

## SCHEDULE 2 - SERVICE SPECIFICATION

<b>Service</b>	<b>This Service Specification relates to the delivery of residential care in Care Homes and Care Homes with nursing</b>
<b>Commissioner</b>	(1) NHS Bolton CCG (2) The Borough Council of Bolton (3) The Associate Commissioners
<b>Coordinating Commissioner</b>	<b>For nursing homes insert: NHS Bolton CCG</b> <b>For residential homes insert: Bolton Council</b>
<b>Associate Commissioners</b>	
<b>Provider Lead</b>	
<b>Contract Term</b>	<b>Four years</b> <b>(with an option to extend for an additional 12 months)</b>
<b>Date of Review</b>	<b>31 January 2020</b> <b>(to be reviewed annually thereafter)</b>

### 1. Overview

- 1.1. The Contract for the delivery of the Services consists of the General Conditions (GC), the Service Conditions (SC) and the Particulars.
- 1.2. This Service Specification forms part of the Particulars and details the Commissioner's particular requirements and the Provider's particular obligations in respect of the Provider's delivery of the Services. It shall be read in conjunction with the General Conditions and the Service Conditions.
- 1.3. Unless stated to the contrary, all references to the "Commissioner" in this Service Specification shall be read to mean each of the commissioners listed in the Particulars individually and the commissioners collectively, where appropriate.

### 2. Outcomes

- 2.1. The Commissioner and Provider shall each comply with the following domains of the NHS Outcomes Framework which can be found at: <https://digital.nhs.uk/data-and-information/publications/ci-hub/nhs-outcomes-framework>.

#### NHS Outcomes Framework Domains & Indicators

<b>Domain 1</b>	<b>Preventing people from dying prematurely</b>
<b>Domain 2</b>	<b>Enhancing quality of life for people with long-term conditions</b>
<b>Domain 3</b>	<b>Helping people to recover from episodes of ill-health or following injury</b>
<b>Domain 4</b>	<b>Ensuring people have a positive experience of care</b>
<b>Domain 5</b>	<b>Treating and caring for people in safe environment and protecting them from avoidable harm</b>

### **Locally defined outcomes**

- 2.2. In delivering the Services the Provider shall meet the following outcomes and provide any such evidence that the outcomes have been achieved as reasonably required by the Commissioner:
- 2.2.1 To promote joint working across health and social care partners to improve the service provided to each Resident;
  - 2.2.2 To extend the provision of services in the community and away from more traditionally commissioned services which are based in Acute Care Settings.

## **3. Scope**

### **The scope of the Services**

- 3.1. This Service Specification relates to placements made by the Commissioner in residential Care Homes and Care Homes with nursing.
- 3.2. Save in instances of Funding Without Prejudice (see paragraph 4.8 below), the Commissioner shall purchase the Services for the benefit of each Resident as and when required through an Individual Service User Placement Agreement (ISUPA) and each ISUPA shall at all times incorporate the terms and conditions of the Contract.
- 3.3. The Provider shall ensure that itself and each Care Home operated by the Provider is properly registered with the Care Quality Commission (CQC) or any successor body.
- 3.4. The Provider must ensure that the Statement of Purpose relating to each Care Home, or part of a Care Home where a Resident is to be placed, fully complies with the CQC requirements, is appropriate to the Resident, and that the Provider is able to fully meet the identified care needs of the intended Resident detailed in the ISUPA.
- 3.5. The Commissioner provides no guarantee that any particular volume of purchasing, including any at all, will be made under the Contract.

### **Compliance with the Law and guidance**

- 3.6. In delivering the Services the Provider will comply with the Law and any national guidance including, but not limited to, those detailed below:
  - The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
  - Fundamental Standards as set out in Section 2 of The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2014 CQC Guidance for Providers of meeting the Regulations (Fundamental Standards)
  - The Care Act 2014.

### **Population covered**

- 3.7. The Provider will deliver the Services to any Resident falling within the following Service Categories:
  - Learning Disability;

- Mental Health including Section 117 aftercare;
- Physical Disability;
- Dementia Care;
- Older People;
- End of Life Care.

### **Acceptance and exclusion criteria and thresholds**

3.8 The scope of the Services does not include the delivery of any part of the Services to any person:

- Under the age of 18;
- Detained under the Mental Health Act 1983, with the exception of Residents users entitled to Section 117 aftercare;
- Fully funding their residential and/or nursing care without public sector contribution;
- For which there is no ISUPA agreed between the Provider and the Commissioners.

3.9 For Residents eligible for Funded Nursing Care Payments (FNC):

3.9.1 The Commissioner shall inform the Provider which NHS CCG is responsible for monitoring the provision of such FNC;

3.9.2 The Provider shall liaise with the relevant CCG to ensure the Commissioner's requirements are met in terms of assessment of the Resident's needs and communication about those needs.

3.10 Each and every time the Commissioner requires the Provider to deliver Services to a Resident it shall enter into an ISUPA with the Provider and the Provider agrees that it shall deliver the Services in accordance with the terms of the ISUPA, which for the avoidance of doubt will incorporate the terms and conditions contained within the Contract.

## **4. Referral into Services and sources**

4.1. Referral into the Services shall be made in accordance with the process set out below.

4.2. The Commissioner shall request that the Provider shall undertake an assessment of an individual's care needs, making available all necessary information to enable the Provider to do so. The Provider will then ascertain if it can meet the individual's care needs.

4.3. The Provider shall respond to an assessment request issued by the Commissioner, as a matter of urgency, to enable all relevant parties to establish the care needs of the individual as well as the level of risk, the skill mix of the Provider's Staff and the resources required to meet the care needs of the individual.

- 4.4. The Provider shall create the Provisional Support Plan for the individual and forward this with a statement confirming ability to meet the needs of the individual to the Commissioner in accordance with the following response times:
- 4.4.1. For individuals within the “End of Life” Care Category: Within 24 (twenty-four) hours;
- 4.4.2. For all other individuals: Within 72 (seventy-two) hours.
- 4.5. For individuals within the “End of Life” Care Category, the Provider shall take all reasonable steps to make arrangements to commence delivery of the Services within 12 (twelve) hours of the decision to deliver the Services.
- 4.6. The Commissioner shall review the Provisional Support Plan for the individual and agree with the Provider the appropriate level of resources required to deliver the required Services to the individual together with the associated value of the Services, which shall be in accordance with the Local Prices set out in this Specification. The Commissioner’s Support Plan shall detail such requirements.
- 4.7. The Commissioner shall agree and enter into an ISUPA in accordance with Section 7 of this Service Specification. The Provider’s Support Plan shall form part of the ISUPA.
- 4.8. The Commissioner shall develop the Commissioner’s Support Plan in consideration of the Provider’s Support Plan.
- 4.9. In exceptional circumstances, a Resident may temporarily receive Funding Without Prejudice from a CCG Commissioner for a short period of time to enable further assessment to take place away from an Acute Setting. This will be for a maximum of 28 days. For any placements that are extended beyond 28 days the Provider must liaise with the relevant CCG Commissioner to confirm how the placement will be funded, and must seek written confirmation of these arrangements.
- 4.10. Following agreement and completion of the ISUPA and where the Resident is not already resident within the relevant Care Home, the Provider shall make all necessary arrangements to transfer the Resident to the Care Home. The Provider shall not be responsible for funding such transportation; funding will be agreed on an individual basis.
- 4.11. The Provider shall ensure that a named key worker is assigned to each Resident and, where the Resident is in receipt of nursing care, the Resident is under the overall care of a named nurse registered with the Nursing and Midwifery Council. This shall be confirmed with relevant contact details to the Commissioner.
- 4.12. The Provider shall keep the Commissioner advised of any changes to transfer arrangements and provide same day written confirmation that the Services have commenced under the relevant ISUPA.
- 4.13. Immediately following commencement of the Services to a Resident under an ISUPA, the Provider shall forward written notification of the care arrangements of the Resident to the Resident’s GP.
- 4.14. Once a Resident has been allocated a bedroom at the Care Home the Provider shall not move that Resident to another room without the Commissioner’s prior written consent except in cases of emergency.

- 4.15. The Commissioner will respond within five (5) Operational Days to any request for permission to move a Resident to another room. In the event of a room change in an emergency the Provider shall inform the Commissioner of the change no later than the next Operational Day.
- 4.16. The Provider shall reserve the Resident's allocated bedroom for sole use by the Resident until it is agreed by the Commissioner that the Placement has been terminated.
- 4.17. The Commissioner will regularly review the needs of each Resident in accordance with its requirements under the Care Act 2014 and the Provider shall use all reasonable endeavours to co-operate with this process.
- 4.18. The Provider shall work in partnership with the Commissioner to promote and encourage the participation of the Resident in any local clinical networks and national screening programmes considered by the Commissioner and the Provider to be relevant.

