

AGENDA ITEM 8

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

17TH MARCH 2016

SOCIAL SERVICES AND WELLBEING ACT: IMPLEMENTATION PROGRAMME CWM TAF SOCIAL CARE WORKFORCE DEVELOPMENT SERVICE

REPORT OF GROUP DIRECTOR, COMMUNITY & CHILDREN'S SERVICES, IN DISCUSSION WITH THE RELEVANT PORTFOLIO HOLDER'S, COUNCILLOR FOREY AND COUNCILLOR HOPKINS

**Author: Giovanni Isingrini, Group Director Community & Children's Services
Tel: 01443 424140**

1. PURPOSE OF REPORT

To present to Cabinet the proposed legal agreement and financial schedule for Rhondda Cynon Taf and Merthyr Tydfil Council to govern the regional arrangements for the Cwm Taf Social Care Workforce Development service

2. RECOMMENDATION

It is recommended that the Cabinet:

- 2.1 Endorse the detailed Governance arrangements for the Cwm Taf Social Care Workforce Development Service as set out in the Legal Agreement for Rhondda Cynon Taf and Merthyr Council attached as Annex 1

3. REASONS FOR RECOMMENDATIONS

- 3.1 In October 2015 Cabinet authorised for officers to create a joint social care workforce development unit across Rhondda Cynon Taf and Merthyr Tydfil Local Authorities with RCT acting as the host employer
- 3.2 The detailed Governance arrangements set out in the attached Legal Agreement will provide the required framework for officers to progress this arrangement when formally endorsed

4. BACKGROUND

- 4.1 Rhondda Cynon Taf receives an annual Grant from Welsh Government to support its Social Care Workforce Development Programme. As reported to Cabinet in July applications for 2015-16 were for the first time required to be submitted on a regional basis

- 4.2 Welsh Government acknowledge that there is a significant transition between local and regional working but their expectation is for the integration of training plans and amalgamation of partnerships
- 4.3 With this understanding of the Welsh Government direction of travel the Cwm Taf Social Services and Wellbeing Partnership agreed as part of its regional implementation plan to initiate a review of the social care training arrangements in the two Local Authorities.
- 4.4 The outcome of this review recommended the development of a joint Regional Workforce Development Unit
- 4.5 The benefits of the proposed regional Social Care Workforce Development Unit are as follows:
 - Promotes more effective deployment of resources.
 - Builds on the existing collaborative arrangements for other workforce development solutions.
 - Aligns to the national, regional and local transformation agenda.
 - Creates opportunities to improve the operating model of the service.
 - Supports the business case for expressions of interest for VER/VR/ reduction of hours submitted by staff.

5. THE LEGAL AGREEMENT

- 5.1 The Legal agreement has been developed with the advice and endorsement of RCT Legal, Finance and Human Resource officers in addition to specialist advice from Eversheds regarding the TUPE Regulations
- 5.2 The agreement will commence on the 1st of April 2016 initially for 12 months with facility to extend every 2 years thereafter
- 5.3 RCT is identified as the host employer. Operational management will be located within the remit of the Head of Transformation with the overall governance overseen by a Management Board. The terms of reference for the Management Board are set out in schedule 2 of the attached legal agreement
- 5.4 RCT will provide the financial, administrative, accounting systems and associated support for the Cwm Taf Social Care Workforce Development Service.
- 5.5 Schedule 4 of the attached legal agreement sets out the Financial Protocol that will govern the financial relationship between RCT and Merthyr council
- 5.6 As set out in the agreement the anticipated value of 'cash' contributions required to fund the operation of Cwm Taf Social Care Workforce Development Service during the Initial Term (based on initial service delivery plans) is shown in figure 1 below:

	Estimated Budget 2016/17		
	RCTCBC	MTCBC	Total Cwm Taff
Local Authority Core Expenditure Budget	513,458	69,470	582,928
SCWDP (Grant Funded) Expenditure Budget	555,613	174,149	729,762
SCWDP (LA Core 30% Match Funding) Expenditure Budget	238,120	74,636	312,756
Less SCDWP Grant Income	-555,613	-174,149	-729,762
Net LA Core Funding Budget 2016/17	751,578	144,106	895,684
<u>Other grant funding</u>			
PLOF (Grant Funded) Expenditure Budget	100,792	17,900	118,692
Less PLOF Grant Income	-100,792	-17,900	-118,692
Net Plof Budget 2016/17	0	0	0

Figure 1

6. HUMAN RESOURCES

- 6.1 The staff structure has been shared with Trade Unions and staff as part of a formal consultation period (ended on the 12th of February) with no significant concerns raised. The final structure is published in the attached Legal Agreement as schedule 5
- 6.2 Human Resources have worked alongside the service to ensure that the process complies with the requirements of TUPE
- 6.3 RCT staff who have expressed interest in pursuing VER/VR are to be supported and arrangements to pursue this within this financial year are in place

7. EQUALITY AND DIVERSITY IMPLICATIONS

- 7.1 The specific arrangements for the Social Care Workforce Development Programme (SCWDP) are set annually by the Welsh Government in their Social Care Workforce Development Circular. Other arrangements are set through the regulations covering social care services. The merger of the social care workforce development service will not affect its ability to meet these requirements and reduce training opportunities for staff

8. CONSULTATION

- 8.1 The affected staff in both councils were engaged in the service review in 2015.
- 8.2 Staff and Trade Unions have participated in a formal consultation process across the region. This consultation process concluded on the 12th of February. No significant concerns were expressed during the consultation period

9. FINANCIAL IMPLICATION(S)

- 9.1 There are no financial implications aligned to this report for the council and the services will be funded within existing service budgets or through access to the Social Care Workforce Development Grant (as set out in the financial protocol in schedule 4 of the attached appendix 1)

10. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

- 10.1 The Legal agreement sets out each council's responsibilities with regards to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).
- 10.2 During the development of the agreement RCT commissioned specialist Legal advice (Eversheds) to ensure compliance with current TUPE Regulations

11. LINKS TO THE COUNCILS CORPORATE PLAN/OTHER CORPORATE PRIORITIES/SIP

- 11.1 The integration of the social care workforce development service supports
- Better coordination- joining up services and activities across partner organisations.
 - Redesigned local services – integrated and efficient

OTHER INFORMATION:

Relevant Scrutiny Committee

- Health and wellbeing scrutiny committee
- Children and Young People Scrutiny Committee

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

17th MARCH 2016

**REPORT OF THE GROUP DIRECTOR, COMMUNITY AND CHILDREN'S SERVICES IN
DISCUSSIONS WITH THE RELEVANT PORTFOLIO HOLDERS**

ITEM:

**SOCIAL SERVICES AND WELLBEING ACT: IMPLEMENTATION PROGRAMME
CWM TAF SOCIAL CARE WORKFORCE DEVELOPMENT SERVICE**

Background Papers:

Annex 1 Legal Agreement for the provision of a joint cwm taf social care workforce development service

Officer to contact: Sian Nowell Head of Transformation - sian.nowell@rctcbc.gov.uk

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DATED 1st April 2016

MERTHYR TYDFIL COUNTY BOROUGH COUNCIL

and

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

(Each a 'Party' and together 'the Parties' to this Agreement)

AGREEMENT

FOR THE PROVISION OF A JOINT CWM TAF SOCIAL CARE WORKFORCE
DEVELOPMENT SERVICE

THIS AGREEMENT is made the first day of April 2016 **BETWEEN MERTHYR TYDFIL COUNTY BOROUGH COUNCIL** of Civic Centre, Castle Street, Merthyr Tydfil, CF47 8AN (“Merthyr”) and **RHONDDA CYNON TAFF COUNTY BOROUGH COUNCIL** of The Pavilions, Cambrian Park, Clydach Vale, Tonypany, CF40 2XX (“RCT”) (hereinafter called “the Parties”)

WHEREAS

- i) Ultimate responsibility for social care workforce development within RCT and Merthyr lies with the appointed and designated Director of Social Services (for the purposes of the Local Authority Social Services Act 1970). This function is currently undertaken by the Social Care Workforce Development Service within each Party.
- ii) Each Party’s Social Care Workforce Development Service is responsible for improving the quality and management of Social care provision through planning and arranging learning development and qualification opportunities for the Local Authority, Independent and Third sector social care workforce, with consideration of the priorities specified in the annual circular for the Social Care Workforce Development Grant .
- iii) In order to better co-ordinate the provision of such functions and responsibilities the Parties have agreed to establish a joint Social Care Workforce Development Service to be known as the “Cwm Taf Social Care Workforce Development Service”.
- iv) This Agreement provides for the establishment of the Cwm Taf Social Care Workforce Development Service which will provide the functions as set out in Schedule 1 on behalf of the Parties.
- v) Host Services support for the Cwm Taf Social Care Workforce Development Service will be provided by RCT.

