

Appendix Two - Specialised Commissioning Delegation Agreement: Variation Proposal



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Introduction

In December 2023, the NHS England board approved the delegation of 59 specialised services to integrated care boards (ICBs). In April 2024, 20 ICBs in three NHS England regions implemented delegated arrangements using the specialised services delegation agreement.

The template document was prepared by the specialised commissioning strategy and policy team and NHS England legal team, with key input from across the Future Commissioning Models Programme (FCMP) and the ICS Implementation Programme (ICSIP).

The delegation agreements for 2024 were signed by NHS England regional directors and representatives of the ICB, following consideration and approval by ICB boards. They came into effect on 1 April 2024.

This guidance document only applies where NHS England regional teams and ICBs implemented a delegation agreement from April 2024. For those regional teams and ICBs that are implementing delegation of specialised services from April 2025, please see the separate delegation agreement template for April 2025.

Since the delegation agreement was finalised, further development work across the programmes preparing for delegation of the remaining services, functions and remaining ICBs, means that it is necessary to vary the existing delegation agreements in advance of April 2025.

The list of areas that have required amendment are:

- NHS England Core Design Principles.
- Functions relating to Mental Health, Learning Disability and Autism Specialised Services.
- Commissioning and optimisation of high cost drugs.
- Complaints functions.
- Updated definition of population.
- Clarify NHS England responsibilities for specialised top-up payments.
- Contracting Standard Operating Procedure.

- Minor corrections.
- Updated list of delegated specialised services for April 2025.
- Schedule 6: further information governance, sharing and processing provisions.

This document contains the amendments that are required to the delegation agreement. In ‘the variation proposal’ it also contains the Variation Proposal that regions and ICBs can use to vary their delegation agreements and comply with Clause 26 (variations) of the agreement.

The variation proposal

To ensure that existing delegation agreements are up-to-date and reflect the latest changes required by the programmes, this document sets out the wording that should be changed in local delegation agreements.

To ensure the process is as straightforward as possible, this document can be used as a Variation Proposal under Clause 26 of the specialised services delegation agreement.

Regional teams are advised to complete the details in the following box. Once these have been completed, the Variation Proposal can be issued to ICB colleagues.

This guidance document sets out the amendments to the specialised services delegation agreement between NHS England and Greater Manchester Integrated Care Board ICB dated 15th January 2025.

It is NHS England's intention to vary the agreement in accordance with Clause 26 and as set out in this document. Therefore, this document constitutes NHS England's Variation Proposal to the ICB.

The date on which the Variation Proposal is to take effect is 1 April 2025. This Variation Proposal is issued on 15th January 2025. The ICB has 30 Operational Days (which do not include Saturday, Sunday or Bank Holidays) to consider the Variation Proposal.

By 26th February 2025, in accordance with Clause 26.7, the ICB should give notice to NHS England as follows:

- a) that it accepts the Variation Proposal; or
- b) that it refuses to accept the Variation Proposal and setting out reasonable grounds for that refusal.

If the Variation Proposal is not accepted, local resolution should be attempted before the procedure at Clause 15 (*escalation rights*) is instigated.

If the Variation Proposal is accepted, this document should be signed by an appropriate representative of the NHS England regional team and the ICB in the signature box below. Once signatures are added and dated, this will formalise the variation to the delegation agreement. Accordingly, any organisational governance processes, such as approval by the ICB Board (if required), should be sought before the Variational Proposal is signed.

Additionally, the existing delegation agreement can be updated to include the amended text and stored in accordance with organisational policies for records management.

NHS England and NHS Cheshire and Merseyside ICB agree to vary the specialised services delegation agreement dated 03 February 2025 as set out in this Variation Proposal.

Signed on behalf of NHS England: Name: Louise Shepherd Role: Regional Director Date: 26 th February 2025 Signature: 	Signed on behalf of the ICB: Name: Graham Urwin Role: Chief Executive Date: 03 February 2025 Signature: 
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NHS England Core Design Principles

Three Core Design Principles have been developed and were agreed by NHS England's Executive Group on 15 October 2024. These are that NHS England's staff will:

- a. Not mak[e] statutory or financial decisions that allocate NHS England resources unless [they] are employed by NHS England, or that allocate ICB resources unless [they] are employed by an ICB.
- b. Not access a ledger or other finance systems, or use data directly obtained from the ledger or other finance systems for an organisation [they] are not substantively employed by.
- c. Not have accountability for NHS England's oversight and assurance of delegated commissioning if [they] hold responsibility for strategic decision making in respect of delegated commissioning delivery.

A series of amendments are proposed to ensure that the delegation agreement reflects these Principles. The following sections describe the changes that need to be made.

Clause 6 – Delegation

At Clause 6 (Delegation) after Clause 6.4 **insert:**

- 6.5 To the extent that this Agreement applies:
 - 6.5.1 The ICB must ensure that its officers or employees do not make statutory or financial decisions that allocate NHS England resources.
 - 6.5.2 NHS England must ensure that its officers or employees do not make statutory or financial decisions that allocate ICB resources, except as provided for in this Agreement.

[ENDS]

As this is an insertion of a new clause, the subsequent clauses should be renumbered.

At the newly renumbered Clause 6.6 after the words '...the ICB is not authorised...' **delete:**

by this Agreement

At the newly renumbered Clause 6.7 after the words 'that the impact of the ICB decision could' **delete:**

, in relation to the Delegated Functions,

At the newly renumbered Clause 6.8 after the words 'The terms of Clauses' **delete:**

6.5 and 6.6

And **insert:**

6.5, 6.6 and 6.7

[ENDS]

Clause 9 – Performance of the Reserved Functions and Commissioning Support Arrangements

At Clause 9 after Clause 9.8 **insert:**

- 9.9 Any arrangement made between the ICB and NHS England under Clauses 9.5 or 9.7 must be made in accordance with: Clause 6.5, Clause 10.14 and Paragraph 4.2 of Schedule 4.

ENDS

Clause 14 – Finance

At Clause 14 (Finance) after clause 10.13.2 **insert:**

Ledger access and use of financial data

- 10.14 NHS England and the ICB agree that they shall not access a financial ledger or other finance system that is operated by another organisation, or use data directly obtained from such a financial ledger or other finance system.
- 10.15 Clause 10.14 applies unless that access or use has been approved in advance by the organisation that operates that financial ledger or other finance system, or as is otherwise expressly provided for in this Agreement.

ENDS

As this is an insertion of new clauses, the subsequent clauses should be renumbered.

- 10.14 should read 10.16.
- 10.15 should read 10.17.
- 10.16 should read 10.18.

Schedule 4 (Retained Functions), Paragraph 4 (Assurance and Oversight)

At Paragraph 4 (Assurance and Oversight) of Schedule 4 (Retained Functions) after subparagraph 4.1.6 **insert:**

- 4.2 Where an officer or employee of NHS England is performing its Reserved Functions in respect of assurance and oversight, NHS England must ensure that those officers or employees do not hold responsibility for, or undertake any, decision making in respect of the ICB's Delegated Functions.

ENDS

Core Design Principles: consequential amendments

Clause or paragraph number	Change required
10.17.7	Replace '10.15.3' with '10.17.3'.
Clause 14.2.2	Replace 'Clause 6.5' with 'Clause 6.6'.
Clause 14.2.3	Replace 'Clause 6.6' with 'Clause 6.7'.
Clause 15.3	Replace 'Clause 6.6' with 'Clause 6.7'.

Mental health, learning disability and autism specialised services

From April 2025, the delegation of specialised service will include mental health, learning disability and autism (MHLDA) services. These were agreed by the NHS England Board in March 2024 and the service lines are set out as amendments to Schedule 2 (delegated services) (see below). As examples, this will include the specified low and medium secure adult specialised mental health services (see PSS Manual Code 6).

