LEICESTER, LEICESTERSHIRE AND RUTLAND PCT CLUSTER

INTEGRATED BOARD MEETING
8 December 2011

Memorandum of Understanding
October 2011 – March 2013 or until full authorisation

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RECOMMENDATIONS

The Trust Boards are requested to:

APPROVE principles set out in the paper.
1.0 Executive Summary

The purpose of this paper is to describe and agree the principles by which the functions of the Clinical Commissioning will be governed, managed and delivered during the period of transition. This paper follows the approval of the Corporate Governance Framework (i.e. the Standing Orders, Scheme of Delegation and the Standing Financial Instructions) by the PCT Cluster Board in October 2011. This Memorandum of Understanding should be read in conjunction with the PCT Cluster's Corporate Governance Framework.

During the interim period, Leicester, Leicestershire and Rutland (LLR) Primary Care Trust (PCT) Cluster Chief Executive remains the accountable officer and the CCG Managing Directors (or the Clinical Commissioning Group Board (CCG) Chair as appropriate) will have delegated responsibility. These guiding principles will only apply up until CCG’s are fully authorised.

The appendices will be frequently updated to reflect the shift in responsibilities from PCT/Cluster to CCG’s up until full authorisation.

2.0 Corporate Governance

2.1 Separation of Governance

NHS Leicestershire County and Rutland Primary Care (LCR PCT) and NHS Leicester City Primary Care Trust (LC PCT) remain the statutory bodies until April 2013 and the Chief Executive the Accountable Officer.

The LLR PCT Cluster Board has delegated authority to the LLR CCG Boards, and relevant lead officers to work within the parameters as approved by the PCT Cluster Board.

The LLR CCG Boards, as sub-committees of the respective statutory PCT Trust Boards, will be accountable to the LLR PCT Cluster Board and have delegated authority and responsibility to govern and manage the CCGs on a day to day basis, as agreed through the PCT Cluster Corporate Governance Framework. CCG Boards will abide by and adhere to, as applicable, the PCT Cluster's Corporate Governance Framework (i.e. the Standing Orders, Scheme of Delegations and the Standing Financial Instructions).

Individual CCG Boards will report to the LLR PCT Cluster Board through the presentation of an agreed report.

The Chair (or the CCG Managing Director as appropriate) will, on behalf of their CCG Board, report to the LLR PCT Cluster Board.

2.2 The Corporate Governance Framework

LLR CCG Boards will adhere to and abide by, as applicable, the LLR PCT Cluster’s Corporate Governance Framework which contains the
Standing Orders, Scheme of Delegation and the Standing Financial Instructions. The CCG Boards as sub-committees of the PCT Cluster Board will act within these regulatory controls to ensure that they are acting within the powers delegated to them. LLR PCT Cluster recognises that LLR CCG Boards will establish their own shadow corporate governance regulatory structure and controls, but require that they replicate those in operation within LLR PCT Cluster and do not differ other than where identifying the positions of the delegated officers concerned. During the CCG period of operation as a shadow organisation, the Board of each CCG will ensure that any alterations or variations made to its governance framework and structure and/or controls are within the scope of its delegation from the LLR PCT Cluster Board; are communicated to the LLR PCT Cluster Board; and are captured and recorded in detail. In areas of dispute, the LLR PCT Cluster Corporate Governance Framework (i.e. the Standing Orders, Scheme of Delegation and Standing Financial Instructions) will over-ride those of the CCG.

2.3 Risk Management

CCG Boards will operate in accordance with LLR PCT Cluster Risk Management Strategy and Policy and escalate risks as detailed within the Strategy and Policy. CCG Boards will maintain and monitor its own Board Assurance Framework and operational level Risk Registers. Reports to be presented to the Performance Transition Management Team and the PCT Cluster Audit Committee until full authorisation.

2.4 Internal Audit

LLR PCT Cluster will remain responsible for the production of a Statement on Internal Control for each of the statutory organisations. The contracting arrangements therefore for Internal Audit Services will continue to be controlled and monitored by LLR PCT Cluster and will include the input of resource to support prescribed audits within CCGs. A separate plan will be approved that will be monitored through the PCT Cluster Audit Committee, a CCG Lay Member will attend the PCT Cluster Audit Committee meetings (with Chief Finance Officers available to attend as necessary).