- vi) The Cwm Taf Social Care Workforce Development Service Management Board will provide the strategic direction with the aim of improving the quality and management of social care provision through a planned approach to learning development and qualifying programmes and by seeking to increase the take-up of this provision across the social care sector.
- vii) The Parties have each passed the necessary resolutions for the purposes of entering into this Agreement.

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 In this Agreement:

- 1.1.1 “s151 Officer” means each Party’s Chief Financial Officer (as defined by section 151 of the Local Government Act 1972);
- 1.1.2 “Accounts Date” means 1st April 2016;
- 1.1.3 “Agreement” means this agreement including the Schedules;
- 1.1.4 “Commencement Date” means 1st April 2016;
- 1.1.5 “Staffing Information” means staffing Information regarding the Employees;
- 1.1.6 “Cwm Taf Social Care Workforce Development Service” means the functions to be provided to the Parties as set out in Schedule 1 by the Staff under the direction of the Cwm Taf Social Care Workforce Development Service Manager;
- 1.1.7 “Cwm Taf Social Care Workforce Development Service Management Board” means a board comprising of those members

set out in Schedule 2. The board shall operate as set out in Schedule 2;

- 1.1.8 “Demand” means any action, award, claim or other legal recourse, complaint, cost, debt, demand, expense, fine, liability, loss, outgoing, penalty or proceeding made pursuant to clause 4, clause 6 or Schedule 3B;
- 1.1.9 “Disclosed” means fairly disclosed (with sufficient explanation and detail to identify clearly the nature of the matters disclosed) in the Disclosure Letter;
- 1.1.10 “Employees” means the persons wholly or mainly employed by Merthyr in the Merthyr Social Care Workforce Development Service at the TUPE Transfer Date (which at that date consists of those persons whose details are set out in Schedule 3A (the Employees));
- 1.1.11 “Financial Contributions” means the financial contributions to be made by each of the Parties for the provision of the Host Services and the Cwm Taf Social Care Workforce Development Service in accordance with Clause 8 and the Financial Protocol;
- 1.1.12 “Financial Protocol” means the protocol set out in Schedule 4;
- 1.1.13 “Host” means RCT;
- 1.1.14 “Host Services” means the provision by the Host of all support services (save for the day to day administration undertaken by Staff in accordance with their duties) required by the Cwm Taf Social Care Workforce Development Service including but not limited to Financial (Accounts, Payroll, Creditors, Debtors, Insurance) Human Resources, Health and Safety, Legal, ICT, Estates, PR/Marketing, Information Management, Internal Audit and Procurement;

- 1.1.15 “Information Sharing Framework” means the framework set out in Schedule 6;
- 1.1.16 “Indemnity” means a full (unlimited) indemnity provided by Merthyr to RCT in respect of any Demand made by an Employee, any employee other than an Employee or any third party;
- 1.1.17 “Staff” means the staff required to provide the Cwm Taf Social Care Workforce Development Service;
- 1.1.18 “Taxation or Tax” means all forms of taxation and statutory, governmental, state, federal, provincial, local, government or municipal charges, duties, imposts, contributions, levies, withholdings or liabilities wherever chargeable and whether of the UK or any other jurisdiction; and any penalty, fine, surcharge, interest, charges or costs relating thereto;
- 1.1.19 “TULRCA” means the Trade Union and Labour Relations (Consolidation) Act 1992;
- 1.1.20 “TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014;
- 1.1.21 “TUPE Transfer Date” means 1st April 2016; and
- 1.1.22 “Warranties” means the warranties set out in clause 6, 13 and Schedule 3B.
- 1.2 Clause headings in this Agreement are for convenience only and shall have no contractual effect.
- 1.3 Any reference to a Clause is a reference to a Clause of this Agreement.

- 1.4 Any reference to a Schedule is a reference to a Schedule to this Agreement.
- 1.5 Words importing one gender shall include the other genders and words importing the singular include the plural and vice-versa.
- 1.6 Reference to “individual” or “person” shall include bodies corporate, unincorporated associations and partnerships.
- 1.7 Any reference to any enactment or statutory instrument shall be deemed to include reference to such enactment or statutory instrument as re-enacted amended or extended.
- 1.8 An obligation not to do or omit to do something shall be deemed to include an obligation not to permit or (so far as is reasonably practicable) suffer that thing to be done or omitted to be done.
- 1.9 An obligation to do something shall include an obligation to seek to procure that it is done.

2. CO-OPERATION AND DISCUSSION

- 2.1 This Agreement is entered into on the basis that the Parties will work on a basis of co-operation and will arrange to discuss with each other as soon as possible any problems or disputes which arise and will attempt to resolve any difficulties through negotiation at an early stage and to make themselves available with reasonable notice to discuss the issues under dispute.

3. AGREEMENT

- 3.1 This Agreement is made under the powers conferred by Section 101 and 111 of the Local Government Act 1972, Section 25 of the Local Government Wales Act 1994, the Local Authorities (Goods

and Services) Act 1970 and Sections 2, 19 and 20 of the Local Government Act 2000 and all other enabling powers now vested in the Parties.

- 3.2 The Cwm Taf Social Care Workforce Development Service Management Board will provide the strategic direction to the Cwm Taf Social Care Workforce Development Service and shall have the terms of reference set out in Schedule 2.

4. TERM AND TERMINATION

- 4.1 The initial term of this Agreement will begin on the Commencement Date and end on the first anniversary of the Commencement Date (the 'Initial Term').
- 4.2 If either Party does not wish to continue with the Agreement at the end of the Initial Term it must give at least [3] months notice in writing prior to end of the Initial Term of its intention to the other Party.
- 4.3 Following the Initial Term, and if no Party has given notice of its intention not to continue with the Agreement in accordance with clause 4.2 above this Agreement shall automatically renew for successive 2 year terms (each 2 year term known as a 'Renewal Term'), unless terminated earlier in accordance with clause 4.4 below.
- 4.4 Unless mutually agreed by both Parties, any Party proposing to withdraw from this Agreement following the expiration of the Initial Term and during any Renewal Term must notify the other Party by

giving not less than 6 months notice in writing of its intention to withdraw expiring on 31st March in any given year.

4.5 Any Party withdrawing from this Agreement irrespective of whether notice has been issued in accordance with the terms of this Agreement shall remain liable in accordance with the apportionments set out in Clause 8, for any financial or other obligation or liability (actual or contingent) incurred during the period as a Party to this Agreement in respect of the Cwm Taf Social Care Workforce Development Service.

4.6 Assets and liabilities of the Parties at termination shall be apportioned on the basis set out in Clause 8.

5. CWM TAF SOCIAL CARE WORKFORCE DEVELOPMENT SERVICE

5.1 The Cwm Taf Social Care Workforce Development Service will be provided to both parties within the Parties' areas.

6. STAFFING

6.1 The Parties agree that the creation of the Cwm Taf Social Care Workforce Development Service pursuant to this Agreement will constitute a relevant transfer for the purposes of TUPE and, accordingly, that it will not operate so as to terminate the contracts of employment of any of the Employees. Such contracts shall be transferred to RCT pursuant to TUPE with effect from the TUPE Transfer Date.

6.2 Merthyr undertakes to RCT:

- 6.2.1 that it has complied with, and shall up to and including the TUPE Transfer Date, comply with all of its obligations and those of any of its predecessors (whether or not legally binding or in respect of which it would be expected to comply by any regulatory or other body to which it is subject) due to or in connection with the Employees or any body representing them (or any of the said obligations Merthyr would have had under or in connection with such contracts but for TUPE);
- 6.2.2 that it has paid and shall pay all sums due to or in relation to the Employees up to and including the TUPE Transfer Date (whether arising under common law, statute, equity or otherwise) including without limitation all salaries, wages, bonus or commission, all statutory contributions, holiday pay (including payment for accrued but untaken holiday), expenses, National Insurance and pension contributions made to or on behalf of the employee, liability to Taxation (including all income tax deductible under PAYE) and other employment costs (such as the provision of non-pecuniary benefits) payable in respect of any period up to the TUPE Transfer Date;
- 6.2.3 that it has complied, and shall comply in all respects, with its obligations under regulation 11 of TUPE and that in good time before the TUPE Transfer Date, and in any event at least 28 days in advance of the Commencement Date provide Staffing Information to RCT. Where Merthyr becomes aware of any changes to the Staffing Information it will notify RCT in writing within seven days of becoming aware of any such change;