To support the delegation of these services, it is proposed that further changes are made to Schedule 3 (ICB delegated functions) and Schedule 4 (NHS England's retained services).

This section describes the changes.

Schedule 3 – delegated functions

In Schedule 3 (delegated functions) at paragraph 16 after 'Mental Health, Learning Disability and Autism NHS-led Provider Collaboratives' **delete:**

The ICB shall co-operate fully with NHS England in the development, management and operation of mental health, learning disability and autism NHS-led Provider Collaboratives including, where requested by NHS England, to consider the Provider Collaborative arrangements as part of the wider pathway delivery.

and **insert:**

- 16.1. The ICB will oversee the lead provider contract(s) relating to mental health, learning disability and autism (MHLDA) Provider Collaboratives that are transferred to the ICB on 1 April 2025 by NHS England. This includes complying with all terms and conditions of the contract(s), including in respect of notice periods and extensions.
- 16.2. If the ICB proposes to terminate a MHLDA lead provider contract before the end of its term, it must seek written approval from NHS England in advance.

16.3. In the performance of its commissioning responsibilities for MHLDA Specialised Services, the ICB shall:

- 16.3.1. Have regard to any commissioning guidance relating to MHLDA Specialised Services issued by NHS England;
- 16.3.2. Comply with the requirements of the Mental Health Investment Standard and related guidance issued by NHS England;
- 16.3.3. Generally have regard to the need to commission MHLDA Specialised Services for the ICB's Population in such a manner as to ensure safe, efficient and effective services, across appropriate geographies, and which may require partnership working across other ICB or other organisational boundaries.
- 16.3.4. Ensure that its case management function will work collaboratively across Delegated Services and Retained Services to support the oversight and progression of individual patient care, including the movement across elements of the care pathway.

[ENDS]

In Schedule 3 (delegated functions) at paragraph 16 in the title 'Mental Health, Learning Disability and Autism NHS-led Provider Collaboratives' **delete:**

NHS-led Provider Collaboratives

And **insert:**

Specialised Services

[ENDS]

Schedule 4 – retained functions

In Schedule 4 (retained functions) at paragraph 17 after 'Mental Health, Learning Disability and Autism NHS-led Provider Collaboratives' **delete:**

NHS England shall commission and design NHS-led Provider Collaborative arrangements for mental health, learning disability and autism services. Where it considers appropriate, NHS England shall seek the input of the ICB in relation to relevant Provider Collaborative arrangements.

and **insert:**

- 17.1. NHS England shall issue commissioning guidance for MHLDA Specialised Services in relation to the Delegated Services and Retained Services.
- 17.2. NHS England shall prepare and issue National Specifications and Clinical Commissioning Policies for MHLDA Specialised Services.
- 17.3. NHS England will monitor the ICB's compliance with the Mental Health Investment Standard in respect of MHLDA Delegated Services.
- 17.4. NHS England shall ensure that its case management function will work collaboratively across Delegated Services and Retained Services to support the oversight and progression of individual patient care, including the movement across elements of the care pathway.

[ENDS]

In Schedule 4 (retained functions) at paragraph 17 in the title 'Mental Health, Learning Disability and Autism NHS-led Provider Collaboratives' **delete:**

NHS-led Provider Collaboratives.

And **insert:**

Specialised Services

[ENDS]

Commissioning and optimisation of high cost drugs

Amendments have been proposed to both the ICB and NHS England functions relating to the commissioning and optimisation of high cost drugs. This is partly to overcome some concerns raised that the responsibilities of the respective organisations were not clear enough in the 2024 delegation agreement; but also, to update the text to reflect changes in the operating models that have been developed in year.

It is proposed that changes are made to Schedule 3 (ICB delegated functions) and Schedule 4 (NHS England's retained services). Given the range of changes and to make the amendments more straightforward, colleagues are advised to replace the text in these sections in its entirety.

Schedule 3 – delegated functions

In Schedule 3 (delegated functions) at paragraph 8 after the title 'Commissioning and optimisation of High Cost Drugs' **delete** paragraphs 8.1 to 8.8.

And **insert**:

- 8.1 The ICB must support the effective and efficient commissioning of High Cost Drugs for Delegated Services.
- 8.2 The ICB must support NHS England in its responsibility for the financial management and reimbursement of High Cost Drugs for Specialised Services. The ICB and NHS England must agree the support to be provided. The support must be set out in writing and may include staffing, processes, reporting, prescribing analysis and oversight arrangements, but is not limited to these matters.
- 8.3 The ICB must ensure equitable access to High Cost Drugs used within the Delegated Services that may be impacted by health inequalities and develop a strategy for delivering equitable access.
- 8.4 The ICB must develop and implement Shared Care Arrangements across the Area of the ICB.
- 8.5 The ICB must provide clinical and commissioning leadership in the commissioning and management of High Cost Drugs.

- 8.6 The ICB must ensure:
- 8.6.1 safe and effective use of High Cost Drugs in line with national Clinical Commissioning Policies, NICE technology appraisal or highly specialised technologies guidance;
 - 8.6.2 effective introduction of new medicines;
 - 8.6.3 compliance with all NHS England commercial processes and frameworks for High Cost Drugs;
 - 8.6.4 Specialised Services Providers adhere to all NHS England commercial processes and frameworks for High Cost Drugs;
 - 8.6.5 appropriate use of Shared Care Arrangements, ensuring that they are safe and well monitored; and
 - 8.6.6 consistency of prescribing and unwarranted prescribing variation are addressed.
- 8.7 The ICB must engage in the development, implementation and monitoring of initiatives that enable use of better value medicines. Such schemes include those at a local, regional or national level.
- 8.8 Where the relevant pharmacy teams have transferred to the ICB or Host ICB, the ICB must provide:
- 8.8.1 support to prescribing networks and forums, including but not limited to, Immunoglobulin Assessment panels, prescribing networks and medicines optimisation networks;
 - 8.8.2 expert medicines advice and input into the Individual Funding Request process for Delegated Services;
 - 8.8.3 advice and input to national procurement and other commercial processes relating to medicines and High Cost Drugs (for example, arrangements for Homecare);
 - 8.8.4 advice and input to NHS England policy development relating to medicines and High Cost Drugs.

[ENDS]

Schedule 4 – reserved functions

In Schedule 4 (reserved functions) at paragraph 9 after the title ‘Commissioning and optimisation of High Cost Drugs’ **delete** paragraphs 9.1 (inclusive of sub-paragraphs).

And **insert**:

- 9.1. Unless otherwise agreed with the ICB, NHS England shall manage a central process for reimbursement of High Costs Drugs for Specialised Services. This may include making reimbursements directly to Specialised Services Providers.
- 9.2. In respect of pharmacy and optimisation of High Cost Drugs, NHS England shall:
 - 9.2.1. where appropriate, ensure that only validated drugs spend is reimbursed, there is timely drugs data and drugs data quality meets the standards set nationally;
 - 9.2.2. support the ICB on strategy for access to medicines used within Delegated Services, minimising barriers to health inequalities;
 - 9.2.3. provide support, as reasonably required, to the ICB to assist it in the commissioning of High Cost Drugs for Delegated Services including shared care agreements;
 - 9.2.4. seek to address consistency of prescribing in line with national commissioning policies, introduction of new medicines, and addressing unwarranted prescribing variation;
 - 9.2.5. develop medicines commissioning policies and criteria for access to medicines within Specialised Services;
 - 9.2.6. develop support tools, including prior approval criteria, and frameworks to support the delivery of cost-effective and high quality commissioning of High Cost Drugs;
 - 9.2.7. co-ordinate the development, implementation and monitoring of initiatives that enable the use of better value medicines;
 - 9.2.8. where appropriate, co-ordinate national procurement or other commercial processes to secure medicines or High Cost Drugs for Specialised Services.