LLR CCGs, through involvement of the Managing Director, the Chief Finance Officer and the Quality and Governance Lead, will take part in discussions with LLR PCT Cluster lead officers and its Internal Audit Service to ensure its audit requirements are included within the annual plan.

Each CCG Board will establish shadow Audit arrangements from 1st April 2012, a Lay Member (and Chief Finance Officer as necessary) from each CCG will attend the PCT Cluster Audit Committee and present risk management reports including CCG Board risk registers.
2.5 **External Visits/Inspections**

CCGs will operate in accordance with the LLR PCT Cluster framework, “Policy for the Management of External Agency Visits, Inspections and Accreditations”. In the event of being notified of an assessment or visit by an external or regulatory body, the Managing Director (or Chair as appropriate) will notify the Chief Executive’s Office and the Associate Director of Corporate Governance.

2.6 **Legal advice.**

Until formal arrangements have been agreed, LLR PCT Cluster will continue to provide legal advice services to CCG Boards, including the management of claims.

2.7 **Board Committees**

In line with the Scheme of Delegation (as within the Corporate Governance Framework) the CCG Boards will operate as sub-committees of the respective PCT statutory Boards reporting to the LLR PCT Cluster Board. A member of each of the CCG Boards will attendance the following PCT Cluster Committees: Audit Committee and the Competition and Procurement Committee and the Quality Clinical Governance Committee.

### 3.0 Clinical Governance

3.1 **Serious Incidents (SIs)**

In the event of an SI, either clinical or non-clinical, which occurs within LLR and meets the criteria for a “Strategic Executive Information System” reportable incident, the provider unit are responsible for notifying LLR PCT Cluster within 24 hours of becoming aware of the incident. The Director of Quality within the PCT Cluster will have responsibility for Governance and will be responsible for informing the Chair (or equivalent) of the CCG and ensuring the incident is reported and investigated in line with LLR PCT Cluster Policy. CCG’s are responsible for oversight of the Patient Safety Team; East CCG will lead on this, on behalf of LLR CCGs.

3.2 **Medicines Management**

LLR PCT Cluster’s Medical Director will retain the Accountable Officer for Controlled Drugs status during this period. Monitoring of controlled drugs management will continue to be undertaken by the cluster Medicines Management Team and CCGs will be expected to cooperate with
monitoring processes. Longer term arrangements, post April 2013 are yet to be confirmed.

CCGs will ensure that safe systems and processes are established to ensure that handling of medicines and controlled drugs is in line with regulations and good practice. CCGs will ensure systems are in place for the monitoring of safe medicines management practices through contractual mechanisms with providers.

CCGs will participate in the Leicestershire Medicines Strategy Group (LMSG), whose remit is to provide on behalf of all Leicestershire commissioning and provider organisations, a strategic framework for the integrated, safe, clinical and cost effective use of medicines. LMSG also provides a central point for approval, ratification, monitoring and implementation of operational activities and outputs relating to medicines use.

3.3 Complaints

The LLR PCT Cluster are responsible for dealing with primary care complaints, with a system to ensure CCG involvement. Longer term arrangements, post April 2013 are yet to be confirmed.

3.4 Infection Prevention and Control

The CCG’s Chief Nurse (consistent title across CCG’s still to be agreed) will fulfill the requirements of the Cluster’s Director of Quality (to whom they are professionally accountable) on behalf of CCGs and will also be a member of LLR Cluster Quality and Clinical Governance sub-committee for added assurance. The CCG will operate in accordance with the local health economies policies and procedures and will coordinate the CCG contribution to the Cluster’s performance report to the SHA.

3.5 Safeguarding

The PCT Cluster’s Director of Nursing will be the lead officer for Children’s, young peoples and Adult Safeguarding respectively for CCGs. She will operate in accordance with the multiagency policy and procedures set out by the Local Safeguarding Children’s Board (LSCB) and Local Safeguarding Adults Board (LSAB) and the LLR PCT Cluster’s Safeguarding Strategy and associated policies and procedures. She will coordinate the CCG’s contribution to the PCT’s performance reporting to the SHA, LSCB and LSAB.