- 6.2.4 that there are no sums owing to or from any Employee other than reimbursement of expenses for the current month and wages for the current salary period (which will be paid in accordance with clause 6.2.2);
- 6.2.5 that it has complied and shall comply in all respects with regulation 13 of TUPE and Part IV of TURLCA and that it has provided and shall provide to RCT such information as RCT may request in writing in order to verify such compliance:
- 6.2.6 that it has not terminated and shall not terminate or take any steps to terminate (constructively or otherwise) the employment of any of the Employees (without the prior written consent of the RCT);
- 6.2.7 that it will not employ, engage or transfer any person who is not an Employee to work in the Cwm Taf Social Care Workforce Development Service without the prior written consent of RCT; and
- 6.2.8 to provide an Indemnity to RCT against Demands (including legal and other professional fees and expenses) which RCT or any third party supplier may suffer, sustain, incur, pay or be put to arising from or in connection with;
- (i) any breach by Merthyr of the Warranties contained in Schedule 3B to this Agreement;
 - (ii) any failure by Merthyr to comply with its obligations under this clause 6.2; or

- (iii) the employment of the Employees or the termination of their employment by Merthyr on or before the TUPE Transfer Date;
- (iv) any failure by Merthyr on or before the TUPE Transfer Date to comply with its legal obligations in respect of any of the Employees: or
- (v) the transfer to RCT, by virtue of TUPE, of the employment of any employee of Merthyr other than the Employees; or
- (vi) any act or omission before the TUPE Transfer Date which, by virtue of TUPE, is deemed to be an act or omission of RCT; or
- (vii) any liability arising from Merthyr's failure to comply with its obligations under regulation 13 of TUPE.

6.3 If any contract of employment or engagement or collective agreement not Disclosed to RCT has effect as if originally made between RCT and any person or body or their representatives as a result of the provisions of TUPE or otherwise:

- (i) RCT may terminate such contract or agreement; and
- (ii) Merthyr shall provide the Indemnity and hold RCT harmless against all Demands (including any liability to Taxation and legal and other professional fees and expenses) that RCT may suffer, incur, sustain, pay or be put to:
 - (a) by reason of, on account of or arising out of such termination; or

- (b) arising from such contract or collective agreement before the TUPE Transfer Date, if RCT does not terminate such contract or collective agreement.

6.4 RCT undertakes that it shall:

- (i) comply with its obligations arising out of or in connection with any Employee's employment;
- (ii) perform and observe all of its obligations arising under regulation 13 of TUPE, including providing Merthyr with such information as is necessary in order to allow it to perform its own obligations under regulation 13 of TUPE and its obligations arising under section 188 of TULRCA; and
- (iii) provide Merthyr with an indemnity against all Demands (including legal and other professional fees and expenses) arising out of or in connection with any failure by RCT to comply with its obligations under clause 6.4 (i) and clause 6.4 (ii) above or any Demand (including legal and other professional fees and expenses) arising out any Employee being or ceasing too be an employee of RCT after the TUPE Transfer Date.

6.5 Without prejudice to the other provisions of this Clause 6, Merthyr shall, at its own reasonable expense, give RCT such assistance as RCT may reasonably require to contest any Demand by any person employed or engaged by Merthyr at or before the TUPE Transfer Date or their

representatives resulting from or in connection with this Agreement, subject always to Merthyr's obligations under the DPA 1998.

- 6.6 Merthyr shall, upon request by RCT and at Merthyr's reasonable expense, and subject always to Merthyr's obligations under the DPA 1998, provide to RCT such information or documents as RCT may reasonably require relating to the terms of employment, pension and life assurance arrangements, health benefits, welfare or any other matter concerning any of the Employees or any trade union, employee representative or body of employees or their representatives or relating to collective agreements or collective or individual grievances in the period before the TUPE Transfer Date.
- 6.7 All day to day administration, management and direction of Staff shall be undertaken by the Cwm Taf Social Care Workforce Development Service Manager.
- 6.8 The Cwm Taf Social Care Workforce Development Service Manager shall not, and will not require any member of the Staff to do anything that shall breach the employment contract of the employee and shall have no authority to vary the terms of such employment contract. The Cwm Taf Social Care Workforce Development Service Manager shall provide RCT with such information and assistance as it may reasonably require to carry out its obligations as the employer.
- 6.9 In accordance with the provisions of Clause 2 of this Agreement the Parties will co-operate with each other with regard to any employment issues arising from the termination of this Agreement, howsoever arising,

including, without limitation, looking at reducing the number of redundancies wherever possible and complying with employment law including policies and procedures with a view to minimising the risk of any Demand and other employment law liabilities arising from the termination of this Agreement. To the extent that any Demand or other employment liabilities arise as a consequence of the termination of this Agreement for any reason, these will be dealt with in accordance with clauses 8, 10 and 12 of this Agreement.

6.10 Pension

6.10.1 The Cwm Taf Social Care Workforce Development Service employees will be afforded membership of the Local Government Pension Scheme within the Local Government Pension Scheme (which is administered by Rhondda Cynon Taff). All eligible employees engaged in connection with the functions carried out by the Cwm Taf Social Care Workforce Development Service may participate in the Local Government Pension Scheme.

6.10.2 Transfer of previous pension rights will be undertaken in accordance with the Local Government Pension Scheme (Administration) Regulations 2008.

6.11 An organisational structure chart for the Cwm Taf Social Care Workforce Development Service (applicable at the Commencement Date) is annexed at Schedule 5.

7 HOST SERVICES

7.1 It is agreed between the Parties that for the purpose of the development and operation of the Cwm Taf Social Care Workforce Development Service, the Host shall provide the Host Services and subject to Clause 7.2 shall have authority as from the Commencement Date to enter into any agreement necessary with any third party in respect of the provision of Host Services including without prejudice to the generality of the foregoing any agreement relating to the purchase and provision of goods and services. Any such agreement for the purchase and provision of goods and services would be made in accordance with RCT Contract Procedure Rules and RCT Financial Procedure Rules (which require all expenditure to be incurred within the agreed budget), the Financial Protocol and all relevant legislation. Where any such agreement is for a period greater than two years and is for the Cwm Taf Social Care Workforce Development Service only (rather than having wider applicability for RCT) and/or commits the Cwm Taf Social Care Workforce Development Service to expenditure (rather than providing a mechanism for potential use) then this shall be subject to the approval of both Parties' s151 Officer.

7.2 Where the Host is minded to put in place any agreements with third parties relating to the provision of any Host Service it shall first consider whether one of the Parties to this Agreement wishes to provide the service and, if so, afford such a Party the opportunity to provide that service at such cost as agreed by each Party's s151 Officer.

- 7.3** Save as provided in Clause 7.2 above all Host Services shall be provided through service level agreements between the Parties.

8 FINANCIAL CONTRIBUTIONS

- 8.1 The financial relationship between the Parties is as set out in the Financial Protocol in Schedule 4 and shall apply to the Cwm Taf Social Care Workforce Development Service.
- 8.2 All contributions and apportionments (including any liabilities and losses save as specified in Clause 6) are to be based on those that relate specifically to each respective parties ring fenced fund activities, unless where such contributions and apportionments are deemed shared. In 2016/2017 the Parties ring fenced fund accounts are confirmed as those summarised in appendix 1
- 8.3 Should this Agreement be extended beyond the Initial Term then in respect of the funding of the Cwm Taf Social Care Workforce Development Service there shall be a formal review of the funding mechanism on an annual basis, the first of which shall be in advance of the 2017/18 financial year. It will be for the Parties' s151 Officers to agree upon a recommendation (for change or stay the same) being made to the funding of the Cwm Taf Social Care Workforce Development Service.
- 8.4 Each Local Authority's s151 officer will determine the treatment of any surplus or deficit balance held within respective Parties ring-fenced fund account following the completion of the audit of the annual accounts.

8.5 In the event that annual accounts are closed in a deficit position, the Parties will be required to make appropriate contributions during the first quarter of the subsequent financial year. Contributions required to 'make good' such a deficit will be those that relate specifically to the ring fenced funds for each Local Authority during the year in which the deficit occurred.

9. GRANTS

9.1 The process for dealing with grants relating to the Cwm Taf Social Care Workforce Development Service is set out in the Financial Protocol at Schedule 4.

10. EXPIRY OF AGREEMENT

10.1 Upon the termination of this Agreement both Parties' Chief Executive (in consultation with the Parties' s151 officers) shall agree the distribution of assets and any liabilities in accordance with the basis set out in Clause 8 of this Agreement.

11. ACCESS TO INFORMATION

11.1 To provide an efficient, safe and high quality service the Cwm Taf Social Care Workforce Development Service is dependent upon accurate and timely information being exchanged between the Parties. Such information shall only be used by the Host for the provision of the Cwm Taf Social Care Workforce Development Service. Information

sharing between the Parties shall comply in all respects with all applicable legislation (including but not limited to the Data Protection Act 1998) and the provisions of the Information Sharing Framework set out in Schedule 6 (together with any information sharing protocol made thereunder).