[ENDS]

Complaints functions

During 2024/25, complaints functions relating to the delegated services have remained with NHS England. From 1 April 2025, all complaints received relating to the delegated services will be handled by ICBs. To support this, amendments need to be made to both Schedule 3 (delegated functions) and Schedule 4 (reserved functions). A related amendment is proposed for Schedule 1 (definitions) to include a missing definition.

Schedule 1 – definitions

In Schedule 1 (definitions) after “Commissioning Team Agreements” **insert:**

“Complaints Sharing Protocol” has the definition given in paragraph 7.5 of Schedule 3;

Schedule 3 – delegated functions

In Schedule 3 (delegated functions) at paragraph 7 after the title ‘Complaints’ **delete** paragraphs 7.1 to 7.4.

And **insert:**

- 7.1 This part (*Complaints*) applies from the Effective Date of Delegation or the date on which the Commissioning Team is transferred to the relevant Host ICB (whichever is the later) (“the Applicable Date”).
- 7.2 The ICB will be responsible for all complaints in respect of the Delegated Services that are received from the Applicable Date, regardless of whether the circumstances to which the complaint relates occurred prior to the Applicable Date.
- 7.3 For the avoidance of doubt, NHS England will retain responsibility for all complaints in respect of the Delegated Services that were received prior to the Applicable Date.
- 7.4 At all times the ICB shall operate in accordance with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

and shall co-operate with other ICBs to ensure that complaints are managed effectively.

7.5 Where NHS England has provided the ICB with a protocol for sharing complaints in respect of any or all Specialised Services then those provisions shall apply and are deemed to be part of this Agreement (the “Complaints Sharing Protocol”).

7.6 The ICB shall:

- 7.6.1 work with local organisations, including other ICBs that are party to the ICB Collaboration Arrangement or Commissioning Team, to ensure that arrangements are in place for the management of complaints in respect of the Delegated Services.
- 7.6.2 consider, in the context of the ICB Collaboration Arrangement for the commissioning of the Delegated Services and employment arrangements for the Commissioning Team, whether it is best placed to manage the complaint, or whether it should be transferred to another ICB that is better placed to affect change.
- 7.6.3 provide the relevant individuals at NHS England with appropriate access to complaints data held by the ICB that is necessary to carry out the complaints function as set out in the Complaints Sharing Protocol.
- 7.6.4 Provide such information relating to key performance indicators (“KPIs”) as is requested by NHS England.
- 7.6.5 co-operate with NHS England in respect of the review of complaints related to the Delegated Services and shall, on request, share any learning identified in carrying out the complaints function.
- 7.6.6 take part in any peer review process put in place in respect of the complaints function.

[ENDS]

Schedule 4 – reserved functions

In Schedule 4 (reserved functions) at paragraph 8 after the title ‘Complaints’ **delete** paragraphs 8.1 to 8.4.

And insert:

- 8.1. NHS England shall manage all complaints in respect of the Delegated Services that are received prior to the Effective Date of Delegation or the date on which the Commissioning Team is transferred to the Host ICB (whichever is the later).
- 8.2. NHS England shall provide the relevant individuals at the ICB with appropriate access to complaints data held by NHS England that is necessary to carry out the complaints function as set out in the Complaints Sharing Protocol.
- 8.3. NHS England shall manage all complaints in respect of the Retained Services.
- 8.4. NHS England shall set out what information the ICB is required to provide when reporting on the key performance indicators. NHS England should notify the ICB in advance and provide sufficient time to allow compliance.

[ENDS]

Contracting Standard Operating Procedure

A minor addition is proposed to the contracting section of Schedule 3 (delegated services) to link the Contracting Standard Operating Procedure, which is already referred to in the delegated agreement under the list of finance guidance, to the contracting section. This is intended to make it clearer to the reader that there is linked guidance.

Schedule 3 – delegated functions

In Schedule 3 (delegated functions) after paragraph 9.1 (and sub-paragraph 9.1.3) **insert:**

- 9.2 The ICB must comply with the Contracting Standard Operating Procedure issued by NHS England.

[ENDS]

General amendments

There are two amendments required to existing specialised commissioning delegation agreements to correct for errors in the document. These are:

- a) To amend the definition of 'Population' in Schedule 1 (definitions and interpretation);¹ and
- b) To introduce NHS England functions relating to prescribed specialised services top-up payments in respect of delegated services to Schedule 4 (reserved functions).²

Guidance notes were issued in March 2024 on both of these amendments and which are available on the Future Commissioning Model Programme (FCMP) Future NHS site.³ Full background information on the amendments is contained within the guidance notes.

Definition of ICB Population

In Schedule 1 (definitions and interpretation) at the definition 'Population' **delete:**

means the individuals for whom the ICB has responsibility in respect of commissioning the Delegated Services;

and **insert:**

means, in relation to any particular delegated service, the group of people for which the ICB would have the duty to arrange for the provision of that service under section 3 of the NHS Act (hospital and other services), if it was not a service which NHS England had a duty to arrange under its Specialised Commissioning Functions;

For guidance on the persons for whom an ICB is responsible for arranging services see *Who Pays? Determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers*;

¹ See: <https://future.nhs.uk/NationalSpecialisedCommissioning/view?objectID=201089765>

² See: <https://future.nhs.uk/NationalSpecialisedCommissioning/view?objectID=201089925>

³ See: <https://future.nhs.uk/NationalSpecialisedCommissioning/view?objectID=52249616>

[ENDS]

Prescribed Specialised Services Top-Up Payments

At Schedule 4 (Reserved Functions) at Paragraph 12 (Finance), **insert** the following text after Paragraph 12.1:

12.2 NHS England shall:

12.2.1 hold the budgets for prescribed specialised services top-up payments for specialist centres;

12.2.2 administer the top-up payments schemes; and

12.3.3 make top-up payments to the Specialised Services Providers.

12.3 For the avoidance of doubt, the functions set out in 12.2 include top-up payments for the Delegated Services and Retained Services

[ENDS]

Minor corrections

During the review of the delegation agreement for specialised services the following errors were found and can be corrected in the existing delegation agreements as part of the variation process.

Clause or paragraph number	Change required
Clause 1.2.2	Incorrect numbering of clauses. Change “Clauses 2 to 31” to read “Clauses 2 to 32”.
Clause 7.3.3	Missing legislation reference. After ‘Section 14Z32 to Section 14Z44’ insert ‘of the NHS Act’.
Newly renumbered clauses: 10.16 and 10.17.	These clauses appear in the section entitled ‘pooled funds’ and will have been renumbered due to the additions of the Core Principles. At 10.17 move ‘NHS England and one or more ICBs in accordance with section 65Z5 of the NHS Act.’ to sub-clause 10.16.4. (You may need to add this numbering). Ensure that 10.17 starts with the following text: ‘Where the ICB has decided to enter into arrangements under Clause 10.16 the agreement must be in writing and must specify: ’
Clause 11.1.1	Typo. After ‘Delegated Functions’ delete the semi-colon.
Clause 12.4 and 12.5	Missing clause number before ‘The ICB must not terminate...’.

	Insert clause number 12.5 and re-number the remaining clause numbers in Clause 12.
Clause 13.3	Missing full stop between 'Team' and 'Where appropriate'. Insert full stop.
Clause 22.3.5	Capitalised 'Receiving' which should read 'receiving'.
Clause 26.2.1	Capitalised 'Legislation' which should read 'legislation'.
Schedule 1	Missing double quotation marks on definitions of: Commissioning Team Arrangements; Confidential Information; Contracts. INSERT double quotation marks.
Schedule 1	Additional apostrophe in the definition of "Information Governance Guidance for Serious Incidents". Delete the apostrophe after the word 'Investigation'.
Schedule 1	At the definition of "Mandated Guidance" change Clause 7.5 to read Clause 7.4.
Schedule 1	At the definition of "Specialised Services Staff": i) after 'means the Staff' delete 'of' and insert 'or'. ii) after the word 'Delegated' delete the word 'Services'.
Schedule 4	Missing term.
Para.5.1	Replace '...and at NCG' with '...and at the National Commissioning Group ("NCG").