### **Re-assessments and continued eligibility**

- 4.19. In the event of a change in the Resident's needs or if the requirements of the Commissioner's Support Plan change, the Provider shall notify the Commissioner as soon as is reasonably practicable and take any action necessary to ensure the safety of the Resident.
- 4.20. Notwithstanding the above, the Resident or their representative or the Commissioner or the Provider may request a re-assessment by the Care Manager or CHC Nurse of the Resident's needs at any time, with such reassessment being scheduled within 5 (five) Operational Days of the request being made, or in the case of End of Life, within 24 (twenty-four) hours.
- 4.21. Where a Resident requires or is currently receiving Nursing Care the Provider must ensure the relevant Clinical Commissioning Group (CCG) (as Commissioner) is informed of any changes to the Resident's care needs. This includes new placements, discharge or the death of a Resident. This is also required for any ISUPAs where the Commissioner is Bolton Council and the Resident is in receipt of Funded Nursing Care (FNC).

## **5. General considerations**

- 5.1. The Provider shall deliver the Services to each Resident under an ISUPA, as and when required by the Commissioner.
- 5.2. The Provider shall immediately notify the Coordinating Commissioner of any regulatory authority's enforcement actions, recommendations or requirements that are material to the delivery of the Services, including draft CQC inspection reports.
- 5.3. The Provider shall inform the Coordinating Commissioner promptly, and in writing, of any problems encountered by the Provider in delivering the Services which the Provider is unable to resolve within a reasonable period of time.
- 5.4. The Provider shall ensure that the Services shall at all times include residential accommodation and personal care to be provided in the Care Home listed in each

ISUPA. Nursing care shall only be provided to a Resident if specified in the relevant ISUPA and in accordance with the requirements of CQC registration.

- 5.5. In addition to GC 11 the Provider shall take out and maintain for the Contract Term:
- 5.5.1. Employer's Liability Insurance to a minimum value of £10 million for any one occurrence within the limit of indemnity;
  - 5.5.2. Public Liability Insurance to a minimum value of £10 million for any one occurrence within the limit of indemnity;
  - 5.5.3. Motor Insurance in respect of any transport used by its Staff and any sub-contractor(s) under the Contract;
  - 5.5.4. Any other insurance reasonably deemed necessary by the Commissioner and detailed in an ISUPA.
- 5.6. The Provider shall at all times and for six (6) years after the expiry of the last ISUPA entered into under this Contract, keep and maintain full and detailed records relating to the delivery of the Services to each Resident and provide copies of the same to the Commissioner upon request.
- 5.7. The Provider shall ensure that each Resident's personal belongings are either included in its contents insurance cover at no additional charge to the Commissioner or the Resident, or shall advise each Resident on admission to the Care Home of their need to take out and maintain appropriate insurance cover in respect of their personal belongings.
- 5.8. The Provider will make available to the Commissioner on request a copy of the Provider's written occupancy agreement and/or statement of purpose relating to the Resident's placement in the Care Home and shall ensure that nothing in that agreement shall contradict or conflict with the terms of the Contract.

## **6. Significant notifiable incidents**

- 6.1. The Provider shall immediately notify the Commissioner if any of the following occur or apply:
- 6.1.1. An inability to continue to provide part or all of the Services, for example, because of fire or damage to property;
  - 6.1.2. Police actions or investigations relating to one or more Resident and the Services being provided;
  - 6.1.3. Anything that relates to the welfare of a Resident and anything that falls within the remit of Bolton's "Safeguarding Adults Board Procedures Manual" which is available at: <http://www.proceduresonline.com/bolton/asg/>

and all notifications made under this paragraph 6.1 shall be delivered to the following email addresses: [contractsteam@bolton.gov.uk](mailto:contractsteam@bolton.gov.uk); and [bolccg.adminchc@nhs.net](mailto:bolccg.adminchc@nhs.net).

## **7. Person centred care**

- 7.1. The Provider shall ensure that each Resident is permitted to define how they wish to be addressed by all members of the Provider's Staff.
- 7.2. The Provider shall ensure that all members of its Staff understand that conversations between a Resident and a Carer are vital in helping to meet each Resident's social and emotional needs. The Resident must be involved and included in any conversations that take place in their presence.
- 7.3. All support shall be delivered by the Provider in a manner which protects each Resident's dignity.
- 7.4. The Provider shall ensure that all members of its Staff maintain appropriate confidentiality in respect of each Resident, other members of Staff and the Provider as their employer.
- 7.5. The Provider shall ensure that each Resident is consulted on all matters concerning their individual support, treatment and general welfare and, where appropriate, options shall be offered and explained to each Resident.
- 7.6. The Provider will ensure that the Services are aimed at the promotion of independence of each Resident. The ethos of the Provider's approach shall always be to seek to maximise the degree of independence. The Provider will ensure that all members of Staff are adequately trained to encourage and maximise independent living.
- 7.7. The Provider will support each Resident, where possible, to learn or re-learn daily living skills, have greater choice and control of how they use support services and to improve their wellbeing.
- 7.8. The Provider shall ensure that each Resident's nutritional needs and choices are addressed and meal times protected. Where necessary, each Resident shall be assisted at meal times to such level as is appropriate and necessary.
- 7.9. Each Resident shall be supported by the Provider to have the same opportunities as any non resident citizen in relation to their own sexuality and personal relationships. This may include promotion and provision of information at a level suitable to the individual on sex, sexual health and personal relationships. However, this must also include safeguards to ensure each Resident is not put into vulnerable situations, for example undertaking activities that are not specified in the Commissioner's Support Plan for each Resident. The Provider will also ensure that all members of Staff are given guidelines for recognising and responding to the abuse and exploitation of a Resident and will have a risk management approach in relation to any Resident who could be regarded as vulnerable, or abusive to others.
- 7.10. The Provider shall support each Resident in having their emotional and spiritual needs recognised within all Services provided; each Resident's individual emotional needs shall be identified, accepted and receive a sensitive response from all members of Staff.
- 7.11. The Provider shall ensure that no photographic, visual or audio images are made of a Resident without their informed written consent (or the written consent of someone legally able to give such written consent) and that there is no use of any images of a Resident without their express written consent (or the written consent of someone legally able to give such written consent).

- 7.12. The Provider shall manage the care and related issues of each Resident and inform the Commissioner and next of kin or other identified persons of any change in a Resident's physical, medical or mental condition or of any change in their need for the Services (or any part thereof), such notification to take place within one Operational Day of the Provider becoming aware of the change.
- 7.13. The Provider must make a written record of a Resident's admissions to hospital on their individual file and make this available to the Commissioner on request.
- 7.14. Where a Resident who normally resides within a Care Home is ready for discharge following a stay in an Acute Setting the Provider shall, ideally, undertake a needs assessment to re-admit a Resident to the Care Home within twenty four (24) hours of a request being made. This is necessary to determine if the Provider is still able to accommodate a Resident or if alternative provision is required.

## **8. Service description and Provider obligations**

- 8.1. The Provider shall:
  - 8.1.1. Ensure that in delivering the Services the necessary level of care and support is provided in accordance with the ISUPA and that all activity is accurately recorded in each Commissioner's Support Plan;
  - 8.1.2. Work collaboratively with each Resident, their family and key personnel from relevant agencies in delivering the Services; this shall mean managing and using the Commissioner's Support Plan and ensuring such plans respond to the progress made by the Resident and their changing needs;
  - 8.1.3. Undertake regular monitoring and reviews of each Resident, giving support, feedback and encouragement to help them regain confidence and skills;
  - 8.1.4. Ensure that the Care Home premises and all equipment used in delivering the Services shall be fit for purpose, safe, clean and in good condition, all required maintenance and servicing shall be carried out with the documentation to evidence being made available to the Commissioner on request;
  - 8.1.5. Ensure that the Care Home's environment shall be accessible, clean; safe, suitable, and odour-free with reasonable adjustments made where required;
  - 8.1.6. Ensure that the Care Home shall be equipped to provide appropriate services to each Resident in line with the relevant local policy for the provision of aids to daily living and equipment; continence and other supplies;
  - 8.1.7. Provide suitable supportive equipment for daily living, including Telecare and assistive technology;
  - 8.1.8. Provide toiletries in an emergency situation for an individual Resident to use;
  - 8.1.9. Make referrals to relevant agencies to provide assessment and care for those services which the Resident may require but the Provider is not expected to provide at the Care Home; any subsequent recommendations for care and support shall then be implemented;