12. INDEMNITIES AND INSURANCE

12.1 Save as provided in Clause 6 and Schedule 3B, and to the extent such matters are not covered by the insurance arrangements that the Host is required to put in place, the Parties will be jointly liable in accordance with Clause 8 for all losses the Host suffers, in relation to all actions, proceedings, costs, claims, demands, liabilities, losses and expenses howsoever arising out of or in connection with any act or omission by the Host in carrying out all or any of the duties and responsibilities of the Host and/or implementing the decisions of the Cwm Taf Social Care Workforce Development Service save where all losses incurred are caused by an unauthorised act by the Host.

12.2 The Host shall ensure that adequate insurance against the risks of cost of claims associated with public liability, employer's liability, property and professional indemnity is in place and, the Host shall handle any claims as and when received on behalf of the Parties.

12.3 The Host shall notify the Parties within 10 working days of any such claims.

12.4 The provisions of this Clause 12 shall survive the termination of this Agreement.

12.5 Where pursuant to Clause 7.2 of this Agreement one of the Parties to this Agreement is providing any part of the Host Services then the provisions of this Clause 12 shall apply mutatis mutandis.

13 WARRANTIES

13.1 RCT enters into this Agreement on the basis of, and in reliance on, the Warranties.

13.2 Merthyr warrants to RCT that each of the warranties is true and accurate in all material respect and not misleading except as Disclosed.

13.3 Warranties given "so far as Merthyr is aware or should reasonably have been aware" are deemed to be given to the best of the knowledge information and belief of Merthyr after it has made the reasonable enquiries.

13.4 No claim shall be made under the warranties against Merthyr unless RCT shall have given to Merthyr bona fide written notice of such claim specifying (in sufficient detail to enable Merthyr to fully consider the claim) the matter which gives rise to the claim, the nature of the claim and a bona fide calculation (showing workings) of the loss alleged to have been suffered as soon as reasonably practicable (and in any event within five business days) after RCT becomes aware of the matter giving

rise to such claim and in any event on or before the first anniversary of the date hereof.

13.5 Any claim shall (if it has not been previously satisfied, settled or withdrawn) be deemed to have been withdrawn:

13.5.1 on the date falling six months after the date on which it is first notified to RCT or within one month of the expiry of the period for notifying such claim set out in clause 6.4 (whichever expires earlier) unless legal proceedings in respect of it have been commenced by being both properly issued and validly served; or

13.5.2 if RCT fails to progress such claim as quickly as reasonably possible.

13.6 RCT shall take such reasonable action and give such information and assistance (including access to the premises, personnel, chattels, documents and records of RCT and permitting the copying of any documents or records) in connection with the RCT's affairs as Merthyr (and/or its professional advisers) may reasonably request in writing to investigate and evaluate any Claim, subject always to Merthyr's obligations under the Data Protection Act 1998.

14 VARIATION

14.1 Save as provided herein this Agreement cannot be varied without the approval of and prior written consent of both parties. Any variation is to

be signed and sealed by an authorised representative of each Party and will be annexed to this Agreement.

15 COMMUNICATION

15.1 Any communication required to be in writing under the terms of this Agreement shall be sent to each Party at the addresses set out in Clause 15.2 and marked for the attention of the person last notified in writing to the other Parties as being the person to receive communications for the purpose of this Agreement on behalf of that Party.

15.2 Any notice or communication to the relevant Party shall be deemed effectively served if sent by first class post or delivered by hand to the addressee set out below or such other addressee and address notified in writing from time to time to the other Parties: - .

Chief Executive
Rhondda Cynon Taf County Borough Council
The Pavilions
Cambrian Park
Clydach Vale
Tonypany
CF40 2XX

Chief Executive
Merthyr Tydfil County Borough Council
Civic Centre
Castle Street
Merthyr Tydfil
CF47 8AN

15.3 Any notice service by delivery shall be deemed to have been served on the date it is delivered to the addressee. Where notice is posted it shall be sufficient to prove that the notice was properly addressed and posted and the addressee shall be deemed to have been served with the notice 48 hours after the time it was posted.

16 THIRD PARTY RIGHTS

16.1 Save as may be provided herein the Parties to this Agreement do not intend any provision of it to be enforceable by any other person pursuant to the Contract (Rights of Third Parties) Act 1999.

17 SEVERANCE

17.1 If at any time any provision of this Agreement is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal invalid or unenforceable in any respect provided that it would not affect or impair the legality, validity or enforceability of any other provision of this Agreement, this Agreement shall continue in full force and effect as if the Agreement had been executed with the invalid provision eliminated except where it deprives one of the Parties of a substantial part of the benefit to be derived by it from this Agreement without providing any corresponding benefit.

17.2 If Clause 17.1 shall apply the Parties shall in good faith amend and, if necessary, execute such further assurances in relation to this Agreement to reflect as nearly as possible the spirit and intention behind that illegal, invalid or unenforceable provision to the extent that such spirit and

intention is consistent with the laws of that jurisdiction and so that the amended clause complies with the laws of that jurisdiction but if the Parties cannot agree upon the terms of any amendment or assurance within six months of the date upon which the provision was determined to be wholly or partly illegal or unenforceable by any court, tribunal administrative body then the dispute will be determined in accordance with Clause 18 hereof.

18 DISPUTE RESOLUTION

- 18.1 If there is a dispute between the Parties concerning the interpretation or operation of this Agreement then any Party may notify the others in writing that it wishes the dispute to be referred to a meeting of the Parties' Group Directors (with responsibility for Children's Services) to resolve.
- 18.2 If after the meeting of the Parties' Group Directors (with responsibility for Children's Services) the dispute has not been resolved, any Party may refer the dispute to the Parties' Chief Executives for resolution.
- 18.3 If the Chief Executives are unable to resolve the dispute by unanimous agreement within a period of 28 days of the matter being referred to them either Party may refer the matter to mediation. The Parties will attempt to settle the dispute by mediation in accordance with the Centre for Effective Dispute Resolution (**CEDR**) Model Mediation Procedure. Unless otherwise agreed between the Parties, the mediator will be nominated by CEDR.

18.4 If the matter cannot be resolved by mediation either Party may refer the matter to arbitration on the following basis:

18.4.1 Referral shall be to a single Arbitrator selected by the Parties Chief Executives or, in the absence of agreement, to be nominated by the President of the Chartered Institute of Arbitration.

18.4.2 Such arbitration shall be conducted in accordance with the provisions of the Arbitration Act 1996 and the Arbitrator appointed shall have the power to:

18.4.3 Order and direct what he or she shall think to be done by any of the Parties respectively in relation to the matters in dispute;

18.4.4 The decision of the Arbitrator shall be final and binding on all the Parties.

18.4.5 Unless otherwise agreed or specified in the arbitration terms each Party shall bear its own costs incurred in the arbitration and the Parties shall share equally the Arbitrator's costs and expenses.

19 WAIVER

19.1 No term or provision of this Agreement shall be considered as waived by any Party unless a waiver is given in writing by the Party and any failure by any of the Parties at any time to enforce any provision of this Agreement or to require performance by any of the other Parties of any of the provisions of this Agreement shall not be construed as a waiver of any such provision and shall not affect the validity of this Agreement or any part thereof or the right of any Parties to enforce any provision in accordance with its terms.

19.2 No waiver under Clause 19.1 shall be a waiver of a past or future or breach, nor shall it amend delete or add to the terms conditions or provisions of this Agreement unless (and then only to the extent) expressly stated in the waiver.

20 FREEDOM OF INFORMATION

20.1 The Parties agree that they will each co-operate with one another to enable any Party receiving a request for information under the Freedom of Information Act 2000 and/or Environmental Information Regulations 2004 to respond to that request promptly and within the statutory timescales. This co-operation shall include but not be limited to finding, retrieving and supplying information held, and directing requests to other Parties as appropriate and responding to any requests by any Party receiving a request for comments or other assistance.

21 GOVERNING LAW AND JURISDICTION

21.1 This Agreement shall be governed by and construed in all respects in accordance with the laws of England and Wales.

21.2 The **COMMON SEAL** of the respective Parties were affixed the day and year first before written:

The COMMON SEAL of **MERTHYR TYDFIL**)

COUNTY BOROUGH COUNCIL)

Was affixed in the presence of:)

Designation.....

The COMMON SEAL of **RHONDDA CYNON**)

TAFF COUNTY BOROUGH COUNCIL)

Was hereunto affixed in the presence of:)

Designation.....