Delegated Specialised Services

In March 2024, the NHS England Board agreed to the delegation of further specialised services to ICBs.⁴ Therefore, the list of delegated specialised services in existing delegation agreements needs to be updated.

It is recommended that colleagues replace the entirety of Schedule 2 (Delegated Services) with the template schedule set out below. Where a service line has been added, it is highlighted in bold and in green.

Colleagues should:

- (a) **Delete** the entirety of Schedule 2 (Delegated Services).
- (b) **Insert** the following text:

[STARTS]

SCHEDULE 2: Delegated Services

Delegated Services

NHS England delegates to the ICB the statutory function for commissioning the Specialised Services set out in this Schedule 2 (*Delegated Services*) subject to the reservations set out in Schedule 4 (*Retained Functions*) and the provisions of any Developmental Arrangements set out in Schedule 9.

The list of Delegated Services set out in Schedule 2 of this Agreement contains two categories of service: the first is drawn from the Prescribed Specialised Services (PSS) Manual and aligns to Schedule 4 of the 2012 Standing Rules Regulations; the second is the sub-service line codes that NHS England has introduced over time to assist in the commissioning of Specialised Services. From time-to-time, NHS England will amend the list of sub-service line codes, either to repurpose, remove or add a code.

This is done to support in the management of finances, activity or for other administrative reasons; or to support transformational work that may be ongoing in the service area that requires a sub-service line code to track and manage funding and activity. The intention is that any changes will be supportive of ICBs' commissioning

⁴ NHS England, *Specialised Commissioning – update on specialised services for delegation*, March 2024, available at: <https://www.england.nhs.uk/long-read/specialised-commissioning-update-on-specialised-services-for-delegation/>

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responsibilities, and that there will be a small number of changes in the Delegated Services sub-service line codes in any one year.

All future changes to sub-service line codes relating to Delegated Services will be developed with ICBs. ICBs will be engaged and have the opportunity to provide comment on the proposed change before it is made. Changes to the sub-service line codes will be discussed at and agreed by the Delegated Commissioning Group, hosted by NHS England and attended by ICB representatives. If changes are agreed, the latest lists will be made available on the NHS England website here [[NHS England » NHS England service codes by year 2024/25](#)] and a more detailed version on the Future NHS site here [[Service Portfolio Analysis - Integrating specialised services within Integrated Care Systems - FutureNHS Collaboration Platform](#)].

The PSS Manual Lines in Schedule 2 of the Agreement, which derive from the 2012 Standing Rules Regulations, will not be altered unless there is a decision of the NHS England Board, which will necessitate wider engagement with ICBs and stakeholders.

The following Specialised Services will be delegated to the ICB on 1 April 2025:

PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
2	Adult congenital heart disease services	13X	Adult congenital heart disease services (non-surgical)
		13Y	Adult congenital heart disease services (surgical)
3	Adult specialist pain management services	31Z	Adult specialist pain management services
4	Adult specialist respiratory services	29M	Interstitial lung disease (adults)
		29S	Severe asthma (adults)
		29L	Lung volume reduction (adults)
		29V	Complex home ventilation (adults)
5	Adult specialist rheumatology services	26Z	Adult specialist rheumatology services
6	Adult secure mental health services	22S(a)	Secure and specialised mental health services (adult) (medium and low) – excluding LD/ASD/WEMS/ABI/DEAF
		22S(c)	Secure and specialised mental health services (adult) (Medium and low) – ASD MHLDA PC
		22S(d)	Secure and specialised mental health services (adult) (Medium and low) – LD MHLDA PC
7	Adult Specialist Cardiac Services	13A	Complex device therapy
		13B	Cardiac electrophysiology & ablation
		13C	Inherited cardiac conditions
		13E	Cardiac surgery (inpatient)
		13F	PPCI for ST- elevation myocardial infarction
		13H	Cardiac magnetic resonance imaging
		13T	Complex interventional cardiology
		13Z	Cardiac surgery (outpatient)
8	Adult specialist eating disorder services	22E	Adult specialist eating disorder services MHLDA PC
9	Adult specialist endocrinology services	27E	Adrenal Cancer (adults)
		27Z	Adult specialist endocrinology services
11	Adult specialist neurosciences services	08O	Neurology (adults)
		08P	Neurophysiology (adults)
		08R	Neuroradiology (adults)
		08S	Neurosurgery (adults)
		08T	Mechanical Thrombectomy

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PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
	Adult specialist neurosciences services (continued)	58A	Neurosurgery LVHC national: surgical removal of clival chordoma and chondrosarcoma
		58B	Neurosurgery LVHC national: EC-IC bypass(complex/high flow)
		58C	Neurosurgery LVHC national: transoral excision of dens
		58D	Neurosurgery LVHC regional: anterior skull based tumours
		58E	Neurosurgery LVHC regional: lateral skull based tumours
		58F	Neurosurgery LVHC regional: surgical removal of brainstem lesions
		58G	Neurosurgery LVHC regional: deep brain stimulation
		58H	Neurosurgery LVHC regional: pineal tumour surgeries - resection
		58I	Neurosurgery LVHC regional: removal of arteriovenous malformations of the nervous system
		58J	Neurosurgery LVHC regional: epilepsy
		58K	Neurosurgery LVHC regional: insula glioma's/ complex low grade glioma's
		58L	Neurosurgery LVHC local: anterior lumbar fusion
		58M	Neurosurgery LVHC local: removal of intramedullary spinal tumours
		58N	Neurosurgery LVHC local: intraventricular tumours resection
		58O	Neurosurgery LVHC local: surgical repair of aneurysms (surgical clipping)
		58P	Neurosurgery LVHC local: thoracic discectomy
		58Q	Neurosurgery LVHC local: microvascular decompression for trigeminal neuralgia
		58R	Neurosurgery LVHC local: awake surgery for removal of brain tumours
		58S	Neurosurgery LVHC local: removal of pituitary tumours including for Cushing's and acromegaly
12	Adult specialist ophthalmology services	37C	Artificial Eye Service
		37Z	Adult specialist ophthalmology services
13	Adult specialist orthopaedic services	34A	Orthopaedic surgery (adults)
		34R	Orthopaedic revision (adults)
15	Adult specialist renal services	11B	Renal dialysis
		11C	Access for renal dialysis
		11T	Renal Transplantation
16	Adult specialist services for people living with HIV	14A	Adult specialised services for people living with HIV
17	Adult specialist vascular services	30Z	Adult specialist vascular services
18	Adult thoracic surgery services	29B	Complex thoracic surgery (adults)
		29Z	Adult thoracic surgery services: outpatients
29	Haematopoietic stem cell transplantation services (adults and children)	02Z	Haematopoietic stem cell transplantation services (adults and children)
		ECP	Extracorporeal photopheresis service (adults and children)
30	Bone conduction hearing implant services (adults and children)	32B	Bone anchored hearing aids service
		32D	Middle ear implantable hearing aids service
32	Children and young people's inpatient mental health service	23K	Tier 4 CAMHS (general adolescent inc eating disorders) MHLDA PC
		23L	Tier 4 CAMHS (low secure) MHLDA PC
		23O	Tier 4 CAMHS (PICU) MHLDA PC
		23U	Tier 4 CAMHS (LD) MHLDA PC
		23V	Tier 4 CAMHS (ASD) MHLDA PC
35	Cleft lip and palate services (adults and children)	15Z	Cleft lip and palate services (adults and children)