- 8.1.10. Be familiar with the roles and expected functions being undertaken by other service providers and others contributing to the Services; the Provider shall inform the Coordinating Commissioner of any situation where another party is failing to undertake their expected role or function;
  - 8.1.11. Liaise with the Resident and their relatives to encourage their involvement in the Services they receive; the exceptions to this are:
    - 8.1.11.1. When the Commissioner has identified in their Support Plan that this is in conflict with the needs of the Resident; and
    - 8.1.11.2. When the Resident has made clear that they do not want their relatives to be involved in their care.
- 8.2. The Provider's responsibilities regarding Residents' possessions are to:
- 8.2.1. Enable the Resident to bring a range of his or her own possessions and furniture into the Care Home, within two (2) weeks of each Resident's admission to the Care Home the Provider shall complete a written inventory of the Resident's belongings, including valuables and significant items such as jewellery, bank or building society pass books, share certificates, furniture, mobile phones, the Provider shall update the inventory as and when required;
  - 8.2.2. Ensure the Resident's clothes are regularly laundered, maintained and not lost or damaged;
  - 8.2.3. Treat every item of the Resident's property with care and respect. Any item belonging to a Resident can only be disposed of with the permission of the Resident, if they have mental capacity to make such decisions; or an appropriately authorised person if the Resident lacks capacity;
  - 8.2.4. Ensure that, where the Provider manages the finances of the Resident, there is a separate personal account in which only the named Resident's funds are held;
  - 8.2.5. Notify the Commissioner listed in the relevant ISUPA where the Provider has concerns about the management of the Resident's personal finances by a carer or other person;
  - 8.2.6. Report to the Commissioner listed in the relevant ISUPA, as soon as possible, any loss of the Resident's money, benefit books, bank cards, property or breakage of property, where appropriate the police must be informed in accordance with safeguarding policies;
  - 8.2.7. Ensure that the Resident's personal possessions can be kept secure with lockable rooms and lockable storage space within their room and access to secure storage in a safe when required.

## **9. Residents' care, health and medical issues**

- 9.1. The Provider shall make available all required information regarding the Resident to the National Health Service and other relevant care agencies.
- 9.2. The Provider must ensure that whenever the Resident requests assistance to obtain medical attention or appears unwell and is unable to make such a request or declines medical attention, then the most appropriate form of medical assistance must be obtained as quickly as possible, having taken account of any legally authorised care preferences. This may include, but is not confined to, contacting his/her GP or the local ambulance service. The next of kin or other identified person must be notified of this as soon as possible.
- 9.3. The Provider shall use its best endeavours to ensure that, when necessary, the Resident is accompanied by a relevant person on journeys to a hospital or GP appointment or personal care services. The relevant person may be a member of the Provider's Staff, a representative from a voluntary organisation, a legal representative, a friend of the Resident, or a member of the Resident's family
- 9.4. The Provider shall ensure that, to prevent the spread of infectious diseases procedures relating to infection control are always followed; all members of Staff must be trained in infection control measures. These procedures shall be subject to regular audit and evidence of compliance shall be available to the Coordinating Commissioner on request.
- 9.5. In the event of an outbreak, to prevent the onward transmission of infection, the Resident may be isolated, with appropriate consent. In such cases the Resident shall be informed of the reasons for isolation and an estimate of the period of time isolation should apply must be given.
- 9.6. To comply with criterion 10 of 'The Code' (Health and Social Care Act 2008), the Provider must demonstrate it has a suitable and effective system in place to manage the occupational health needs and obligations of member of Staff in relation to infection.
- 9.7. The Provider shall use its best endeavours to encourage a high take up of seasonal flu vaccination among members of its Staff. This is advisable to:
  - 9.7.1. Prevent onward transmission of the flu virus from staff to any Resident as a means of infection control;
  - 9.7.2. Help business continuity by preventing sickness absence amongst members of its Staff; and
  - 9.7.3. Promote occupational health by protecting members of its Staff from infection.

The Coordinating Commissioner will provide reasonable assistance to the Provider to support good practice in infection control.
- 9.8. The Provider will:
  - 9.8.1. Identify priority groups for vaccination, including, though not necessarily limited to members of its Staff who are in contact with each Resident and members of its Staff whose sickness absence could compromise business continuity;

- 9.8.2. Ensure the vaccination is offered to priority groups;
- 9.8.3. Ensure the benefits of vaccination are promoted to priority groups;
- 9.8.4. Record uptake among priority groups and report this to the Coordinating Commissioner as per reporting requirements in Schedule 4 C to the Particulars (Local Quality Requirements of the Standard Contract).

### **Medicine management**

- 9.9. The Provider shall have policies, procedures and training in place to ensure the effective management of all medicines.
- 9.10. The Provider's medicines management policy shall include written processes that cover the following areas:
  - Ensuring that when a Resident transfers between care settings essential information about a Resident's medicines is shared with staff in the new care setting;
  - Ensuring that records are accurate and up to date;
  - Identifying, reporting and reviewing medicines-related problems;
  - Keeping residents safe (safeguarding);
  - Accurately listing a resident's medicines (medicines reconciliation);
  - Reviewing medicines (medication review);
  - Ordering medicines;
  - Receiving, storing and disposing of medicines;
  - Helping each Resident to look after and take their medicines themselves (self-administration);
  - Members of the Provider's Staff administering medicines to a Resident, including Staff training and competence requirements;
  - Members of the Provider's Staff giving medicines to a Resident without their knowledge (covert administration);
  - Administering and review of medicines for each Resident with swallowing difficulties;
  - Members of the Provider's Staff giving non-prescription and over the counter products (homely remedies) to residents, if appropriate;
  - Storage, administration and safety of oxygen.
- 9.11. The Provider must ensure that it has policies and procedures to ensure safe administration of medicines in line with Bolton Council's 2018 Adult Social Care Services Medicines Policy in Schedule 2 to the Particulars – The Services. The Provider must ensure that it implements these policies, as well as professional advice, statutory guidance and the guidance listed below:

- NICE Managing Medicines in Care Homes 2014  
<https://www.nice.org.uk/guidance/sc1>
- NICE Quality Standard for Managing Medicines in Care Homes  
<https://www.nice.org.uk/guidance/qs85>
- NICE Checklist for health and social care staff developing and updating a care home medicines policy: Implementing the NICE guideline on managing medicines in care homes  
<https://www.nice.org.uk/guidance/sc1/resources/checklist-for-care-home-medicines-policy-pdf-13716829>
- Care Quality Commission [Regulation 12]  
<http://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-12-safe-care-treatment#guidance>
- The Administration of Medicines in Care Homes  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/518298/Medicines\\_in\\_care\\_homes\\_A.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/518298/Medicines_in_care_homes_A.pdf)
- Guidelines on The Management of Controlled Drugs (CD) in Care Homes  
<https://www.prescgipp.info/resources/send/134-care-homes-controlled-drugs-good-practice-guide/1689-bulletin-75-care-homes-controlled-drugs-good-practice-guide>
- The Misuse of Drugs Acts, 1971, 1973 & 2001  
<https://www.legislation.gov.uk/ukpga/1971/38/contents>
- The Mental Capacity Act 2005  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/497253/Mental-capacity-act-code-of-practice.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/497253/Mental-capacity-act-code-of-practice.pdf)

9.12. The Provider shall ensure that all members of its Staff comply with the above policies and procedures at all times.

#### **Medical devices and equipment**

9.13. For the avoidance of doubt the Provider shall be responsible for the provision of all equipment, materials and associated consumables to support the delivery of care for the care categories for which the Provider is registered.

9.14. Registered Nursing Homes are required to supply the equipment below and the Provider shall meet the cost of providing this equipment. The requirement for the equipment below shall apply only to nursing care placements in Registered Nursing Homes:

#### Continence:

Provision of disposable continence products where indicated as being in accordance with the Coordinating Commissioner's local protocol on continence management.

#### Skin:

Pressure relieving devices including beds, mattresses, overlays and chair cushions.

Respiratory support:

Nebulisers;  
Suction machines and catheters.

Nutrition:

Consumables for the administration of prescribed enteral feeds (in line with the Coordinating Commissioner's local protocol and arrangements);

End of life care:

Syringe drivers and consumables.

**Bespoke equipment**

9.15. Where the Provider considers that standard equipment it provides to meet the needs of a Resident is unsuitable for a Resident and the provision of bespoke equipment is necessary, the Provider shall notify the relevant Commissioner under the ISUPA and:

- Evidence what bespoke equipment is required and why;
- Propose a bespoke equipment solution for the Resident;
- Advise on an appropriate source and indicate the cost of the bespoke equipment.