SCHEDULE 1

THE CWM TAF SOCIAL CARE WORKFORCE

DEVELOPMENT SERVICE FUNCTIONS

1. The broad **aim** of the Cwm Taf Social Care Workforce Development Service is to improve the quality and management of social care provision through a planned approach to learning, development and qualification and by seeking to increase the take-up of this provision across the social care sector.
2. The **objectives** of the Cwm Taf Social Care Workforce Development Service are:
 - 2.1 to increase the proportion of staff across the whole social care sector with the qualifications, skills and knowledge they need for the work they do; and
 - 2.2 to achieve the above through the Social Care Workforce Development Partnerships led by the Cwm Taf Social Care Workforce Development Service and informed by the commissioners of services within both Merthyr and RCT;
3. The specific arrangements for the Social Care Workforce Development Programme (SCWDP) are set annually by the Welsh Government in their Social Care Workforce Development Circular that announces grant allocations and invites application for Grant on behalf of their Social Care Workforce Development Partnership.

4. The annual Welsh Government circular details the requirements to be met by Directors of Social Services on behalf of their Partnerships to draw down the SCWDP grant. This is in conjunction with 'Planning for Training and Staff Development across the Social Care Sector (2003)', which at the Commencement Date is the key guidance document to inform how Social Care Workforce Development Partnerships draw up effective training and staff development arrangements.

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SCHEDULE 2

THE CWM TAF SOCIAL CARE WORKFORCE

DEVELOPMENT SERVICE

MANAGEMENT BOARD

1. Purpose of the Management Board

The Cwm Taf Social Care Workforce Development service Management Board will be formed with the broad aim to improve the quality and management of social care provision through a planned approach to learning, development and qualification and by seeking to increase the take-up of this provision across the social care sector and oversee the Cwm Taf Social Care Workforce Development Service.

2. Membership

2.1 The Cwm Taf Cwm Taf Social Care Workforce Development Service Management Board shall have the following membership:

- Director of Social Services (RCT)
- Director of Social Services (Merthyr Tydfil)
- Finance Officer (RCT)
- Finance Officer (Merthyr Tydfil)
- Head of Transformation (RCT) Human Resources officer RCT)
- Cwm Taf Social Care Workforce Development Service Manager

2.2 The partner organisations can nominate a substitute, providing the named person is directly accountable to the Cwm Taf Social Care Workforce Development Management Board member and able to make decisions on their respective Party's behalf within the Management Board's terms of reference.

3. Chair

The Chair of the Cwm Taf Social Care Workforce Development Service Management Board will be an appointed member on rotation between the two Local authorities on an annual basis.

4. Meetings and Procedure

The Cwm Taf Social Care Workforce Development Service_Management Board shall hold quarterly meetings in each municipal year.

5. Minutes of Meetings

Minutes of the proceedings of every meeting of the Cwm Taf Social Care Workforce Development Service_Management Board shall be drawn up as agreed by the Chair. Copies of the draft minutes of the proceedings of every meeting of the Cwm Taf Social Care Workforce Development Service Management Board shall, within two weeks after each meeting, be sent to all members of the Cwm Taf Social Care Workforce Development Service Management Board

6. Terms of Reference

- 6.1 Provide strategic oversight and direction to the Cwm Taf Social Care Workforce Development Service and the Cwm Taf Social Care Workforce Development Service Manager
- 6.2 Oversee the formulation and implementation of the Cwm Taf Social Care Workforce Development Plan
- 6.3 Oversee the development of any Workforce Grant applications particularly the annual SCWDP Grant
- 6.4 Monitor the Cwm Taf Social Care Workforce Development Service performance and provide guidance on areas for improvement
- 6.5 Monitor Cwm Taf Social Care Workforce Development Service budgets
- 6.6 Determine how the Cwm Taf Social Care Workforce Development Service is to be composed and funded, how it is to operate and what functions it is to carry out

Schedule 3A The Employees

Name & Job title	Commencement of continuous employment	DOB	Salary(£)	Pension	Holidays (excl public holidays)	Other benefits & information
Miss Deana Newport Social Care Workforce Development Officer	23/1/2001	3/12/74	Grade 4 Point 25 £22,212	Yes	29	
Miss Lyndsey Foley Clerical assistant	2/4/2007	11/10/88	Grade 2 point 14 £8773.51 (20hrs)	No	19.37	Grade 3 Point 19 £9,937.97 (20hrs) until 31 st march 2016 as acting up due to Sharon Davies being on secondment
Mrs Jayne Williams Clerical Assistant	6/1/2003	10/10/76	Grade 2 Point 14 £7018.81 (16hrs)	Yes	23.4	
Mr James Malcolm Thomas Practice Learning Facilitator	1/09/2013	26/11/50	£28.55 an hr plus £3.45 holiday pay	No		Holiday pay is included

SCHEDULE 3B WARRANTIES

1. CHANGES SINCE THE ACCOUNTS DATE

Since the Accounts Date, no changes have been made in the terms of employment, benefits or conditions of service of any Employee or to benefits provided to any person engaged to any extent in the Merthyr Social Care Workforce Development Service (now or in the past) or any dependants of such person or to the terms of any agreement or arrangement (whether written or unwritten and whether binding or not) with any trade union, employee representative or body of employees or their representatives.

2. EMPLOYEES

2.1 No person is employed or engaged in the Merthyr Social Care Workforce Development Service (whether temporarily or permanently and whether under a contract of service or contract for services) other than the Employees, and the Employees are all employed by Merthyr and work wholly or mainly in the Merthyr Social Care Workforce Development Service.

2.2 Merthyr has Disclosed:

(a) copies of all service contracts and contracts for services and all handbooks, policies and other documents which apply to the Employees (whether binding or not), identifying which applies to which employee;

- (b) full particulars of the current terms of employment or engagement and benefits of all Employees, whether or not recorded in writing, or implied by custom or practice or otherwise;
- (c) all information required by law to be included in particulars of terms of employment, including date of birth, date of commencement of continuous employment, job title, current remuneration, bonuses, commission, pension schemes or pension rights and benefits;
- (d) details of all remuneration and benefits which the Employees or their dependants receive or are entitled to receive (now or in the future), including any non contractual benefits that may have become implied into the particulars of terms of employment by reason of custom and practice; and
- (e) copies of all agreements or arrangements with any trade union, employee representative or body of employees or their representatives (whether binding or not) and details of any such unwritten agreements or arrangements which may affect the Employees.

So far as Merthyr is aware or should reasonably have been aware all such particulars are accurate and complete in all respects.

2.3 Merthyr has provided RCT with the information required under regulation 11 to TUPE in relation to each of the Employees and shall notify RCT of any changes in that information before the TUPE Transfer Date or in accordance with Clause 6.2.3 of this Agreement.

2.4 So far as Merthyr is aware or should reasonably have been aware in respect of each of the Employees, Merthyr has:

(a) performed all obligations and duties required to be performed by it (and has settled all outstanding Demands), whether arising under contract, statute, at common law or in equity or under any treaties including the Treaty on the Functioning of the European Union, the laws of European Union or otherwise;

(b) abided by the terms of any agreement or arrangement with any trade union, employee representative or body of employees or their representatives (whether binding or not) which may affect the Employees;

(c) fully complied with its obligations under regulation 13 of TUPE and section 188 of TULRCA to inform and consult with trade union or other employee representatives on any matter concerning or arising from this Agreement or affecting the Employees:

(d) maintained adequate, suitable and up to date records relating to the Employees; and

(e) paid or will have paid to HM Revenue & Customs and any other appropriate authority all taxes, National Insurance contributions and other levies due in respect of the Employees on account of their employment by Merthyr up to and including the TUPE Transfer Date.

- 2.5 Merthyr has not made any offer of employment or engagement to work in the Merthyr Social Care Workforce Development Service that has not yet been accepted or that has been accepted but the employment or engagement has not yet started (except to any of the Employees).
- 2.6 All contracts of service or for services with any of the Employees are terminable by Merthyr at any time on three months' notice or less without compensation (other than for unfair dismissal or a statutory redundancy payment). Merthyr has no liability other than for salary, wages, commission or pension to or for the benefit of any person who is an Employee of the Merthyr Social Care Workforce Development Service.
- 2.7 Merthyr has not offered, promised or agreed to any future variation in any contract of employment of any one of the Employees or any other person employed by Merthyr in respect of whom liability is deemed by TUPE to pass to RCT, and no negotiations for an increase in the remuneration or benefits of any Employee are current or likely to take place within the period of six months after the TUPE Transfer Date.
- 2.8 So far as Merthyr is aware or should reasonably have been aware, there are no enquiries or investigations existing, pending or threatened affecting Merthyr or the Merthyr Social Care Workforce Development Service by the Equality and Human Rights Commission, the Health and Safety Executive or other similar bodies, nor are there any facts which might give rise to such enquiries or investigations.