Appendix Two - Specialised Commissioning Delegation Agreement: Variation Proposal

PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
36	Cochlear implantation services (adults and children)	32A	Cochlear implantation services (adults and children)
40	Complex spinal surgery services (adults and children)	06Z	Complex spinal surgery services (adults and children)
		08Z	Complex neuro-spinal surgery services (adults and children)
45	Cystic fibrosis services (adults and children)	10Z	Cystic fibrosis services (adults and children)
54	Fetal medicine services (adults and adolescents)	04C	Fetal medicine services (adults and adolescents)
58	Specialist adult gynaecological surgery and urinary surgery services for females	04A	Severe Endometriosis
		04D	Complex urinary incontinence and genital prolapse
58A	Specialist adult urological surgery services for men	41P	Penile implants
		41S	Surgical sperm removal
		41U	Urethral reconstruction
59	Specialist allergy services (adults and children)	17Z	Specialist allergy services (adults and children)
61	Specialist dermatology services (adults and children)	24Z	Specialist dermatology services (adults and children)
62	Specialist metabolic disorder services (adults and children)	36Z	Specialist metabolic disorder services (adults and children)
63	Specialist pain management services for children	23Y	Specialist pain management services for children
64	Specialist palliative care services for children and young adults	E23	Specialist palliative care services for children and young adults
65	Specialist services for adults with infectious diseases	18A	Specialist services for adults with infectious diseases
		18E	Specialist Bone and Joint Infection (adults)
72	Major trauma services (adults and children)	34T	Major trauma services (adults and children)
78	Neuropsychiatry services (adults and children)	08Y	Neuropsychiatry services (adults and children)
83	Paediatric cardiac services	23B	Paediatric cardiac services
94	Radiotherapy services (adults and children)	01R	Radiotherapy services (Adults)
		51R	Radiotherapy services (Children)
		01S	Stereotactic Radiosurgery / radiotherapy
98	Specialist secure forensic mental health services for young people	24C	FCAMHS MHLDA PC
103A	Specialist adult haematology services	03C	Castleman disease
105	Specialist cancer services (adults)	01C	Chemotherapy
		01J	Anal cancer (adults)
		01K	Malignant mesothelioma (adults)
		01M	Head and neck cancer (adults)
		01N	Kidney, bladder and prostate cancer (adults)
		01Q	Rare brain and CNS cancer (adults)
		01U	Oesophageal and gastric cancer (adults)
		01V	Biliary tract cancer (adults)
		01W	Liver cancer (adults)
		01X	Penile cancer (adults)
		01Y	Cancer Outpatients (adults)
		01Z	Testicular cancer (adults)
		04F	Gynaecological cancer (adults)
		19V	Pancreatic cancer (adults)
		19C	Biliary tract cancer surgery (adults)
		19M	Liver cancer surgery (adults)
		19Q	Pancreatic cancer surgery (adults)

Appendix Two - Specialised Commissioning Delegation Agreement: Variation Proposal

PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
		24Y	Skin cancer (adults)
		29E	Management of central airway obstruction (adults)
		51A	Interventional oncology (adults)
		51B	Brachytherapy (adults)
		51C	Molecular oncology (adults)
		61M	Head and neck cancer surgery (adults)
		61Q	Ophthalmic cancer surgery (adults)
		61U	Oesophageal and gastric cancer surgery (adults)
		61Z	Testicular cancer surgery (adults)
		33C	Transanal endoscopic microsurgery (adults)
		33D	Distal sacrectomy for advanced and recurrent rectal cancer (adults)
106	Specialist cancer services for children and young adults	01T	Teenage and young adult cancer
		23A	Children's cancer
106A	Specialist colorectal surgery services (adults)	33A	Complex surgery for faecal incontinence (adults)
		33B	Complex inflammatory bowel disease (adults)
107	Specialist dentistry services for children	23P	Specialist dentistry services for children
108	Specialist ear, nose and throat services for children	23D	Specialist ear, nose and throat services for children
109	Specialist endocrinology services for children	23E	Specialist endocrinology and diabetes services for children
110	Specialist gastroenterology, hepatology and nutritional support services for children	23F	Specialist gastroenterology, hepatology and nutritional support services for children
112	Specialist gynaecology services for children	73X	Specialist paediatric surgery services - gynaecology
113	Specialist haematology services for children	23H	Specialist haematology services for children
114	Specialist haemoglobinopathy services (adults and children)	38S	Sickle cell anaemia (adults and children)
		38T	Thalassemia (adults and children)
115	Specialist immunology services for adults with deficient immune systems	16X	Specialist immunology services for adults with deficient immune systems
115A	Specialist immunology services for children with deficient immune systems	16Y	Specialist immunology services for children with deficient immune systems
115B	Specialist maternity care for adults diagnosed with abnormally invasive placenta	04G	Specialist maternity care for women diagnosed with abnormally invasive placenta
118	Neonatal critical care services	NIC	Specialist neonatal care services
119	Specialist neuroscience services for children	23M	Specialist neuroscience services for children
		07Y	Paediatric neurorehabilitation
		08J	Selective dorsal rhizotomy
120	Specialist ophthalmology services for children	23N	Specialist ophthalmology services for children
121	Specialist orthopaedic services for children	23Q	Specialist orthopaedic services for children
122	Paediatric critical care services	PIC	Specialist paediatric intensive care services
124	Specialist perinatal mental health services (adults and adolescents)	22P	Specialist perinatal mental health services (adults and adolescents) MHLDA PC
125	Specialist plastic surgery services for children	23R	Specialist plastic surgery services for children
126	Specialist rehabilitation services for patients with highly complex needs (adults and children)	07Z	Specialist rehabilitation services for patients with highly complex needs (adults and children)
127	Specialist renal services for children	23S	Specialist renal services for children
128	Specialist respiratory services for children	23T	Specialist respiratory services for children

Appendix Two - Specialised Commissioning Delegation Agreement: Variation Proposal

PSS Manual Line	PSS Manual Line Description	Service Line Code	Service Line Description
129	Specialist rheumatology services for children	23W	Specialist rheumatology services for children
130	Specialist services for children with infectious diseases	18C	Specialist services for children with infectious diseases
131	Specialist services for complex liver, biliary and pancreatic diseases in adults	19L	Specialist services for complex liver diseases in adults
		19P	Specialist services for complex pancreatic diseases in adults
		19Z	Specialist services for complex liver, biliary and pancreatic diseases in adults
		19B	Specialist services for complex biliary diseases in adults
132	Specialist services for haemophilia and other related bleeding disorders (adults and children)	03X	Specialist services for haemophilia and other related bleeding disorders (Adults)
		03Y	Specialist services for haemophilia and other related bleeding disorders (Children)
134	Specialist services to support patients with complex physical disabilities (excluding wheelchair services) (adults and children)	05C	Specialist augmentative and alternative communication aids (adults and children)
		05E	Specialist environmental controls (adults and children)
		05P	Prosthetics (adults and children)
135	Specialist paediatric surgery services	23X	Specialist paediatric surgery services - general surgery
136	Specialist paediatric urology services	23Z	Specialist paediatric urology services
139A	Specialist morbid obesity services for children	35Z	Specialist morbid obesity services for children
139AA	Termination services for patients with medical complexity and or significant co-morbidities requiring treatment in a specialist hospital	04P	Termination services for patients with medical complexity and or significant co-morbidities requiring treatment in a specialist hospital
ACC	Adult Critical Care	ACC	Adult critical care

[ENDS]

Schedule 6: further information governance, sharing and processing provisions

Amendments have been made to Schedule 6 (*further information governance, sharing and processing provisions*) to accommodate changes in the proposed approach to managing data for specialised services.

In summary, the proposed approach is that NHS England will receive and hold data relating to all specialised services and manage access to members of the Commissioning Teams in ICBs to assist in the commissioning of the Delegated Services.