3.6 Professional Accountability
GPs working with CCGs will have accountability for their commissioning decisions to the Cluster Board and professional accountability through their Responsible Officer. Nurses working in the CCGs will have accountability for their commissioning decisions to the Cluster Board and the Cluster Nurse Director. GPs and Nurses working within CCG should be mindful that they conduct themselves in their new role applying professional standards expected by the GMC and NMC.

4.0 Information Governance

4.1 General

Information Governance will be replicated in both LLR PCT Cluster and LLR CCG Boards. LLR PCT Cluster will hold statutory responsibility for complying with the Data Protection Act and Information Governance standards until April 2013.

From April 2012, responsibility for GP Practices complying with Information Governance requirements will be transferred/delegated from LLR Cluster to CCG’s via the SLA with CBSS.

From April 2013, LLR CCGs will develop a collaborative contractual approach to ensuring the provision of a high quality Health Informatics Service directly to each CCG. The back office commissioning support will be provided by the Commissioning Business Support Services (CBSS), incorporating Performance, Informatics, Procurement, Continuing Health Care, Health Information Systems. An SLA will be established from April 2012.

CCG Boards will develop processes for managing other areas of information governance, industry compliance with the information governance toolkit and the development of policies and procedures.

The Senior Information Risk Owner (SIRO) for LLR PCT Cluster is the Director of Commissioning Development. In addition, each CCG will have a SIRO to work with the LLR PCT Cluster’s SIRO in the shadow period and share the Cluster Information Governance Team.

Primary Care Contracting will remain part of the LLR PCT Cluster’s lead responsibility until April 2013 when it will be hosted by the National Commissioning Board. CCGs will be expected to refer any relevant quality issues to the Cluster’s Primary Care Contracting Team, who will address them through the contractual processes in place.

4.2 Freedom of Information

LLR PCT Cluster will continue to co-ordinate responses to Freedom of Information (FOI) requests; CCGs will work with the LLR PCT Cluster
Corporate Governance Team and assist in the process of providing the information requested, to timescale.

4.3 **Caldicott**

Until legislation allows, the Director of Nursing within LLR PCT Cluster retains the role of Caldicott Guardian.

5.0 **Local Authority Governance**

To follow at a later date.

6.0 **Financial Governance**

The Director of Finance of LLR PCT Cluster will be the fraud responsible officer as well as remaining accountable for the financial performance of the CCG Boards, given her statutory responsibility to produce, inter alia, LLR PCT Cluster consolidated annual accounts which include the financial results of the CCGs against their delegated budgets. The PCT Cluster are responsible for approving budgets with each CCG for 2012/13 and then providing monthly monitoring of expenditure against budgets. CCGs are responsible for meeting agreed financial targets delegated to them, as part of the preparation for authorization. Only the PCT Cluster will have the ability to hold central reserves to mitigate against risk.

CCGs will have a Chief Finance Officer who will be accountable to LLR CCGs Managing Director (or Chair, as appropriate), acknowledging that LLR PCT Cluster’s Director of Finance has overall accountability. There will be regular meetings between the Cluster Director of Finance and CCG Chief Finance Officers to monitor progress.

LLR PCT Cluster will manage any over or under spends across the CCG’s in the best interest of LLR collaboratively.

CCG’s will be responsible for contract negotiations and oversight from December 2011.

6.1 **Annual Reporting Requirements**

The parties recognise that LLR PCT Cluster has a statutory responsibility to produce consolidated annual accounts (Commissioning and CCG) for the Department of Health, following a detailed, prescribed format and timetable.

The annual accounts are subject to External Audit. LLR CCGs will provide such supporting working papers that are required for audit purposes, to the appropriate standard in line with the prescribed timetable.
LLR CCGs will participate in the production of LLR PCT Cluster consolidated annual accounts, a programme led by LLR PCT Cluster’s accountants in accordance with a detailed timetable produced by LLR PCT Cluster for each financial year to ensure accounts production and completion in accordance with published deadlines.