2.9 So far as Merthyr is aware or should reasonably have been aware there are no terms under which the Employees are employed, and nothing took place before the TUPE Transfer Date, which could give rise to any claim for unlawful discrimination or unequal pay.

2.10 Unless otherwise stipulated in Schedule 3A, no Employee:

(a) has given or received notice to terminate their employment or engagement and so far as Merthyr is aware or should reasonably have been aware, no Employee is entitled or intends or is likely to terminate such employment or engagement as a result of the parties entering into this Agreement; or

(b) save as Disclosed, is on secondment, maternity or other statutory leave or otherwise absent from work; or

(c) is subject to a current disciplinary warning or procedure; or

(d) has objected or indicated an objection to the transfer of the Merthyr Social Care Workforce Development Service to RCT; or

(e) has any entitlement to any accrued but unused holiday from previous holiday years, or has taken holiday in excess of their accrued entitlement as at the TUPE Transfer Date.

2.11 Except for the Pension Scheme, Merthyr is not under any legal liability or other obligation to pay bonuses, pensions, gratuities, superannuation, allowances or any similar payment to any of the Employees or their dependants, nor is it a party to any arrangements or promise to make or in the habit of making ex gratia or voluntary payments on redundancies or payments by way of bonus, pension gratuity, superannuation,

allowance or similar payments to any such persons. Except for the Pension Scheme, there are no schemes or arrangements (whether legally enforceable or not) for payment of retirement, pension, disability, or death benefit or similar schemes or arrangements in operation or contemplated in respect of any of the Employees or their dependants, or persons formerly employed or engaged in the Merthyr Social care workforce development service or their dependants, under which RCT or any of the owners for the time being of the Merthyr Social care workforce development service or any part of them may become liable to make payments or to provide equivalent benefits.

2.12 There is not in existence, and Merthyr has not proposed and is not proposing to introduce, any bonus, commission or profit-sharing scheme or any other scheme or arrangement under which the Employees are or would be entitled to participate in the profits of the Merthyr Social Care Workforce Development Service.

2.13 So far as Merthyr is aware or should reasonably have been aware there are no amounts outstanding or promised to any of the Employees, and no liability has been incurred by Merthyr which remains undischarged for breach of any employment contract; or redundancy payments (statutory or otherwise, including protective awards); or compensation under any employment legislation or regulations; or wrongful dismissal, unfair dismissal, equal pay, sex, race or disability discrimination or otherwise. No order has been made at any time for the reinstatement or re-engagement of any of the Employees or any person formerly employed

or engaged or working in the Merthyr Social Care Workforce Development Service.

2.14 Merthyr is not engaged or involved in any dispute, claim or legal proceedings (whether arising under contract, common law, statute or in equity) with any of the Employees or any other person currently or previously employed by or engaged in the Merthyr Social Care Workforce Development Service or their dependants and, so far as Merthyr is aware, there is no event which could give rise to such dispute, claim or proceedings.

2.15 With respect to labour relations:

Merthyr has Disclosed all collective bargaining, procedural or other agreements or arrangements (whether in writing, oral or by custom and practice and whether binding or not) in existence relating to or relevant to any of the Employees and the current state of any negotiations with any trade union or other organisation of employees or their representatives which might affect the terms of employment or working arrangements or severance payments of any of the Employees;

2.16 In the period of three years preceding the date of this Agreement, Merthyr has not (nor has any predecessor or owner of any part of the Merthyr Social Care Workforce Development Service) been a party to any relevant transfer for the purposes of TUPE affecting any of the Employees or any other persons engaged in the Merthyr Social Care Workforce Development Service and no event has occurred which may

involve such persons in the future being a party to such a transfer. No such persons have had their terms of employment varied for any reason as a result of or connected with such a transfer.

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SCHEDULE 4

FINANCIAL PROTOCOL

1. This Financial Protocol governs the financial relationship between the Parties.

2. Fund Arrangements

2.1 The Host will provide the financial / administrative / accounting systems and associated support for the Cwm Taf Social Care Workforce Development Service.

2.2 Each Party will contribute those Financial Contributions as are identified in sections 3 and 5 (below) effective on the Commencement Date or on a pro-rata basis in the event of any delay. The Financial Contributions shall together be known as 'the Fund' and for the period of this agreement respective partner contributions shall remain ring fenced for use solely by the Party to which the funding relates.

2.3 The Fund will be managed by the Cwm Taf Social Care Workforce Development Service Manager under the direction of the Cwm Taf Social Care Workforce Development Service Management Board. Regular reports will be provided to the Cwm Taf Social Care Workforce Development Service Management Board and made available to the Parties' s151 Officers. These reports will include details of the Fund's annual budget, spend incurred to date, anticipated annual spend, variance to budget and an analysis of any variance.

3. CONTRIBUTION AND CHARGING MECHANISM

3.1 To ensure that all costs incurred by the Cwm Taf Social Care Workforce Development Service are recovered, the following contribution and charging mechanism has been established, it should be noted that this mechanism will be subject to annual review.

3.2 The Parties' financial contributions for Year 1 will be based on existing estimated budget allocations, the proportion of which is ring fenced for each Local Authority is shown as per below:

	Estimated Budget 2016/17		
	RCTCBC	MTCBC	Total Cwm Taff
Local Authority Core Expenditure Budget	513,458	69,470	582,928
SCWDP (Grant Funded) Expenditure Budget	555,613	174,149	729,762
SCWDP (LA Core 30% Match Funding) Expenditure Budget	238,120	74,636	312,756
Less SCDWP Grant Income	-555,613	-174,149	-729,762
Net LA Core Funding Budget 2016/17	751,578	144,106	895,684
<u>Other grant funding</u>			
PLOF (Grant Funded) Expenditure Budget	100,792	17,900	118,692
Less PLOF Grant Income	-100,792	-17,900	-118,692
Net Plof Budget 2016/17	0	0	0

3.3 The Financial Contributions will be made to the Host in quarterly installments (invoiced in advance).

3.4 Charges made for goods and services relating to the functions and/or Host Services of the Cwm Taf Social Care Workforce Development Service from any Party will be made by means of official invoice based on actual costs incurred, submitted to and paid by the Host quarterly in

arrears. Official Invoices should include appropriate supporting evidence of costs incurred (e.g. Transaction listing or Copy Invoices).

- 3.4 Charges made for goods and services relating to the functions and/or Host Services of the Cwm Taf Social Care Workforce Development Service from any other company or external organisation other than the Parties will be submitted to and paid by the Host in accordance to the stipulated contract and payment terms.

4. **GENERAL PRINCIPLES**

- 4.1 Changes in service delivery that lead to a variation in the functions of the Cwm Taf Social Care Workforce Development Service must only be made with prior approval from the Cwm Taf Social Care Workforce Development Service Management Board.
- 4.2 The Fund shall not inherit any debt or liability incurred by any of the Parties prior to the Commencement Date.
- 4.3 Any additional funding streams targeted at the Cwm Taf Social Care Workforce Development Service must be considered by the Cwm Taf Social Care Workforce Development Service Management Board. Permission to accept, expend or commit any monies from any new funding streams must be granted by the Cwm Taf Social Care Workforce Development Service Management Board and the Host's s151 Officer. It shall be the responsibility of the Cwm Taf Social Care Workforce

Development Service Manager or respective Party to bring such additional funding streams to the attention of the Cwm Taf Social Care Workforce Development Service Management Board.

4.4 Where appropriate and agreed by both parties the fund will facilitate jointly commissioned services. The costs of such services will be shared on a fair and equitable basis and charged to respective ring-fenced fund accounts retained by each Party. Such inter fund charges will require authorisation from the designated lead officer for each Party.

4.4 Budgets within the Fund will follow the Service Reporting Code of Practice (SERCOP) and be routinely monitored by the Cwm Taf Social Care Workforce Development Service Manager. This financial performance will be reported to the Cwm Taf Social Care Workforce Development Service Management Board and made available to the Parties' s151 Officers on a quarterly basis in line with scheduled Cwm Taf Social Care Workforce Development Service Management Board meetings.