To support this arrangement, Schedule 6 has been amended to include a Data Sharing Agreement and a Data Processing Agreement.

As both ICBs and NHS England are Data Controllers in this arrangement, the Data Sharing Agreement permits the sharing of information between (as an example) NHS England and the ICBs for the purposes of commissioning the Delegated Services (it can also work in the reverse).

The Data Processing Agreement will confirm that NHS England will process data in relating to the Delegated Services on behalf of the ICBs, making it available to the ICBs to assist them in fulfilling their functions.

Regional colleagues and ICBs will need to review Schedule 6 and introduce details to each agreement that covers the type of personal data being processed, and categories of data subject. These agreements can be changed over time to ensure that they cover the arrangements as they develop. For example, if new data sets or information needs to be shared or processed.

The draft schedule is provided below.

Schedule 6: consequential amendments

A small number of changes are required elsewhere in the delegation agreement due to changes in Schedule 6. These are set out in the following table.

Clause or paragraph number	Change required
18.8	Replace: <i>Further Information Governance And Sharing Provisions</i> with: <i>Further Information Governance, Sharing and Processing Provisions</i> .

29.2.8	Replace: <i>Further Information Governance And Sharing Provisions</i> with: <i>Further Information Governance, Sharing and Processing Provisions.</i>
Schedule 1, definition of: “Neet to Know”	Replace: <i>Further Information Governance And Sharing Provisions</i> with: <i>Further Information Governance, Sharing and Processing Provisions.</i>
Schedule 1, definition of: “Specified Purpose”	Replace: <i>Further Information Governance And Sharing Provisions</i> with: <i>Further Information Governance, Sharing and Processing Provisions.</i>
New definition	After the definition “Data Protection Officer” insert a new line and the following definition: “Data Processing Agreement” means a data processing agreement which should be in substantially the same form as a Data Processing Agreement template approved by NHS England;

Schedule 6: replacement schedule

Delete Schedule 6 in its entirety (both Part 1 and Part 2).

And **insert** Parts 1, 2 and 3, as follows:

[STARTS]

SCHEDULE 6: Further Information Governance, Sharing and Processing Provisions

PART 1

1. Introduction

- 1.1. This Schedule sets out the scope for the secure and confidential sharing of information between the Parties on a Need To Know basis, or where a Party acts as a Data Processor on behalf of the other Party in order to enable the Parties to exercise their functions in pursuance of this Agreement.
- 1.2. References in this Schedule (*Further Information Governance and Sharing Provisions*) to the Need to Know basis or requirement (as the context requires) should be taken to mean that each Party's Staff will only have access to Personal Data or Special Category Personal Data if it is lawful for such Staff to have access to such data for the Specified Purpose in paragraph 2.1 and the function they are required to fulfil at that particular time, in relation to the Specified Purpose, cannot be achieved without access to the Personal Data or Special Category Personal Data specified.
- 1.3. This Schedule (including the details at Part 2 and 3 of this Schedule) and any Data Sharing Agreement and/or Data Processing Agreements entered into under this Schedule are designed to:
 - 1.3.1. provide information about the reasons why Relevant Information may need to be shared and/or processed on behalf of another Party and how this will be managed and controlled by the Parties;
 - 1.3.2. describe the purposes for which the Parties have agreed to share and/or the basis on which a Party is instructed to act as a Data Processor in relation to the Relevant Information;
 - 1.3.3. set out the lawful basis for the processing of Relevant Information and sharing of information between the Parties, and the principles that underpin the exchange of Relevant Information;
 - 1.3.4. describe roles and structures to support the exchange of Relevant Information between the Parties;
 - 1.3.5. apply to the sharing and processing of Relevant Information relating to Specialised Services Providers and their Staff;
 - 1.3.6. apply to the sharing and processing of Relevant Information whatever the medium in which it is held and however it is transmitted;
 - 1.3.7. ensure that Data Subjects are, where appropriate, informed of the reasons why Personal Data about them may need to be shared and processed and how this sharing and processing will be managed;
 - 1.3.8. apply to the activities of the Parties' Staff; and

- 1.3.9. describe how complaints relating to Personal Data sharing between the Parties and wider processing will be investigated and resolved, and how the information sharing and processing will be monitored and reviewed.

2. Purpose

- 2.1. The Specified Purpose of the data sharing and associated processing is to facilitate the exercise of the Delegated Functions and NHS England's Reserved Functions.
- 2.2. Each Party must ensure that they have in place appropriate data sharing or data processing arrangements to enable data to be received from any third party organisations from which the Parties must obtain data in order to achieve the Specified Purpose.
- 2.3. Where necessary specific and detailed purposes must be set out in a Data Sharing Agreement or Data Processing Agreement that complies with all relevant legislation and Guidance.

3. Benefits of information sharing

- 3.1. The benefits of sharing information are the achievement of the Specified Purpose, with benefits for service users and other stakeholders in terms of the improved delivery of the Delegated Services.

4. Lawful basis for sharing

- 4.1. The Parties shall comply with all relevant Data Protection Legislation requirements and Good Practice in relation to the processing of Relevant Information shared further to this Agreement.
- 4.2. The Parties shall ensure that there is a Data Protection Impact Assessment ("DPIA") that covers processing undertaken in pursuance of the Specified Purpose. The DPIA shall identify the lawful basis for sharing Relevant Information for each purpose and data flow.
- 4.3. Further details regarding the Relevant Information to be shared shall be set out in a Data Sharing Agreement and/or Data Processing Agreement.

5. Restrictions on use of the Shared Information

- 5.1. Each Party shall only process the Relevant Information as is necessary to achieve the Specified Purpose and, in particular, shall not use or process Relevant Information for any other purpose unless agreed in writing by the Data Controller that released the information to the other. There shall be no other use or onward transmission of the Relevant Information to any third party without a lawful basis first being determined, and the originating Data Controller being notified.
- 5.2. Access to, and processing of, the Relevant Information provided by a Party must be the minimum necessary to achieve the Specified Purpose. Information and Special Category Personal Data will be handled at all times on a restricted basis, in compliance with Data Protection Legislation requirements, and the Parties' Staff should only have access to Personal Data on a justifiable Need to Know basis.
- 5.3. Neither the provisions of this Schedule nor any associated Data Sharing Agreement and/or Data Processing Agreement should be taken to permit unrestricted access to data held by any of the Parties.
- 5.4. Neither Party shall subcontract any processing of the Relevant Information without the prior consent of the other Party. Where a Party subcontracts its obligations, it shall do so only by way of a written agreement with the subcontractor which imposes the same obligations as are imposed on that Party under this Agreement, and shall remain liable for the performance of the subcontractor's obligations.
- 5.5. The Parties shall not cause or allow ~~Data~~ Relevant Information to be transferred to any territory outside the United Kingdom without the prior written permission of the responsible Data Controller.
- 5.6. Any particular restrictions on use of certain Relevant Information should be included in a Data Sharing Agreement and/or Data Processing Agreement.

6. Ensuring fairness to the Data Subject

- 6.1. In addition to having a lawful basis for sharing information, the UK GDPR generally requires that the sharing must be fair and transparent. In order to achieve fairness and transparency to the Data Subjects, the Parties will take the following measures as reasonably required:
 - 6.1.1. amendment of internal guidance to improve awareness and understanding among Staff;

- 6.1.2. amendment of respective privacy notices and policies to reflect the processing of data carried out further to this Agreement, including covering the requirements of articles 13 and 14 UK GDPR and providing these (or making them available to) Data Subjects;
- 6.1.3. ensuring that information and communications relating to the processing of data is clear and easily accessible; and
- 6.1.4. giving consideration to carrying out activities to promote public understanding of how data is processed where appropriate.
- 6.2. Each Party shall procure that its notification to the Information Commissioner's Office, and record of processing maintained for the purposes of Article 30 UK GDPR, reflects the flows of information under this Agreement.
- 6.3. The Parties shall reasonably co-operate in undertaking any DPIA associated with the processing of data further to this Agreement, and in doing so engage with their respective Data Protection Officers in the performance by them of their duties pursuant to Article 39 UK GDPR.
- 6.4. Further provision in relation to specific data flows may be included in a ~~Personal~~ Data Sharing Agreement and/or Data Processing Agreement between the Parties.