9.16. The Commissioner listed in the relevant ISUPA shall then consider the proposal and notify the Provider of the decision within five (5) operational days following receipt of the request including whether the Commissioner agrees to reimburse the Provider for the procurement of the bespoke equipment or that the Commissioner will supply the bespoke equipment directly or through another commissioned service, agreeing the process to procure the equipment.

9.16.1. In the case of the Commissioner rejecting the proposal on clinical grounds this will be confirmed in writing including the rationale for the decision.

9.16.2. Where the Commissioner agrees to reimburse the Provider for the procurement of bespoke equipment such reimbursement shall be at cost and the Provider shall provide evidence to the Commissioner regarding the source and cost of the bespoke equipment.

9.17. Where the Commissioner listed in the relevant ISUPA agrees for arrangements to be made to provide bespoke equipment to the Provider either directly or through other services commissioned by the Commissioners (for example, Wheelchair Centres and Integrated Community Equipment Services) the Provider shall:

9.17.1. Only use such bespoke equipment for the named Resident it is intended for;

9.17.2. Maintain the bespoke equipment in a clean state and comply with any infection control and specialist decontamination requirements as advised by the supplier and/or Commissioners;

9.17.3. Accept responsibility for the safe use of the bespoke equipment and arrange for all necessary servicing and maintenance, the costs of such being the responsibility of the Commissioners;

9.17.4. Be liable for the replacement of the bespoke equipment or the reasonable cost of repairs due to improper use by staff or where the damage is excessive, unusual or unreasonable.

9.18. The Provider shall notify the relevant Commissioner under the ISUPA when, for whatever reason, the bespoke equipment is no longer required for the named Resident, making arrangements with the Commissioner under the ISUPA for transfer of the bespoke equipment into the possession of the Commissioner. The Provider shall be liable for the reimbursement of the cost of any bespoke equipment not returned.

#### **Enhanced intervention and observation**

9.19. Where increasing needs of a Resident mean an enhanced intervention may be required, the Provider shall explore appropriate options including:

- Assistive equipment;
- Use of telecare;
- Increased training of Staff;
- Appropriate referral to NHS professionals;
- Enhanced carer / nursing skills; and
- A review of the appropriate deployment of current carer / nursing skills to support the Resident's needs.

9.20. The Provider shall contact the relevant Commissioner under the ISUPA in writing to provide details of the rationale for enhanced observation within 24 (twenty-four) hours of the increased observation being put into place including the associated resource implications and costs, which shall be agreed on an individual basis.

9.21. The Commissioner shall respond to the Provider within 1 (one) Operational Day of receipt of written details under 9.20 above to confirm:

9.21.1. Acceptance of the need for and resourcing of enhanced observation; or

9.21.2. Rationale, including where relevant the clinical basis, why the enhanced observation is not considered to be appropriate and is not supported.

9.22. Where the relevant Commissioner under the ISUPA does not support the need for enhanced observation and the Provider continues to maintain a reasonable opinion that the Resident's needs cannot be safely and lawfully met without such enhanced observation, the Provider shall refer the matter to dispute resolution in accordance within GC 14 (Dispute Resolution).

9.23. Where a Resident has required and received enhanced observation for seven (7) consecutive days, the relevant Commissioner under the ISUPA shall request that a comprehensive review of the Resident's needs be undertaken and that a written report with supporting evidence be provided to the relevant Commissioner under the ISUPA within seven (7) days of the request with copies being provided to the Resident or representative as appropriate.

- 9.24. Where the Resident no longer requires enhanced intervention, the Provider shall notify the relevant Commissioner under the ISUPA immediately and any agreed additional funding shall cease.
- 9.25. Associated costs of enhanced interventions shall be agreed between the Provider and the relevant Commissioner under the ISUPA on an individual basis.

## **10. Mental Capacity Act, Deprivation of Liberty Safeguards and behaviour that challenges**

### **Mental Capacity Act 2005**

- 10.1. A Resident may fall within the provisions of the Mental Capacity Act 2005 and, in such circumstance, the Provider is required to understand its responsibilities to the affected Resident.
- 10.2. The Provider shall advise the relevant Commissioner under the ISUPA if the Resident requires a statutory advocacy service. The Provider shall give all reasonable assistance and cooperation to any advocate appointed in respect of the Resident, including access to all relevant information held in regard to the Resident, after obtaining the Resident's consent, where possible.

### **Deprivation of Liberty Safeguards (DoLS)**

- 10.3. The Provider must work in accordance with Deprivation of Liberty Safeguards (Code of Practice) and the "Local DoLS guidance for the Managing Authorities," copies of this guidance are available from [dols@bolton.gov.uk](mailto:dols@bolton.gov.uk). The Provider must adhere to its responsibilities as a Managing Authority as defined by the Mental Capacity Act 2005. The Provider must follow statutory guidance on DoLS and understand when and how the Provider should make a request for a Deprivation of Liberty Safeguards' Assessment. Requests for assessments should be submitted to the relevant DoLS team dependent upon where the person is classed as Ordinarily Resident; for those Residents who normally reside within the borough of Bolton the contact address is: [dols@bolton.gov.uk](mailto:dols@bolton.gov.uk).

### **Physical intervention**

- 10.4. Where a Commissioner's Support Plan in respect of a Resident comprises of a physical intervention plan the Provider shall ensure that members of its Staff are appropriately trained in a non-aversive model of physical intervention that is accredited by The British Institute of Learning Disabilities (BILD). Any physical intervention including planned physical intervention contained within a Commissioner's Support Plan in respect of a Resident must be compliant with the Mental Capacity Act 2005. This means that the physical intervention used must be reasonable and proportionate to the danger the Resident might encounter if the physical intervention were not used. Physical intervention must only be used if it is the least restrictive intervention available and the duration of any physical intervention should be as short as is reasonably possible to maintain the safety of the Resident and/or others.
- 10.5. The Provider must have a physical intervention policy approved by the Coordinating Commissioner and have a restrictive physical intervention policy pathway; any physical interventions used out of necessity/emergency must be proportionate and reported to the relevant Commissioner under the ISUPA and if any injury is sustained the Adults Safeguarding Team at Bolton Council. Planned physical interventions must be in

accordance with the Coordinating Commissioner's policy and the Commissioner's Support Plan. Bolton Council's Adults Safeguarding Team can be contacted via email at: [safeguardingadults@bolton.gov.uk](mailto:safeguardingadults@bolton.gov.uk); or securely at [safeguardingadults@gcsx.bolton.gov.uk](mailto:safeguardingadults@gcsx.bolton.gov.uk).

### **Responding to behaviour that challenges**

- 10.6. At times a Resident or their family members may display behaviour or attitudes related to the Resident's condition that could be regarded as offensive, such as dis-inhibited behaviour. The Provider is required to prepare and support its members of Staff to enable them to continue to deliver the Services to each Resident.
- 10.7. If such behaviour or attitude could be considered illegal, or present a risk to any member of the Provider's Staff or others, then the Provider should report this immediately to the appropriate authorities as well as the relevant Commissioner under the ISUPA in order to reach an agreement about how to proceed.

## **11. Providing Palliative and End of Life Care**

- 11.1. A Resident may require Palliative and End of Life Care and in this circumstance the Provider shall offer an appropriate level of support to families and those close to the Resident.
- 11.2. The Provider shall ensure that care is well planned and coordinated with assurance of being delivered to a high standard.
- 11.3. Therefore the specific requirements of the Provider are to:
  - 11.3.1. Ensure that members of its Staff are aware of and understand the principles of care involved in looking after those in the last few days of their life;
  - 11.3.2. Ensure that each Resident at end of life receives high quality care, delivered with compassion and competence, which is tailored to their needs and wishes;
  - 11.3.3. Enable a Resident to die within the Care Home if it is their preference and this is possible to achieve;
  - 11.3.4. Ensure that members of its Staff have received specific training in supporting each Resident at end of life;
  - 11.3.5. Ensure that each Resident is able to discuss their needs and preferences with a support worker who is competent and confident in having those discussions and who understands when it is necessary to refer on to other services for additional support;
  - 11.3.6. Ensure the needs of carers are recognised and included in the overall approach to care delivery.