5. **ANTICIPATED COST OF THE CWM TAF SOCIAL CARE WORKFORCE DEVELOPMENT SERVICE DURING THE PERIOD OF THE AGREEMENT**

5.1 The anticipated value of 'cash' contributions required to fund the operation of Cwm Taf Social Care Workforce Development Service during the Initial Term (based on initial service delivery plans) is shown below:

	Estimated Budget 2016/17		
	RCTCBC	MTCBC	Total Cwm Taff
Local Authority Core Expenditure Budget	513,458	69,470	582,928
SCWDP (Grant Funded) Expenditure Budget	555,613	174,149	729,762
SCWDP (LA Core 30% Match Funding) Expenditure Budget	238,120	74,636	312,756
Less SCDWP Grant Income	-555,613	-174,149	-729,762
Net LA Core Funding Budget 2016/17	751,578	144,106	895,684
<u>Other grant funding</u>			
PLOF (Grant Funded) Expenditure Budget	100,792	17,900	118,692
Less PLOF Grant Income	-100,792	-17,900	-118,692
Net Plof Budget 2016/17	0	0	0

Note: Budget and Grant allocations for 2016/17 shown above are indicative pending confirmation of final budget settlement.

5.2 A detailed summary of pooled income and expenditure budgets for year 1 along with the apportionment of the net pool contribution required is shown in appendix 1 to this Schedule.

5.3 The level of contribution required from each Party in its first year has been based on existing core funding and grant funding allocations as agreed and confirmed by the Parties.

6. PAYMENT ARRANGEMENTS

6.1 The Parties shall be invoiced quarterly in advance by means of official invoice from the Host as per contribution and charging mechanism above.

6.2 Payments shall be made in accordance with the Host's standard credit terms (i.e. 28 days)

- 6.3 Any late payment may invoke interest charges at the discretion of the Host organisation. Any charge of interest will be applied on a daily basis at the Bank of England base rate + 1 % from the due date of payment to the actual date of receipt.

7. **HOSTING AND ADMINISTRATION OF CONTRIBUTIONS**

- 7.1 The Financial Procedure Rules and Contract Procedure Rules of the Host shall apply to all contributions received from the Parties.

- 7.2 The Cwm Taf Social Care Workforce Development Service Manager shall ensure that the finances are maintained to national and professional standards and that the payment of supplier's invoices complies with their payment terms, ensuring that no late payment charges are incurred.

- 7.3 The Cwm Taf Social Care Workforce Development Service Manager shall be responsible for ensuring that appropriate financial systems are operational and in place in order to provide the necessary control and production of financial information.

8. **INFORMATION REQUIREMENTS**

- 8.1 The Cwm Taf Social Care Workforce Development Service Manager shall ensure that all financial and other information required by the Parties in relation to compiling performance statistics, statutory and other returns is made available by any relevant deadlines.

8.2 The Cwm Taf Social Care Workforce Development Service Manager shall ensure that all financial and other information required to measure performance against the functions of the Cwm Taf Workforce Development Unit, as set out in this Agreement, is made available by any relevant deadlines.

8.3 The Cwm Taf Workforce Development Manager shall make available all financial and other information as requested by the Parties' s151 Officers.

9. **GRANTS**

9.1 The Host will act as 'banker authority' for receipt of any grant relating to the Cwm Taf Social Care Workforce Development Service, and under the terms of the grant agreements will be responsible for accepting the terms and conditions of the grant on behalf of the Cwm Taf social care workforce development service

9.2 Where grants can only be awarded directly to a party then that party is required to passport the total value of the grant within 28 days of its receipt to the Host for inclusion within the Fund.

9.3 For the avoidance of doubt the day to day management of the grants shall be the responsibility of the Cwm Taf Social Care Workforce Development Service and the Cwm Taf Social Care Workforce Development Service Manager.

- 9.4 The apportionment basis of each grant will be considered and agreed by both Parties' s151 Officers.
- 9.5 Where new grant opportunities are identified, the Cwm Taf Social Care Workforce Development service Manager or the relevant Party(s), as appropriate shall be responsible for bringing this to the attention of the Parties' s151 Officers. The Cwm Taf Social Care Workforce Development Service Manager shall be responsible for the completion of grant claims to the appropriate standard, within the required timescales and in accordance with the Host's procedures (unless specifically agreed otherwise by the Board). The Cwm Taf Social Care Workforce Development Service Manager shall liaise with the relevant Parties s151 Officer, as required, to complete this task.
- 9.6 When new grants are made known in respect of the functions the Cwm Taf Social Care Workforce Development Service Manager in liaison with the lead finance officers (responsible for social services) shall draw up spending plans for such grants along with an appropriate exit strategy, for approval by the Parties' s151 Officers.
- 9.7 Any redundancy costs arising from the either cessation or reduction of grant funding shall be borne by the Local Authority in which the grant has been awarded to. Where such costs relate to a joint funded post then costs will be shared in proportion to grant allocations awarded to each Local Authority

10. **FINANCIAL INSOLVENCY**

10.1 If it is foreseen that the Cwm Taf Social Care Workforce Development Service cannot meet its liabilities and the Cwm Taf Social Care Workforce Development Service Management Board, and thereafter the Parties' s151 Officers are unable to agree a financial solution, then the Parties Chief Executives shall be responsible for ensuring that termination procedures are followed.

11. MONITORING AND ROLE OF THE CWM TAF SOCIAL CARE WORKFORCE DEVELOPMENT SERVICE MANAGER

11.1 The Cwm Taf Social Care Workforce Development Service Manager shall prepare a financial monitoring report on a quarterly basis to the Parties' s151 Officers who will in turn review expenditure, commitments and forecast outturn to ensure that the allocated budget is being appropriately adhered to.

11.2 The Cwm Taf Social Care Workforce Development Service Manager shall prepare an annual report to be submitted to the Parties' s151 Officers at the end of each Financial Year. Such report would include:

- I. An annual statement of Income & Expenditure
- II. An evaluation of performance against any agreed performance measures, targets and priorities.
- III. A review of targets and priorities for the forthcoming Financial Year.
- IV. Summary of Service delivery.
- V. Such other information as shall be reasonably required by the Parties' s151 Officers from time to time.

12. **BUDGET**

- 12.1 The Cwm Taf Social Care Workforce Development Service Management Board shall agree the draft Cwm Taf Social Care Workforce Development service annual budget by the 31st December prior to the following financial year and submit it to each of the Parties for approval.
- 12.2 The Cwm Taf Social Care Workforce Development Service Manager shall ensure that there are mechanisms in place to enable budgets to be managed in line with the annual budget allocation and that any anticipated variation to budget are identified early and reported to the Cwm Taf Social Care Workforce Development service Management Board.
- 12.3 The Cwm Taf Social Care Workforce Development service is not authorised to operate nor budget at a cumulative deficit position. In the event that annual accounts are closed in a deficit position, the Parties will be required to make appropriate contributions during the first quarter of the subsequent financial year. Contributions required to 'make good' such a deficit will be those that relate specifically to the ring fenced funds for each Party during the year in which the deficit occurred.
- 12.4 In the event of the Cwm Taf Social Care Workforce Development service Manager monitoring report indicating an overspend, the reasons for the increase in expenditure will be investigated and analysed against budget by the Cwm Taf Social Care Workforce Development Service Manager

- 12.5 The Cwm Taf Social Care Workforce Development Service Manager must submit a report to the Cwm Taf Social Care Workforce Development Service Management Board and the Parties' s151 Officers, which details reasons for variation and recommended remedial action. A meeting of the Cwm Taf Social Care Workforce Development Service Manager and the Cwm Taf Social Care Workforce Development Service Management Board will be held within 28 calendar days of the production of this report in order to agree the remedial action as necessary. Details of remedial actions agreed by the Cwm Taf Social Care Workforce Development Service Management Board should be sent to the Parties' s151 Officers for approval.
- 12.6 If agreement cannot be reached in respect of the corrective action and treatment of budget variations (overspends and underspends) in the Fund by the Cwm Taf Social Care Workforce Development Service Management Board the Parties shall follow the dispute procedure as set out in Clause 8 of the Agreement.
- 12.7 Where upon termination of the Cwm Taf Social Care Workforce Development Service there is a surplus or deficit balance in its accounts, this shall be apportioned as per balances within each respective parties ring fenced fund account.
- 12.8 In the event of Membership changes e.g. where there is an inclusion of a new Party or withdrawal of existing Party. A meeting of the Parties' Chief Executives will be held within 28 calendar days following formal

notification of any party membership change. The meeting should consider the ongoing financial viability of the Cwm Taf Social Care Workforce Development Service and agree the necessary amendments to the Agreement and Financial Schedule (incl. Financial Contributions) and operation of the Cwm Taf Social Care Workforce Development Service.

13. **RECORD KEEPING / YEAR-END ACCOUNTING INFORMATION**

13.1 Cwm Taf Social Care Workforce Development Service Manager must retain all records for a period of six full years following the Financial Year-end, or longer if required.

13.2 The Cwm Taf Social Care Workforce Development Service Manager shall make available all financial and other information to the Parties as required to fulfill their statutory reporting requirements and to meet any specified deadlines.