The detailed timetable will also expressly identify the contribution of the LLR PCT Clusters to all documented NHS reporting requirements and to the development and production of the Annual Report of LLR PCT Cluster. CCGs are expected to keep their own record of accounts.

6.2 **Financial Accounting, Coding and Reporting**

LLR PCT Cluster is currently reviewing its financial ledgers both in terms of provision and structure. This will take into account the requirements of both parties in ensuring a fit for purpose arrangement is put in place which will allow LLR CCGs to demonstrate its financial capability to operate independently. LLR PCT Cluster will be distinguishing between elements of the commissioning budget which will not transfer to CCGs because they will be the responsibility of the National Commissioning Board and Local Authorities beyond April 2013.

The disaggregation of budgets will be carried out in conjunction with a set of principles approved by the Commissioning Collaborative Board in November 2011. Coding is not an issue, the change will be seen in the revised reporting arrangements. LLR PCT Cluster will be passing over delegated commissioning budgets to CCGs in their entirety.

6.3 **Monthly Reporting Requirements**

LLR PCT Cluster meets its statutory financial reporting responsibilities to the Department of Health by having in place a robust monthly reporting process to the Board of LLR PCT Cluster. The monthly report (as reflected in the SBS general ledger) sets out, as a minimum, both the actual financial position to date, and the expected year-end forecast outturn. LLR Cluster Board will continue to receive the consolidated position for both Commissioning and CCGs each month.

LLR CCGs will participate in the production of the consolidated monthly report to the Board of the LLR Cluster, assisting the Director of Finance and the Financial Accountant of LLR Cluster in the completion of the detailed tasks required to ensure the monthly timetable deadlines are met.

LLR CCG’s Chief Finance Officers shall report the financial performance of the CCG to its Board on a regular basis and requires that the LLR Cluster finance teams assist in the collection and production of financial information to assist in this process.

Monitoring of performance against all financial performance, takes place in a monthly Delivery Group, run by LLR PCT Cluster, with representation
from CCGs. Outputs from the Delivery Group go onto the Performance Transition Management Team meeting and then to the Board for further assurance. QIPP performance by CCG is reported as part of the financial dashboard, which goes to the Cluster Board each month.

FIMS reporting remains the obligation of LLR PCT Cluster, and LLR PCT CCG’s will provide the required financial information to ensure all Cluster obligations in this regard are met.

CCG’s will be expected to input into the 2012/13 planning round as they develop into fully authorised, autonomous organisations.

6.4 **Formal Communication between Finance Teams**

LLR PCT Cluster and LLR CCG finance teams will communicate on a regular basis to ensure that key deliverables outlined above are met/adhered to, and a meeting schedule is formally agreed. A Finance SLA will be drawn up to clarify the agreement between the Cluster Team and CCG.

6.5 **Professional Responsibilities of the CCGs Chief Finance Officer**

The LLR CCG’s Chief Finance Officers will remain professionally accountable to the Director of Finance of LLR PCT Cluster and will keep her fully informed of all significant issues and when required, involve her in significant decisions which need to be taken. There will be regular meetings between the Cluster Director of Finance and all 3 CFO’s. City and West CFO’s Professional development, appraisals and objective setting will be carried out by their line manager and the Cluster PCT Director of Finance. East Leicester and Rutland’s CCG’s CFO’s professional development, appraisal and objective setting will be with her line manager and the Cluster PCT CEO (in liaison with the PCT DoF) as per her secondment agreement.

6.6 **Financial Arrangements**

A separate financial management function exists within LLR CCGs but a number of functions continue to be provided by LLR Cluster with respect to technical and financial accounting processes that will need to be identified through a service level agreement. Over time, a review of these arrangements will take place to ensure LLR CCGs are able to demonstrate independent financial capability and value for money.

With effect from April 2012, the financial management function of LLR CCGs will operate independently, whilst maintaining the close monitoring and control relationships required by LLR Cluster Standing Financial instructions adopted by LLR Cluster Board.

With effect from April 1st 2012 LLR Cluster will procure internal Audit services on behalf of LLR CCGs. The required proportionate allocation
of CCGs resource will be transferred, and LLR Cluster will recharge each CCG for its direct share (as appropriate) of the overall cost. The Chief Finance Officers of each CCG will participate with LLR Cluster’s Director of Finance in the commissioning of these joint services, so as to enable the CCGs to commission its own, separate internal audit services in the future.