7. Governance: Staff

- 7.1. The Parties must take reasonable steps to ensure the suitability, reliability, training and competence, of any Staff who have access to Personal Data, and Special Category Personal Data, including ensuring reasonable background checks and evidence of completeness are available on request.
- 7.2. The Parties agree to treat all Relevant Information as confidential and imparted in confidence and must safeguard it accordingly. Where any of the Parties' Staff are not healthcare professionals (for the purposes of the Data Protection Act 2018), the employing Parties must procure that Staff operate under a duty of confidentiality which is equivalent to that which would arise if that person were a healthcare professional.
- 7.3. The Parties shall ensure that all Staff required to access Personal Data (including Special Category Personal Data) are informed of the confidential nature of the Personal Data. The Parties shall include appropriate confidentiality clauses in employment/service contracts of all Staff that have any access whatsoever to the Relevant Information, including details of sanctions for acting in a deliberate or reckless manner that may breach the confidentiality or the non-disclosure

provisions of Data Protection Legislation requirements, or cause damage to or loss of the Relevant Information.

- 7.4. Each Party shall provide evidence (further to any reasonable request) that all Staff that have any access to the Relevant Information whatsoever are adequately and appropriately trained to comply with their responsibilities under Data Protection Legislation and this Agreement.
- 7.5. The Parties shall ensure that:
 - 7.5.1. only those Staff involved in delivery of the Agreement use or have access to the Relevant Information;
 - 7.5.2. that such access is granted on a strict Need to Know basis and shall implement appropriate access controls to ensure this requirement is satisfied and audited. Evidence of audit should be made freely available on request by the originating Data Controller; and
 - 7.5.3. specific limitations on the Staff who may have access to the Relevant Information are set out in any Data Sharing Agreement and/or Data Processing Agreement entered into in accordance with this Schedule.

8. Governance: Protection of Personal Data

- 8.1. At all times, the Parties shall have regard to the requirements of Data Protection Legislation and the rights of Data Subjects.
- 8.2. Wherever possible (in descending order of preference), only anonymised information, or, strongly or weakly pseudonymised information will be shared and processed by the Parties. The Parties shall co-operate in exploring alternative strategies to avoid the use of Personal Data in order to achieve the Specified Purpose. However, it is accepted that some Relevant Information shared further to this Agreement may be Personal Data or Special Category Personal Data.
- 8.3. Processing of any Personal Data or Special Category Personal Data shall be to the minimum extent necessary to achieve the Specified Purpose, and on a Need to Know basis.
- 8.4. If any Party becomes aware of:
 - 8.4.1. any unauthorised or unlawful processing of any Relevant Information or that any Relevant Information is lost or destroyed or has become damaged, corrupted or unusable; or

- 8.4.2. any security vulnerability or breach in respect of the Relevant Information,
- it shall promptly, within 48 hours, notify the other Parties. The Parties shall fully co-operate with one another to remedy the issue as soon as reasonably practicable, and in making information about the incident available to the Information Commissioner and Data Subjects where required by Data Protection Legislation.
- 8.5. In processing any Relevant Information further to this Agreement, the Parties shall process the Personal Data and Special Category Personal Data only:
- 8.5.1. in accordance with the terms of this Agreement and otherwise (to the extent that it acts as a Data Processor for the purposes of Article 27-28 GDPR) only in accordance with written instructions from the originating Data Controller in respect of its Relevant Information including any instructions set out in a Data Processing Agreement entered into under this Schedule, unless required by law (in which case, the processor shall inform the relevant Data Controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest);
- 8.5.2. to the extent as is necessary for the provision of the Specified Purpose or as is required by law or any regulatory body; and
- 8.5.3. in accordance with Data Protection Legislation requirements, in particular the principles set out in Article 5(1) and accountability requirements set out in Article 5(2) UK GDPR; and not in such a way as to cause any other Data Controller to breach any of their applicable obligations under Data Protection Legislation.
- 8.6. The Parties shall act generally in accordance with Data Protection Legislation requirements. This includes implementing, maintaining and keeping under review appropriate technical and organisational measures to ensure and demonstrate that the processing of Personal Data is undertaken in accordance with Data Protection Legislation, and in particular to protect Personal Data (and Special Category Personal Data) against unauthorised or unlawful processing, and against accidental loss, destruction, damage, alteration or disclosure. These measures shall:
- 8.6.1. take account of the nature, scope, context and purposes of processing as well as the risks, of varying likelihood and severity for the rights and freedoms of Data Subjects; and

- 8.6.2. be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the Personal Data and Special Category Personal Data, and having the nature of the Personal Data and Special Category Personal Data which is to be protected.
- 8.7. In particular, each Party shall:
 - 8.7.1. ensure that only Staff as provided under this Schedule have access to the Personal Data and Special Category Personal Data;
 - 8.7.2. ensure that the Relevant Information is kept secure and in an encrypted form, and shall use all reasonable security practices and systems applicable to the use of the Relevant Information to prevent and to take prompt and proper remedial action against, unauthorised access, copying, modification, storage, reproduction, display or distribution, of the Relevant Information;
 - 8.7.3. obtain prior written consent from the originating Party in order to transfer the Relevant Information to any third party;
 - 8.7.4. permit any other party or their representatives (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the data processing activities carried out further to this Agreement (and/or those of its agents, successors or assigns) and comply with all reasonable requests or directions to enable each Party to verify and/or procure that the other is in full compliance with its obligations under this Agreement; and
 - 8.7.5. if requested, provide a written description of the technical and organisational methods and security measures employed in processing Personal Data.
- 8.8. The Parties shall adhere to the specific requirements as to information security set out in any Data Sharing Agreement and/or Data Processing Agreement entered into in accordance with this Schedule.
- 8.9. The Parties shall use best endeavours to achieve and adhere to the requirements of the NHS Digital Data Security and Protection Toolkit.
- 8.10. The Parties' Single Points of Contact set out in paragraph **Error! Reference source not found.** will be the persons who, in the first instance, will have oversight of third party security measures.

9. Governance: Transmission of Information between the Parties

- 9.1. This paragraph supplements paragraph 8 of this Schedule.
- 9.2. Transfer of Personal Data between the Parties shall be done through secure mechanisms including use of the N3 network, encryption, and approved secure (NHS.net or gcsx) e-mail.
- 9.3. Wherever possible, Personal Data should be transmitted and held in pseudonymised form, with only reference to the NHS number in 'clear' transmissions. Where there are significant consequences for the care of the patient, then additional data items, such as the postcode, date of birth and/or other identifiers should also be transmitted, in accordance with good information governance and clinical safety practice, so as to ensure that the correct patient record and/or data is identified.
- 9.4. Any other special measures relating to security of transfer should be specified in a Data Sharing Agreement and/or Data Processing Agreement entered into in accordance with this Schedule.
- 9.5. Each Party shall keep an audit log of Relevant Information transmitted and received in the course of this Agreement.
- 9.6. The Parties' Single Point of Contact notified pursuant to paragraph 13 will be the persons who, in the first instance, will have oversight of the transmission of information between the Parties.

10. Governance: Quality of Information

- 10.1. The Parties will take steps to ensure the quality of the Relevant Information and to comply with the principles set out in Article 5 UK GDPR.