## **12. Absences, deaths and termination of placements**

### **Absences and deaths of residents**

- 12.1. The Provider shall notify the relevant Commissioner under the ISUPA immediately if a Resident is absent from the Care Home for an unplanned period and the relevant Commissioner under the ISUPA shall discuss with the Provider the viability of continuing with the relevant ISUPA. In the event that the relevant ISUPA is not terminated the Local Prices payable under that ISUPA will be reduced after twenty eight (28) nights of absence to 80 percent.
- 12.2. The Provider shall notify the relevant Commissioner under the ISUPA in writing as soon as reasonably possible but within no more than eight (8) hours of a Resident being absent from the Care Home without explanation. Out of usual business hours the Provider must also contact the emergency duty team of the relevant Commissioner under the ISUPA.
- 12.3. In the event of the death of a Resident, the Provider will ensure timely notification to:
- The Resident's next of kin and/or their representative;
  - The relevant Commissioner under the ISUPA Commissioners, within twenty four (24) hours;
  - The Resident's GP;

with such notifications being made in accordance with the processes and standards detailed within the Contract.

- 12.4. If a Resident who has no next of kin dies outside of normal working hours the Provider may arrange to move the Resident's body to the nominated undertaker of the relevant Commissioner under the ISUPA provided that the Resident has not made alternative arrangements prior to death. For the avoidance of doubt, nothing in this paragraph 12.4. shall oblige any party to meet any funeral expenses.
- 12.5. An ISUPA shall terminate forthwith without notice on the death of the Resident to which it relates and in that event the Care Fees shall be payable up to the date of death plus three (3) extra nights following death.

### **Termination of ISUPA for Placements funded by Bolton Council**

- 12.6. Bolton Council may terminate an ISUPA under which it is the Commissioner on no less than fourteen (14) nights' notice for any reason. During the period of notice the Provider shall continue to provide the Services as specified in the ISUPA.
- 12.7. Bolton Council may terminate an ISUPA under which it is the Commissioner forthwith if the Resident's financial circumstances become such that the Resident's placement at the Care Home ceases to be eligible for financial support by Bolton Council.
- 12.8. Bolton Council may terminate an ISUPA under which it is the Commissioner on no less than one (1) nights' notice for the following reasons:
- 12.8.1. The Resident's placement at the Provider's Care Home is no longer appropriate to meet the Resident's assessed needs;
- 12.8.2. Bolton Council discovers that it has been induced to enter into an ISUPA as a result of misrepresentation by the Resident or his/her representative,

advocate or guardian of the Resident's needs, condition and/or financial circumstances;

12.8.3. The Provider persistently breaches its obligations relating to a Resident under an ISUPA;

12.8.4. A Resident no longer wishes to reside at the Care Home, for the avoidance of doubt a Resident's wishes may, where relevant, be expressed by their formal advocate;

12.8.5. The Provider's or the Care Home's registration status has or is scheduled to change;

12.8.6. The Care Home is closing.

12.9. The Provider may terminate an ISUPA under which Bolton Council is the Commissioner by giving not less than seven (7) nights' written notice if the Resident's physical and/or mental condition deteriorates to a point where long term care is needed at a level which the Provider is unable to meet, having regard to the Care Home's statement of purpose. In such cases the Provider shall request a review of needs, in liaison with Bolton Council and appropriate health or care professionals. In this event the ISUPA shall terminate on the expiry of the said notice or on the date that the Resident is moved into more suitable accommodation whichever shall be the later date.

12.10. The Provider may terminate an ISUPA under which Bolton Council is the Commissioner by giving not less than fourteen (14) nights' written notice to Bolton Council if in the Provider's reasonable opinion a Resident's behaviour is a danger to the Care Home, the Provider's Staff or other residents or if a Resident persistently seriously affects the well-being of other residents, provided that:

12.10.1. The Provider has contacted the Resident's Care Manager, as detailed in the ISUPA, giving reasonable notice for the same to consider the issues and, where it is deemed appropriate, to arrange for further assessment of the Resident's needs; and

12.10.2. A meeting has been held between the Resident's Care Manager, as detailed in the ISUPA, the Provider and, where appropriate, the Resident's representative resulting in an action plan being agreed; and

12.10.3. The agreed action plan has been implemented but has failed and a further meeting has taken place between the team leader of the Resident's Care Manager and at this meeting it was agreed that there is no other option but to remove the Resident from the Care Home; and

12.10.4. The said Care Manager has confirmed to the Provider that suitable alternative accommodation for the Resident is available.

### **Discharge criteria and planning for ISUPAs fully funded by CCGs**

12.11. Discharge from an ISUPA may become appropriate should the Services cease to be required for the Resident or the Provider is unable to continue to meet the needs of the Resident. The Provider will have a comprehensive discharge policy and/or procedure which can facilitate effective and safe discharges or transfers. This would inform Schedule 2J (Transfer of and Discharge from Care Protocols) to the Particulars.

- 12.12. The Provider shall not in any circumstances make any arrangements to discharge or relocate the Resident without the prior express agreement of the relevant Commissioner under the ISUPA which shall not be given without all appropriate prior consultation, including consultation with the Resident and the Resident's representative.
- 12.13. The Provider shall not discharge a Resident from the Care Home in which they normally reside where such discharge would not be in accordance with good health and social care practice and good clinical practice.
- 12.14. Prior to the transfer of a Resident to another Care Home operated by another provider, such transfer having been approved by relevant Commissioner under the ISUPA, the Provider shall:
- Liaise with the other provider to prepare an appropriately detailed and comprehensive transition plan relating to the transfer of the Resident's care. This plan will ensure that consistently high standards of care for the Resident are maintained.
  - Not discharge or transfer the Resident until the transition plan has been developed is agreed with the other provider and is agreed to be ready for implementation by both the Provider and the other provider.
- 12.15. The relevant Commissioner under the ISUPA shall not pay the Provider the agreed price for the Services:
- With immediate effect from the day of discharge of a Resident, upon termination without notice;
  - Upon termination of an ISUPA fourteen (14) days written notice to the Provider.

### **13. Record keeping, data protection and clinical governance**

#### **Record keeping**

- 13.1. The Provider shall ensure that all members of its Staff comply with all statutory and professional obligations concerning the recording and security of information in relation to the Resident.
- 13.2. The Provider shall maintain records in the provision of the Services including but not limited to:
- Care needs of the Resident;
  - Risk Assessments, incidents and accidents;
  - Monies and valuables of the Resident;
  - Medicines management, including:
    - Accurate and up to date information on medication (i.e. a medication profile) for each Resident in the Commissioner's Support Plan;

- Medication administered for each resident, except those self-administering;
- Medicines that the resident stores and self-administers, following a risk assessment;
- Medication incidents, route-cause analyses and outcomes;
- Information from correspondence and messages about medicines, such as e-mails, letters, text messages and transcribed phone messages;
- Ordering, receipt and disposal of medication;
- A Controlled Drugs (CD) register for recording:
  - The receipt, administration and disposal of Controlled Drugs Schedule 2, in a bound book with numbered pages;
  - The balance remaining for each product;
  - Computerised CD records where used, should comply with guidelines from the registering authority;
  - Providers must follow the relevant legislation to ensure that appropriate records about medicines are kept secure, for an appropriate period of time, and destroyed securely when appropriate to do so.
- Activities organised by the Provider and undertaken by the Resident;
- Visitor log;
- Repairs and maintenance.

13.3. To enable review and audit of the Services provided to the Resident the Provider shall at the reasonable request of the Coordinating Commissioner provide all necessary assistance to the Coordinating Commissioner to access the Resident Records and other relevant documentation. In the case of nursing and healthcare records, the Provider shall only make these available to a healthcare professional.

13.4. At the reasonable request of the Coordinating Commissioner, the Provider shall make available within two (2) weeks, copies of any of the above records and any other records or information held relating to the provision of the Services. The Provider shall ensure that the above requirements at all times comply with responsibilities related to Resident consent and the law.

#### **Data protection**

13.5. For the purposes of the Contract, the definition of Data Protection Legislation within the Definitions and Interpretation section of the General Conditions shall be read as if the reference to the DPA 1998 has been omitted.

13.6. The Provider shall at all times during the Contract comply with and maintain Personal Data and Special Category Data (as defined in the Data Protection Legislation) in accordance with the Data Protection Legislation.