Finance will be part of the LLR Commissioning Business Support Services (CBSS). CCG’s will choose what level of financial support they’ll buy and how much they will provide themselves.

6.7 **Performance Escalation Process**

Where a CCG is repeatedly not meeting its financial targets the Cluster has the ability to withdraw part or all delegated authority and affect authorisation. In this situation the PCT Cluster would work with the CCG to improve financial performance and re-establish full financial delegation as quickly as possible.

7.0 **Performance: Targets and Standards**

In the Operating Framework for 2011/12, there are a number of quality indicators that the Clinical Commissioning Groups and the Cluster are being held to account for delivery. Currently the responsibility for delivery has been allocated as below:-

- CCGs – indicators that are delivered through primary care. These include NHS Health Checks and Choose & Book.
- Cluster - indicators are delivered by the Cluster itself, and jointly with the CCG and the Local Authority; these are contractual indicators with UHL, LPT, EMAS and primary care, and public health indicators.

Assurance for delivery for the confirmed quality indicators in 2011/12 and those to be confirmed for 2012/13 is provided to the Cluster and CCG Boards through the Performance Transitional Management Team on a monthly basis.

8.0 **On Call Arrangements**

Current PCT/Cluster Senior Management On-Call Arrangements will remain until April 2013. Substantive PCT/Cluster Directors will therefore continue undertaking a 1 in 9 out of hours on-call commitment.

9.0 **Research and Development**

NHS permissions and approvals for research studies to proceed within LLR primary care organisations are signed off separately by the respective R&D leads for NHS Leicester City and NHS Leicestershire County and Rutland (some studies will only involve practices and patients from one Trust). LLR PCT Cluster has a joint Service Level Agreement with the LNR Comprehensive Local Research Network for the provision of research management and governance services. The SLA will be open to re-negotiation in the future, once the location
of the R&D function for the LLR Cluster has been determined. Accountability for Research and Development, including assurance that research complies with the Research Governance Framework, and that study grants and research funding are hosted and administered, will be the responsibility of the R&D Leads of the LLR PCT Cluster until April 2013 or if research is to be hosted by one or more CCG, until such a time as it/they receive authorisation. CCGs will be consulted about approval and funding decisions attached to received research studies that become active beyond the life of the LLR Cluster. CCGs will have oversight of the primary care research network; Leicester City CCG will lead on this, on behalf of the LLR CCGs.

10.0 Human Resources and Workforce Development

The Human Resources (HR) teams for NHS City Leicester PCT and NHS Leicester County and Rutland PCT, are working as one. Accountability for HR and Organisational Development (OD) related issues remain in the Cluster at present, however, CCG’s need to start to develop an awareness and understanding of the duties systems, processes and potential legal implications and challenges.

The HR team manages a Service Level Agreement (SLA) with Leicester Partnerships Trust (LPT) for the Integrated Equality Service. Payroll is outsourced to Shared Business Services (SBS) for NHS Leicester County & Rutland PCT and Capita for NHS Leicester City PCT, although the latter will change to SBS from 1 November 2011.

The Workforce Information function is provided by LPT under an SLA. Recruitment administration and Electronic Staff Record processing for NHS Leicester City PCT is currently provided by LPT Community Health Services under an SLA and is being brought back in-house. There is an early piece of scoping work to consider a solution for East Midlands Cluster outsourcing back office (transitional) HR activities.

LLR PCT Cluster currently hosts the LLR Workforce Development team (Education Commissioning) under an SLA from the East Midlands Strategic Health Authority (Deanery). The hosting arrangements for this team will transfer to University Hospitals of Leicester NHS Trust (UHL) with effect from 1 April 2012.

11.0 Strategic Estates and Facilities

The PCT Cluster will provide Strategic Estates and Facilities services to the CCGs as required. Depending on national guidance, this service may transfer elsewhere in the future under a service level agreement.

Attached Papers:-

Appendix 1: East Leicester and Rutland Delegation Update as at October 2011
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