11. Governance: Retention and Disposal of Shared Information

- 11.1. A non-originating Party shall securely destroy or return the Relevant Information once the need to use it has passed or, if later, upon the termination of this Agreement, howsoever determined. Where Relevant Information is held electronically, the Relevant Information will be deleted and formal notice of the deletion sent to the Party that shared the Relevant Information. Once paper information is no longer required, paper records will be securely destroyed or securely returned to the Party they came from.

- 11.2. Each Party shall provide an explanation of the processes used to securely destroy or return the information, or verify such destruction or return, upon request and shall comply with any request of the Data Controllers to dispose of data in accordance with specified standards or criteria.
- 11.3. If a Party is required by any law, regulation, or government or regulatory body to retain any documents or materials that it would otherwise be required to return or destroy in accordance with this Schedule, it shall notify the other Parties in writing of that retention, giving details of the documents or materials that it must retain.
- 11.4. Retention of any data shall comply with the requirements of Article 5(1)(e) GDPR and with all Good Practice including the Records Management NHS Code of Practice, as updated or amended from time to time.
- 11.5. The Parties shall set out any special retention periods in a Data Sharing Agreement where appropriate.
- 11.6. The Parties shall ensure that Relevant Information held in paper form is held in secure files, and, when it is no-longer needed, destroyed using a cross cut shredder or subcontracted to a confidential waste company that complies with European Standard EN15713.
- 11.7. Each Party shall ensure that, when no longer required, electronic storage media used to hold or process Personal Data are destroyed or overwritten to current policy requirements.
- 11.8. Electronic records will be considered for deletion once the relevant retention period has ended.
- 11.9. In the event of any bad or unusable sectors of electronic storage media that cannot be overwritten, the Party shall ensure complete and irretrievable destruction of the media itself in accordance with policy requirements.

12. Governance: Complaints and Access to Personal Data

- 12.1. The Parties shall assist each other in responding to any requests made under Data Protection Legislation made by persons who wish to access copies of information held about them ("Subject Access Requests"), as well as any other exercise of a Data Subject's rights under Data Protection Legislation or complaint to or investigation undertaken by the Information Commissioner.

- 12.2. Complaints about processing shall be reported to the Single Points of Contact and the ICB. Complaints about information sharing shall be routed through each Parties' own complaints procedure unless otherwise provided for in the Agreement or determined by the ICB. Where the complaint relates to processing undertaken by a Party acting as a Data Processor on behalf of the other Party, complaints shall be routed through the relevant Data Controller's own complaints procedure unless otherwise provided for in the Agreement.
- 12.3. The Parties shall use all reasonable endeavours to work together to resolve any dispute or complaint arising under this Schedule or any data processing carried out further to it.
- 12.4. Basic details of the Agreement shall be included in the appropriate log under each Party's publication scheme.

13. Governance: Single Points of Contact

- 13.1. The Parties each shall appoint a Single Point of Contact to whom all queries relating to the particular information sharing should be directed in the first instance.

14. Monitoring and review

- 14.1. The Parties shall monitor and review on an ongoing basis the sharing and wider processing of Relevant Information to ensure compliance with Data Protection Legislation and Best Practice. Specific monitoring requirements must be set out in the relevant Data Sharing Agreement and/or Data Processing Agreement.

SCHEDULE 6: Further Information Governance, Sharing and Processing Provisions**PART 2****Data Sharing Agreement**

Description	Details
Subject matter of the processing	Due to the complexities of Specialised Services and the distinctions between Delegated Functions and Reserved Functions, both the ICB Commissioning Teams (employed by the Host ICB) delivering Delegated Functions and the NHS England teams delivering Reserved Functions will need access to Relevant Information, which contains Personal Data. As set out in Schedule 6, Part 1, Paragraph 2.1, the Specified Purpose for sharing data is: ‘...to facilitate the exercise of the <i>Delegated Functions and NHS England’s Reserved Functions</i>.’ In order to achieve this purpose in the most effective, efficient and cost effective manner, the data will be hosted by NHS England in a collaborative working space which ICBs will have access to. NHS England will be responsible for ensuring that Commissioning Team staff have sufficient and appropriate access to Relevant Information to enable those staff to fulfil their commissioning functions in respect of the Delegated Services, including those described in Schedule 3 (Delegated Functions) to this agreement. In addition, NHS England may process the data for the following purposes: • development, oversight, and the quality improvement of Specialised Commissioning Functions; • undertaking work to evaluate the effectiveness of innovation and changes in delivery models and advising other bodies and organisations about these functions; • arranging the provision of services to support commissioning activities, to enable reporting and evaluations;

	• undertaking analysis, audits, and inspections to assess and assure the quality of Specialised Commissioning Functions; • supporting healthcare organisations to interpret population health data and evidence, and to undertake reviews of the likely effectiveness and cost-effectiveness of a range of interventions; • development a of strategies on population health outcomes and to identify gaps or deficiencies in current care and to produce recommendations for improvements, including in relation to specific pathways of care; • using and supporting health organisations to use health economic tools to support decision-making and interpreting data about the surveillance or assessment of a population's health to improve health outcomes and reduce health inequalities; • the development of population health policies and strategies, and their implementation
Duration of the processing	Unless otherwise specified in this Data Sharing Agreement, the processing shall commence on the Effective Date of Delegation and, as per paragraph 11.1 of this Schedule, shall continue until the need to use it has passed or, if later, upon the termination of this Agreement.
Nature and purpose of the processing	Personal Data is shared between the in relation to the delivery of the Delegated Functions. Such processing should ensure continued: • Provision of live services and associated reporting; • Quality improvement and assurance of services; • Dissemination of data for health and research purposes.
Type of Personal Data being Processed	<i>[An updated Data Protection Impact Assessment and Joint Control Agreement between the three NW ICBs and NHS England will be updated and shared in Q1 2025/26.]</i>
Categories of Data Subject	<i>[An updated Data Protection Impact Assessment and Joint Control Agreement between the three NW ICBs and NHS England will be updated and shared Q1 2025/26.]</i>

SCHEDULE 6: Further Information Governance, Sharing and Processing Provisions**PART 3****Data Processing Agreement**

Description	Details
Identity of the Controller and Processor	The ICB is the Data Controller and NHS England is the Data Processor.
Subject matter of the processing	Both the ICB Commissioning Teams (employed by the Host ICB) delivering Delegated Functions and the NHS England teams delivering Reserved Functions will need access to Relevant Information. In order to achieve this purpose in the most effective, efficient and cost effective manner, the data will be hosted by NHS England in a collaborative working space which ICBs will have access to. Consequently, NHS England will act as a Data Processor on behalf of the ICB in relation to the Relevant Information required to commission the Delegated Services and fulfil the Delegated Functions.
Duration of the processing	Unless otherwise specified in this Data Processing Agreement the processing shall commence on the Effective Date of Delegation and, as per paragraph 11.1 of this Schedule, shall continue until the need to use it has passed or, if later, upon the termination of this Agreement.
Plan for return and destruction of the data once the processing is complete	As set out in paragraph 11.1 of this Schedule
Nature and purpose of the processing	This Data Processing Agreement considers processing of any data by NHS England on behalf of the ICB Commissioning Teams in relation to the delivery of the Delegated Functions. Such processing should ensure continued: • Provision of live services and associated reporting; • Quality improvement and assurance of services; • Dissemination of data for health and research purposes.

Type of Personal Data being Processed	<i>Data will continue to be processed as set out in the Data Services for Commissioners Regional Office (DSCRO) arrangements described in the Health and Social Care Act 2012. There is no change to the type of personal information being processed.</i>
Categories of Data Subject	<i>Data will continue to be processed as set out in the Data Services for Commissioners Regional Office (DSCRO) arrangements described in the Health and Social Care Act 2012. There is no change to the type of categories of data subject information being processed.</i>

[ENDS]