13. **VAT**

13.1. The Finances for the Cwm Taf Social Care Workforce Development Service Manager shall be managed subject to the VAT regime of the Host.

15. **AUDITING ARRANGEMENTS**

15.1 **External Audit**

15.1.1 The Host's external auditors, (currently The Wales Audit Office but subject to the appointment of the Auditor General for Wales), will be the external auditor of the Cwm Taf Social Care Workforce Development Service. Any costs borne by the Host organisation will be charged to the Fund.

15.1.2 It shall be the responsibility of the Host to include the funds of the Cwm Taf Social Care Workforce Development service in its end of year accounting processes, produce the required memorandum account and arrange for audit in time for it's inclusion in all Parties' year end accounts.

15.1.3 Should the annual audit letter contain any direct reference to the finances of the Cwm Taf social care workforce development service, the Host will send copies of the relevant excerpts of the letter to each of the Cwm Taf Social Care Workforce Development Service Management Board, the Parties s151 officers and Chief Executives.

15.1.4 The cost of any specific audits required shall be borne by the Party in which the audit relates, where an audit is jointly required then apportionment of such costs will be made to each respective Party's ring fenced fund account.

15.1.5 Draft Wales Audit Office reports relevant to the services commissioned and provided shall be presented to the Cwm Taf Social Care Workforce Development service Management Board and shall be made available to the Parties' internal auditors.

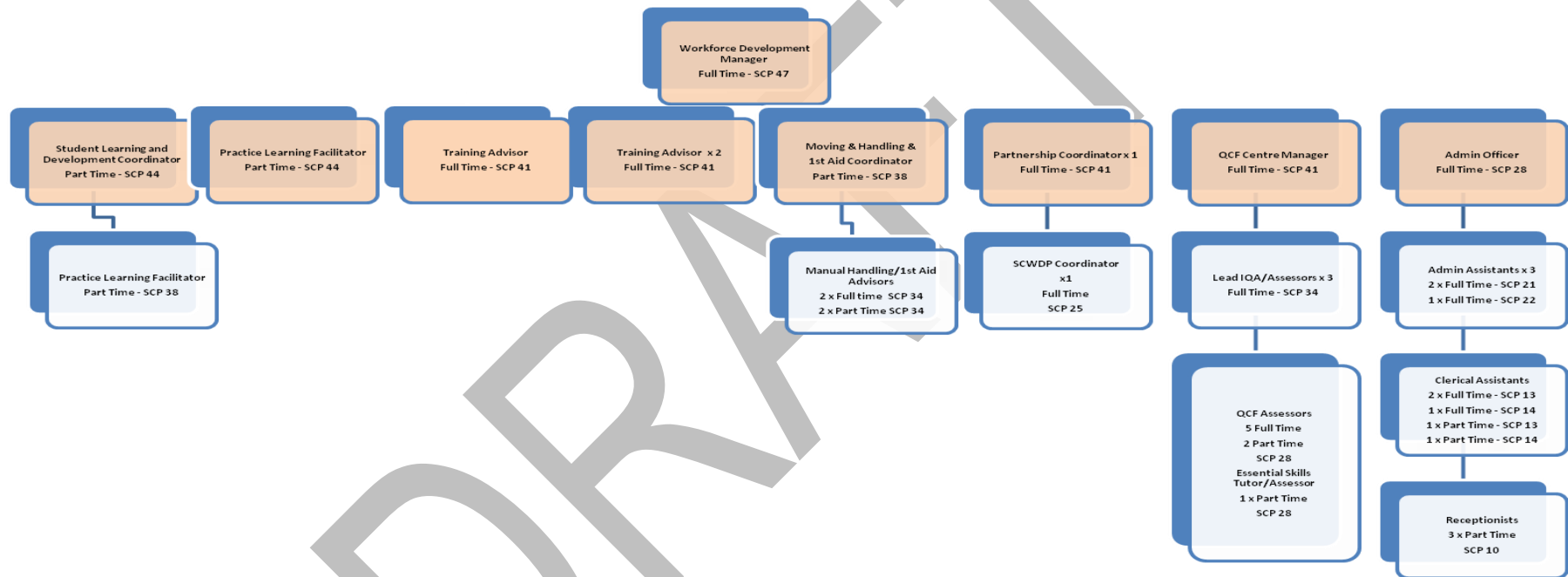
15.2 **Internal Audit**

15.2.1 The Cwm Taf Social Care Workforce Development Service and its finances will be incorporated into the risk assessed Internal Audit Programme of the Host. Final reports shall be made available to the Cwm Taf Social Care Workforce Development Service Management Board and to the Parties' internal auditors.

15.2.2 The costs of any required audits of the Cwm Taf Social Care Workforce Development service shall be borne by the party to which the audit relates, where an audit is jointly required then apportionment of such costs will be made to each respective Party's ring fenced fund account.

SCHEDULE 5

CWM TAF SOCIAL CARE WORKFORCE DEVELOPMENT SERVICE ORGANISATIONAL STRUCTURE CHART



SCHEDULE 6

INFORMATION SHARING FRAMEWORK

INTRODUCTION

1. This information sharing framework has been agreed between the Parties and the Cwm Taf Social Care Workforce Development Service.
2. Each Party acknowledges that its designated Senior Information Risk Officer has an overall and ongoing responsibility for the delivery and implementation of this information sharing framework.
3. Each Party acknowledges it has signed up to the 'Wales Accord on the Sharing of Personal Information (WASPI)' and thereby has agreed to a common set of corporate principles and standards under which they will share information, any regular flow of information sharing will form part of a formal Information Sharing Protocol ('ISP') which will be developed in line with the WASPI ISP guidance.
4. The ISP will define the process for which information will be exchanged, monitored and managed and will essentially document the 'who, why, where, when, what and how' of sharing personal information, which will include:
 - Specific purpose(s) for information sharing;
 - Group(s) of service users it impacts upon;
 - Relevant legislative powers and the consent processes involved;

- Data which is to be shared;
- Use unique identifiers to ensure all partner organisations are referring to the same service user;
- Required operational procedures and the process for review;
- Means of communication to practitioners the specific operational requirements;
- Only the **minimum necessary** personal information consistent with the purposes set out in the ISP will be shared.
- Each ISP will be kept under review to ensure that it complies with all relevant legislation including but not limited to any data protection legislation.

ISP Facilitators

5. Members of the Cwm Taf Social Care Workforce Development Service Information Management Working Group, consisting of a Cwm Taf Social Care Workforce Development Service representative and representatives from each LA (as identified below), will facilitate the coordination and completion of any ISP.
- 6 The working group will act as facilitators providing local managers with advice and guidance regarding the development of ISP's, including general information governance advice in addition to specific legislation which can be relied upon to enable lawful information sharing.

7. Cwm Taf SOCIAL CARE WORKFORCE DEVELOPMENT SERVICE
Information Management Working Group Representatives

Organisation	Responsible Officer
Merthyr Tydfil County Borough Council	Designated SIRO
Rhondda Cynon Taf County Borough Council	Designated SIRO

8. All Parties' Staff who work directly with service users in order to carry out the functions described in any ISP, are bound by the terms of this Schedule.
9. The term 'staff' in this context encompasses paid workers, volunteers, students and other temporary workers approved by the employing / hosting organisation, whose duties include those relating to the functions outlined in any ISP.
10. The Parties will ensure that all current and newly-appointed Cwm Taf Social Care Workforce Development Service Staff receive appropriate training in the application of any ISP and the requirements of the WASPI framework.

Appendix 1

Cwm Taf Social Care Workforce Development Service

Indicative Budget 2016 / 2017

	Estimated Budget 2016/17		
	RCTCBC	MTCBC	Total Cwm Taff
<u>Local Authority Core Expenditure Budget</u>			
-			
Staffing Incl associated Costs	354,428	31,270	385,698
Delivery	147,030	33,200	180,230
Approved Mental Health Practitioners Awards		5,000	5,000
Health & Safety Budgets - Delivery	12,000	0	12,000
Total LA Core Expenditure Budget	513,458	69,470	582,928
<u>SCWDP Expenditure Budget</u>			
-			
Staffing Incl associated Costs	556,990	130,600	687,590
Delivery	236,743	118,185	354,928
Less SCDWP Grant Income	-555,613	-174,149	-729,762
SCWDP (LA Core 30% Match Funding) Expenditure Budget	238,120	74,636	312,756
Total LA & SCWDP Core Expenditure Budget	751,578	144,106	895,684
<u>Other grant funding</u>			
<u>PLOF Grant Spend</u>			
Staffing Incl associated Costs	43,632	0	43,632
Delivery	57,160	17,900	75,060
Less PLOF Grant Income	-100,792	-17,900	-118,692
Net Plof Budget 2016/17	0	0	0

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