund may be used on purposes agreed between the partners (in this case to carry out the Care Home Accommodation Functions) of the partners jointly, in arranging care for Older People in Registered Homes.
16. This is a single fund which removes the traditional Health/Social care division between partners, offering flexibility in the single fund’s use according to locally agreed needs.

## **The Partners**

17. These are the NHS and Local Authority Partners as defined in the Partnership Arrangements (Wales) Regulations 2015.

## **The Lead Commissioner (Host Partner)**

18. Under the arrangements set out, one Partner should act as the ‘host’ for the Pooled Fund. They should manage the Pooled Fund on behalf of the other Partners and arrange for this to be administered day-to-day by a Pooled Fund Manager who has specific management and reporting responsibilities.
19. The Pooled Fund should be made up of contributions from each of the Partners for an agreed individual amount, which may differ between them. The Partners should also identify any other goods and services they plan to make available in support of (but not a part of) the Pooled Fund and its objectives.

## **Expenditure from the Pooled Fund**

20. The Pooled Fund Manager should undertake payment of any expenditure that has been agreed against a budget plan for the Pooled Fund. The budget plan should be prepared at least annually and should be based on the detailed Objectives at Schedule 1 of the agreement template.
21. The financial governance arrangements including contributions and budget should be shown at Schedule 2

## **Service Aims and Objectives**

22. The Objectives at Schedule 1 should stem from a population needs assessment and market analysis to include the needs of self-funders.
23. The partners should agree an appropriate integrated market position statement and commissioning strategy.
24. These together will inform the commissioning objectives for the Pooled Fund.
25. The Schedule should list the agreed objectives for the Pooled Fund/Lead Commissioning arrangement, who will carry them out and by when. This should link to performance reporting as identified in the Appendix to Schedule 3.

## **Activity Commissioned from the Pooled Fund**

26. The Pooled Fund will be used to purchase services.
27. One partner will have been selected as the Lead Commissioner (the host) for the management of the Pooled Fund but the partners will need to agree locally:
  - a. The Lead Commissioner role in commissioning, procurement, contracting, care management
  - b. Their own role in commissioning, procurement, contracting, care management ie in support of the Lead Commissioner responsibilities for managing the Pooled Fund and carrying out the agreed role
  - c. Any necessary delegation from the Lead Commissioner to officers/staff of other partners so that they may make decisions and carry out Pooled Fund activity within agreed accountabilities and governance
  - d. Any groups or teams of officers that they wish to create with the purposes of assisting the Pooled Fund commissioning functions e.g. a centralised Commissioning Team.

## **Reporting and Accountability for Spending**

28. The host Partner should ensure that spending matches that set out in the agreed budget plan and should report on spending from the fund. (See Schedule 2 and 3 of the attached).

## **Governance**

29. Governance arrangements are suggested in the attached at Schedule 3 and should reasonably consist of:

- a. A management group for oversight day to day (referred to in the attached as the Leadership Group), comprised of one representative officer from each of the Partners to the Pooled Fund.
- b. A Pooled Fund Manager non-voting), responsible for the Pooled Fund performance and who is accountable to the management group.

30. The Leadership Group should be able to carry out the day to day activities which are agreed as necessary for smooth operation of the Pooled Fund and subject to the limitations of their (each officer's) organisation's specific delegated powers ie in acting for their organisation and reporting to it on the operation of the Pooled Fund.

31. As part of the governance, the following arrangements should operate:

- a. The pooled fund should operate in accordance with the Standing Orders and Standing Financial Instructions of the host Partner always
- b. VAT arrangements should operate as agreed by the Partners in accordance with HMRC protocols (see Technical Advice in WAG Advice Notes referred to above) . The HMRC should be notified of the intended arrangements
- c. Accounting for the Pooled Fund should operate in accordance with national and international financial reporting standards.

32. If necessary to have recourse, the Disputes and Arbitration procedure should be operated in accordance with the procedure set out in the attached (for local design).

## **Pooled Fund Review, Plan & Board Annual Report**

3. A review at least annually, at a designated time, is critical to ensuring that the agreement for the Pooled Fund remains up-to-date and reflects intended and actual use of the fund.
4. The review should also be used to help plan the contributions for the year ahead and for development of a new or revised set of Objectives (Schedule 1) and any other necessary Schedule revisions such as the performance reporting appended at Schedule 3 (to be completed locally).
5. A report each year, prepared by the Pooled Fund Manager with the Leadership Group, could be used to provide the information for that part of the Board's Annual Report to Welsh Ministers which reports on its achievement of the statutory guidance requirements.