- 13.7. The Provider shall, if required under an ISUPA, enter into a data processor agreement with the Commissioner detailed in the ISUPA, on such terms and conditions as agreed between the parties.
- 13.8. The Provider shall comply with the Data Sharing Schedule, Schedule 6 (Contract Management, Reporting and Information Requirements) to the Particulars, in respect of any Personal Data or Special Category Data to be shared under the Contract or an ISUPA.
- 13.9. In the event that the Provider is a Data Controller the Provider shall at all times be responsible to third parties for any Personal Data and Special Category Data held, including the individuals to whom the Personal Data or Special Category Data relates and the Provider shall at all times during the Contract Term have appropriate data protection and information security policies in place which demonstrate how the Provider will meet its responsibilities under the Data Protection Legislation.
- 13.10. On expiry of each ISUPA, or earlier termination, the Provider shall immediately provide to the Commissioner detailed in the ISUPA written details of all Personal Data and Special Category Data held by the Provider relating to the Resident subject to the ISUPA and the Data Sharing Schedule. The Provider shall then transfer to the Commissioner detailed in the ISUPA all Personal Data and Special Category Data requested in writing by the said Commissioner. Personal Data and Special Category Data shall be transferred in a secure manner in compliance with Data Protection Legislation, the Data Sharing Schedule and any reasonable instructions issued by the Commissioner detailed in the ISUPA, including instructions relating to timescales. Where legally required to do so, the Provider shall be responsible for obtaining any individual consents needed to lawfully transfer Personal Data and Special Category Data.
- 13.11. The Provider shall indemnify and keep indemnified the Commissioner detailed in an ISUPA against any Losses whatsoever incurred in respect of or in any way arising directly out of a breach by the Provider of its data protection obligations.

### **Clinical governance**

- 13.12. The Provider shall:
- 13.12.1. Establish systems and procedures of clinical governance that promote continuous improvement in the provision of quality of health and social care
  - 13.12.2. Safeguard high standards of care by creating an environment in which health and social care continues to develop.
  - 13.12.3. Maintain on an ongoing basis a Resident Record which details, in English, all the care provided to the Resident in accordance with and to evidence delivery of the Commissioner's Support Plan.
  - 13.12.4. Maintain a signatory register which includes the names, designations and signatures of all Staff involved in the provision of care.
  - 13.12.5. Ensure that all documentation is completed in accordance with the relevant Code of Practice, for example, the Nursing and Midwifery Council.
  - 13.12.6. Ensure that senior management undertake regular and routine audits of the standard of documentation maintained by Staff.

13.12.7. Have processes in place to maintain effective links with local NHS Community Services, where the Provider does not directly provide nursing services. This particularly relates to Care Homes without Nursing Care.

## **14. Workforce**

14.1. The Provider will ensure that:

14.1.1. It has a clear programmes of induction and training relevant to the Services which it delivers;

14.1.2. All members of Staff satisfactorily complete an induction programme within the first twelve weeks of employment in line with the recommendations relating to the Care Certificate set by the Skills for Care, or any successor body, and requirements of the CQC, or any successor body;

14.1.3. The Care Certificate complements and does not replace the in-service specific induction undergone by new staff;

14.1.4. The Registered Manager assures Staff competence is assessed in the workplace;

14.1.5. The Registered Manager advises all members of Staff when they have been deemed competent in all standards and have completed the Care Certificate;

14.1.6. Members of its Staff do not undertake unsupervised tasks for which they have not been assessed as competent;

14.1.7. All training, including learning outcomes, is fully and clearly recorded for every member of its Staff;

14.1.8. Details of Clinical Staff registration status are recorded;

14.1.9. Records are kept regarding all members of its Staff, including:

- Staff numbers employed and whether the employee is contracted permanently or through an agency;
- Staff turnover rates;
- Timesheets;
- Signature register.

14.1.10. The following educational updates are refreshed within the timescales given below:

- Fire safety: every three (3) years
- Moving & handling: every two (2) years
- Infection prevention & control: every two (2) years
- Safeguarding: every three (3) years

- Administration of medication: every two (2) years.

## **15. Involving Residents and dealing with complaints**

- 15.1. The Provider shall deliver Services which focus upon ensuring the best possible outcomes for the each individual Resident.
- 15.2. The Provider shall ensure that it arranges regular collective Resident and/or relatives meetings; these must take place a minimum of three (3) times annually. The meetings will be recorded with a copy of the minutes available to the Coordinating Commissioner when requested.
- 15.3. The Provider shall undertake a satisfaction survey amongst Residents at least every 12 (twelve) months in regard to the provision of the Services. The Survey shall include a section where each Resident or their representative can provide suggestions for improvement to the Services. A summary of the survey results shall be made available to the Coordinating Commissioner including details of actions that the Provider plans to take in light of the survey results and when such actions will be taken.
- 15.4. The Provider will address all concerns, potential and actual complaints as early and fully as possible and in ways that minimise the opportunities for escalation and continuing dissatisfaction.
- 15.5. The Provider shall notify the Coordinating Commissioner of all complaints received during the a Contract Term relating in any way to the provision of the Services (including but not limited to complaints relating to any member of Staff of the Provider engaged in the performance of the Services under an ISUPA) within two Operational Days of receipt of the complaint by the Provider.
- 15.6. The Provider shall make available to the Coordinating Commissioner a written report on each and every reasonable and unduplicated complaint (from whatever source) within 20 Operational Days of the receipt or notification of the complaint, giving details of the complainant and on any action taken in respect thereof.

## **16. Local Provisions**

### **Partnership**

- 16.1. Nothing in the Contract will create any joint venture or partnership between the Commissioner and the Provider, and the Commissioner shall not be liable for any actions, costs, proceedings, claims or demands arising out of delivery of the Contract.

### **Agency**

- 16.2. Neither the Provider nor its employees shall in any circumstances hold itself or themselves out as being the agent or servant of the Commissioner otherwise than in circumstances expressly permitted by the Contract.

## **Terms and conditions relating only to the Provider and Bolton Council**

### **17. Self-funding residents**

- 17.1. The following paragraphs 17.1 to 17.3 shall only apply where a resident is placed within a Care Home situated within the borough of Bolton.
- 17.2. Prior to accepting a resident on a privately funded basis, the Provider shall:
- 17.2.1. Give advice, including the fact sheet published by Bolton Council for self-funding care home residents, to ensure self-funding residents are claiming all financial assistance that they are eligible for.
- 17.2.2. Advise self-funding residents to ensure they understand their commitments and that a resident may no longer be able to stay in a particular care home if they are no longer able to fund their own care.
- 17.3. In the event that the Provider agrees to accommodate a resident on a privately funded basis and it is later discovered that the resident would have been eligible to receive Services funded by Bolton Council from either the commencement of their placement or later:
- 17.3.1. The Provider shall refund to the resident all fees paid from the date that Bolton Council informs the Provider that the individual became eligible to receive the Services funded by Bolton Council; and
- 17.3.2. Bolton Council shall pay to the Provider the Local Prices which would have been payable had the resident's placement been made under an ISUPA. Under no circumstances shall Bolton Council pay to the Provider the amount which the resident had agreed to pay on a privately funded basis (including any Additional Costs agreed).

### **18. The Civil Contingencies Act 2004**

- 18.1. The Provider shall recognise that Bolton Council is subject to legal duties under the Civil Contingencies Act 2004 ("CCA") and shall agree that, on receipt of a reasonable request from Bolton Council, it shall assist Bolton Council in meeting its duties under the CCA, such assistance may include but not be limited to:
- 18.1.1. Developing and operating a Business Continuity Strategy during the Contract Term, a copy of this document shall be provided to Bolton Council;
- 18.1.2. Developing and adopting a Business Continuity Plan (taking into account the CCA), a copy of this document shall be provided to Bolton Council;
- 18.1.3. Undertaking regular risk assessments and business impact analysis in relation to the Contract and any ISUPA;
- 18.1.4. Implementing a Business Continuity Exercise on a regular basis (for the avoidance of doubt, Bolton Council shall be entitled to attend any such test); and



18.1.5. Providing Bolton Council with a written report on request which summarises the results of each Business Continuity Exercise carried out, which summary shall highlight any actions or remedial measures necessary as a result of the said exercises.

18.2. Bolton Council shall have the right to carry out a review of the Provider's Business Continuity arrangements subject to Bolton Council giving the Provider not less than twenty hours (24) hours' notice of any such review. The Provider warrants that Bolton Council shall have unfettered access to and the ability to reproduce and retain any pertinent documentation deemed appropriate by it during such a review.

## **19. The Bolton Brand**

In the event that the Provider is authorised to use the Bolton Brand it shall comply with all instructions issued from time to time by Bolton Council. The Provider shall not be entitled to reproduce or copy the Bolton Brand without written consent.

## **20. Freedom of Information Act (FOI) 2000, Environmental Information Regulations (EIR) 2004 and confidentiality**

Bolton Council shall not be liable for any loss, damage, harm or other detriment however caused arising from the disclosure of any information relating to the Contract which Bolton Council is obliged to disclose under its Access Duties.

## **21. Intellectual property rights**

The Provider warrants to Bolton Council that to the best of its knowledge the delivery of the Services will not infringe, in whole or in part, any third party Intellectual Property Rights and agrees to indemnify Bolton Council and keep fully and effectually indemnified Bolton Council its Staff and agents from and against all Losses arising directly or indirectly out of any act of the foregoing, where such act is, or is alleged to be, an infringement of a third party's Intellectual Property Rights.

## **22. Fraud and Prohibited Acts**

22.1. The Provider shall notify Bolton Council immediately where it becomes aware of any instance of suspected fraud or financial irregularity in the delivery of the Services and/or in complying with the Contract including, but not limited to, cases of:

22.1.1. Collusion with Authority Staff;

22.1.2. Computer fraud;

22.1.3. The submission to Bolton Council of inaccurate, incomplete, misleading or falsified management information; and

- 22.1.4. Fraud involving awarding bodies provided that nothing in this paragraph 22.1 shall require the Provider to do anything which may cause it to infringe any law.
- 22.2. Where Bolton Council has reasonable cause to suspect that fraud or irregularity has occurred and any payments made under the Contract or in relation to any other agreement made between Bolton Council and the Provider, Bolton Council shall have the right:
- 22.2.1. Of access to any premises of the Provider at any reasonable time with or without notice to examine and remove or copy all relevant documents and records and to interview any members of Staff of the Provider engaged to deliver the Services; and
- 22.2.2. To suspend payments of the Local Prices or any monies owed under any other agreement made between Bolton Council and the Provider until such time as Bolton Council's concerns are abated.
- 22.3. The Provider warrants that no commission has been paid or agreed to be paid by the Provider or on the Provider's behalf or to the Provider's knowledge unless, before the Contract was made, particulars of any such commission and of the terms and conditions of any agreement for the payment thereof were disclosed in writing to and authorised by Bolton Council.
- 22.4. The Provider shall not offer, nor give, nor agree to give any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or performance of the Contract or any other agreement with Bolton Council or for showing or forbearing to show favour or disfavour to any person in relation to the Contract.
- 22.5. The Provider:
- 22.5.1. Shall not, and shall procure that any Staff, agents, contractors or sub-contractors of the Provider shall not, in connection with the Contract commit a Prohibited Act;
- 22.5.2. Warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by Bolton Council, or that an agreement has been reached to that effect, in connection with the execution of the Contract, excluding any arrangement of which full details have been disclosed in writing to Bolton Council before execution of the Contract;
- 22.5.3. Shall, if requested, provide Bolton Council with any reasonable assistance, at Bolton Council's reasonable cost, to enable Bolton Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act; and
- 22.5.4. Shall have an anti-bribery policy (which shall be disclosed to Bolton Council upon request) to prevent any Staff, agents, contractors or sub-contractors of the Provider from committing a Prohibited Act and shall enforce it where appropriate.
- 22.6. If any breach of this paragraph 22 is suspected or known, the Provider shall notify Bolton Council immediately and respond promptly to Bolton Council's enquiries, co-

operate with any investigation, and allow Bolton Council to audit books, records and any other relevant documentation.

22.7. The Provider acknowledges and agrees that Bolton Council shall be entitled to share information relating to the Provider or the Contract with any department, office or agency of the Government or any auditor appointed by Bolton Council or the aforementioned public bodies for the purpose of data matching and fraud prevention (as more particularly described at [www.bolton.gov.uk/website/Pages/Privacynotices.aspx](http://www.bolton.gov.uk/website/Pages/Privacynotices.aspx)) or otherwise.

22.8. Any dispute relating to:

22.8.1. The interpretation of this paragraph 22; or

22.8.2. The amount or value of any gift, consideration or commission, shall be determined by Bolton Council and its decision shall be final and conclusive.

## **23. Local Prices**

23.1. Where any monies are or shall become due or recoverable from the Provider by virtue of the Contract or any other agreement with Bolton Council, Bolton Council may deduct or offset those monies from the Local Prices payable from time to time. Bolton Council's rights under this paragraph 23.1 are without prejudice to any other rights or remedies available to Bolton Council under the Contract or otherwise.

## **24. Discrimination and the Promotion of Equality**

24.1. The Provider will:

24.1.1. Inform Bolton Council forthwith of any finding of unlawful discrimination against the Provider by any Court, Tribunal, the Equality and Human Rights Commission and as soon as reasonably practicable;

24.1.2. Take all necessary steps to prevent a reoccurrence of such unlawful discrimination; and

24.1.3. Provide to Bolton Council full details of all steps taken.

24.2. The Provider shall not treat a person less favourably than another on grounds of trade union membership or trade union activities, in contravention of The Employment Relations Act 1999 (Blacklists) Regulations 2010) and, in particular, the Provider will not:

24.2.1. Compile, supply, sell or use a Prohibited List (as defined in The Employment Relations Act 1999 (Blacklists) Regulations 2010);

24.2.2. Refuse employment to a job applicant, dismiss an employee, or subject an employee to any other detriment for a reason related to a Prohibited List; and

24.2.3. Engage with an employment agency which refuses to provide its services to an individual for a reason related to a Prohibited List.

- 24.3. The Provider shall, on request, provide to Bolton Council such written evidence as Bolton Council reasonably requires that the Provider has not breached its obligations within paragraph 24.2 above.
- 24.4. The Provider recognises that Bolton Council is bound to comply with the Human Rights Act 1998 ("HRA") and that those duties imposed on it under the HRA must be met in the delivery of the Services. As a result, the Provider shall comply with the provisions of the HRA as if it were a public authority (as defined under the HRA).
- 24.5. The Provider shall provide all reasonable assistance to Bolton Council to enable it to meet any duties imposed on it in relation to the prevention of discrimination and the promotion of equality.

## **25. Warranties and representations**

25.1. The Provider warrants that:

- 25.1.1. It has full capacity and authority and all necessary rights and consents (including but not limited to, where its procedures so require, the consent of its parent company) to enter into and to perform the Contract and to grant the rights to be granted hereunder and that the Contract is executed by a duly authorised representative of the Provider;
- 25.1.2. There are no material facts or circumstances in relation to the financial position or operation or constitution of the Provider which have not been fully and fairly disclosed to Bolton Council in writing and which if so disclosed might reasonably have been expected to affect the decision of Bolton Council to enter into the Contract;
- 25.1.3. No claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
- 25.1.4. It is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- 25.1.5. No proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Provider or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Provider's assets or revenue; and
- 25.1.6. In the three (3) years prior to the date upon which the Contract Term commences:
- (i) It has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;

- (ii) It has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
- (iii) It has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract.

## **26. Consequences of Termination**

26.1. Upon termination and in addition to such consequences as are set out in other provisions of the Contract:

26.1.1. Bolton Council shall be under no obligation to make any further payment to the Provider and shall be entitled to retain any payment which may have fallen due to the Provider before termination of the Contract (including any ISUPA) until the Provider has paid in full to Bolton Council all sums due or arising under the Contract (including any ISUPA) or any other agreement between the parties;

26.1.2. The Provider shall forthwith release and handover to Bolton Council any and all property belonging to Bolton Council which may be in the Provider's possession or under its control including but not limited to records whether in the form of documents computer data or other material in any medium.

26.2. Upon termination in accordance with clause GC17 and in addition to such consequences as are set out in other provisions of the Contract the Provider shall fully and promptly indemnify and compensate Bolton Council in respect of:

26.2.1. Any Losses suffered by Bolton Council as a result of any event giving rise to the right to terminate under clause GC17; and

26.2.2. The cost of causing to be provided such part of the Contract as would have been provided had the Contract not been terminated.

## **27. Indemnity and limitation of liability**

27.1. The Provider shall indemnify on behalf of itself and its sub-contractors and keep fully and effectually indemnified Bolton Council its Staff and agents from and against all Losses whatsoever incurred in respect of or in any way arising directly out of the negligence or breach by the Provider and its sub-contractors of the Contract except to the extent that such Losses may arise out of the act default or negligence of Bolton Council provided always that the Provider shall not be liable for any Indirect Losses.

27.2. Neither Bolton Council nor the Provider shall be liable for any statement, representation, promise, inducement or understanding made in respect of a proposed ISUPA unless expressly incorporated into an ISUPA.

27.3. The Provider shall take out and maintain during the Contract Term and until expiry of the last ISUPA entered into under the Contract sufficient insurance to meet its obligations under the Contract as detailed in paragraph 5.5. of this Service Specification or as specified from time to time by Bolton Council.

27.4. The Provider shall supply to Bolton Council on request certified copies of insurance policies, cover notes, premiums, receipts and other documents deemed by Bolton Council to be necessary to comply with paragraph 27.3. above.

## **28. Actions under contract**

28.1. The Provider shall pay to Bolton Council on an indemnity basis all costs, fees, disbursements and expenses including, without prejudice to the generality of the above, those payable to counsel, solicitors, surveyors and bailiffs properly incurred by Bolton Council in relation to or incidental to the recovery of any outstanding monies due to Bolton Council under the terms of the Contract.

## **ANNEX 1 - Additional definitions and interpretation**

The following additional definitions relate to this Service Specification and have not been defined in the General Conditions:

**“Access Duties”** the legal duties which Bolton Council is under which require the release of information under FOIA or the EIR or any other applicable legislation or codes governing access to information.

**“Acute Care Setting”** shall refer to a setting, usually a hospital, where an individual receives medical care to treat a serious injury, illness or medical condition. It may also be to enable recovery following surgery. The duration of the care is short term.

**“Additional Costs”** describe the cost of residential care when the service user chooses to stay in accommodation that costs more than the amount specified in the personal budget. The difference between the personal budget and the total cost of care are the Additional Costs, these must be paid by a Third Party.

**“Assessed Contribution”** shall mean the financial contribution payable by the Resident for the Services, as determined following a financial assessment carried out by Bolton Council.

**“Bolton Brand”** shall mean:

- (a) Bolton Council (registered trade mark number: 2443977)
- (b) Part of the Bolton Family (registered trademark number: 2443967)
- (c) any other phrase which Bolton Council develops from time to time in relation to the trademarks detailed at (a) and (b) above or in relation to the operation or functions of Bolton Council.

**“Bolton Council”** shall mean The Borough Council of Bolton.

**“Business Continuity”** shall mean the ability to maintain operations and services in the face of a disruptive event.

**“Business Continuity Exercise”** shall mean an activity in which the Business Continuity Strategy is rehearsed in part or in whole to ensure that the same contains the appropriate information and produces and achieves the desired result when put into effect.

**“Business Continuity Strategy”** shall mean the strategy to be developed and implemented by the Provider which details how the Provider will ensure its recovery and continuity in the face of a disaster or other major incident or business disruption

**“Care Home”** shall mean a care home which is:

- (a) located in England or Wales and registered as a residential care home or care home with nursing under the provisions of the Health and Social Care Act 2008; and
- (b) registered with the CQC as being operated by the Provider

**“Care Manager”** is the officer designated by the relevant Commissioner under the ISUPA who is responsible for each Commissioner’s Support Plan, organising care and carrying out reviews to ensure the Resident is receiving the right care that meets his/her requirements.

**“CCA”** shall mean the Civil Contingencies Act 2004.

**“Care Quality Commission (CQC)”** shall mean the independent regulator of health and social care in England.

**“CHC Nurse”** shall mean a nurse registered with the Nursing and Midwifery Council trained in assessment of eligibility for CHC or FNC funding.

**“Commissioners’ Medicine Management Policy”** shall mean Adult Social Care Services PPD (08)16 Medicines Policy v7

**“Commissioner’s Support Plan”** shall mean the support plan for each Resident developed by the Commissioner detailing the Resident’s care and support needs throughout a Resident’s placement in a Care Home, which support plan shall be developed in consideration of the Provisional Support Plan and the Provider’s Support Plan.

**“Continuing Health Care (CHC)”** shall mean care funded fully by the NHS and free at the point of delivery to Residents. The awarding of CHC is subject to a nursing assessment to determine needs and regular review. CHC may be withdrawn following a review or assessment that a Resident user is no longer eligible to receive it (although this decision is subject to appeal).

**“Contract”** shall mean the General Conditions, the Special Conditions, the Particulars (incorporating this Service Specification, any ISUPA entered into and any documentation specified as forming part of the Contract and documentation agreed between the Commissioners and the Provider under the Contract.

**“Controlled Drugs”** shall mean prescription medicines that are controlled under the Misuse of Drugs legislation (and subsequent amendments). These medicines are called controlled medicines or controlled drugs. The Misuse of Drugs Regulations 2001 has a full list of controlled medicines.

**“Dementia High Needs”** shall mean a Resident who has been assessed by an appropriate clinician and deemed to need specialist dementia residential or nursing care in a dedicated Dementia High Needs unit.

**“Dementia High Needs Care”** shall mean the type of residential care provided to residents placed in Dementia High Needs Units; residents must meet the eligibility criteria to qualify for placement in this specialist care.

**“End of Life Care”** shall mean support for people who are in the last months or years of their life.

**“Exempt Information”** shall mean any information or class of information (including but not limited to any document, report and contract or other material containing information) relating to this Agreement or otherwise relating to the Provider which falls within an exemption to FOIA (as set out therein).

**“Existing Intellectual Property Rights”** shall mean those Intellectual Property Rights vested in Bolton Council or the Provider prior to the Commencement Date

**“Funded Nursing Care (FNC)”** shall mean the proportion of fees paid to a nursing home to cover nursing costs where the residential element of a Resident’s care is paid by the Local Authority (or by the Resident themselves).



**“Funding Without Prejudice”** shall mean the act of providing funding for a Residential or Nursing Home placement for the purposes of discharging a Resident safely from an acute setting in order that further assessments can be carried out (either CHC assessment or financial assessment).

**“Host Local Authority”** shall mean the local authority with adult social care duties and within which the care home is situated.

**“Intellectual Property Rights”** shall mean patents, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

**“ISUPA”** shall mean a placement agreement entered into by the Provider and Commissioner in accordance with the terms of the Contract, under which the Provider agrees to provide the Services (or any part) to a Resident.

**“Managing Agent”** shall mean that where restraints and restrictions are in place as part of the care of a person living in a care home it may be that the person subject to them is being deprived of their liberty; they may therefore need to be placed under Deprivation of Liberty Safeguards (DoLS). When Deprivation of Liberty Safeguards are in place the Provider managing the care home is referred to in the Mental Capacity Act as the Managing Authority.

**“Mental Capacity Assessment”** shall mean an assessment under the Mental Capacity Act 2005 of a Resident’s ability to make his or her own decisions prior to the delivery of any care or treatment where there is a reasonable belief that a Resident lacks capacity (the process is defined here: <https://www.scie.org.uk/mca/practice/assessing-capacity/>).

**“Nursing Care”** shall mean the provision of care to Residents residing in Care Homes which is a service provided by the relevant NHS body under section 2 of the National Health Service Act 1977.

**“Nursing and Midwifery Council”** the organisation responsible for regulating nursing and midwifery.

**“Ordinarily Resident”** shall mean the area where a person normally resides. This is important in social care for determining which local authority is responsible for meeting a person’s care and support needs. For people living in a care home setting this will be the local authority for the area in which they normally resided prior to going into the care home.

**“Palliative Care”** is part of End of Life Care; for those with an incurable illness, palliative care involves making the patient as comfortable as possible, including managing pain and other distressing symptoms.

**“Provider’s Support Plan”** sets out a Resident’s care and support needs as recorded by the Provider; it will identify assessed care needs and incorporates the Risk Assessment.

**“Provisional Support Plan”** means the support plan created during the initial assessment of an individual. It will be updated and expanded to make the Provider’s Support Plan following admission to the Care Home.

**“Registered Nursing Home”** shall mean a care home which is registered with the CQC under Schedule 1 of the Health and Social Care Act (Regulated Activities) Regulations 2014 to provide nursing care.

**“Resident”** shall mean an individual in direct receipt of the Services.

**“Resident Records”** shall mean the detailed and accurate records which the Care Home is required to maintain detailing care plans, medical conditions, health care and medications for each Resident, including the Provider’s Support Plan.

**“Risk Assessment”** is a written document for an individual Resident with the purpose of identifying and managing risks which could cause harm or injury to the Resident, or impair their wellbeing, it considers their and health and care requirements.

**“Statement of Purpose”** is required by the CQC for all regulated activities, it must include the Provider’s aims and objectives, details of the services provided, the needs the service meets, contact details, the service’s legal entity and set out the places where services are provided.

**“Third Party”** is a friend or relative who signs an agreement to pay Additional Costs for a person living in residential care.

**“Total Care Home Price”** shall mean the total amount chargeable by the Provider, on a privately funded basis, for each placement in a Care Home.

**“Total Weekly Cost”** shall mean the total fees payable every week for the individual care home placement, including any Additional Costs.