MEMORANDUM OF CO-OPERATION

SHARED SERVICES PARTNERSHIP COMMITTEE

DATED: JUNE 2012

CWM TAF LOCAL HEALTH BOARD

and

BETSI CADWALADR UNIVERSITY LOCAL HEALTH BOARD

and

POWYS TEACHING LOCAL HEALTH BOARD

and

ABERTAWE BRO MORGANNWG UNIVERSITY LOCAL HEALTH BOARD

and

ANEURIN BEVAN LOCAL HEALTH BOARD

and

CARDIFF AND VALE UNIVERSITY LOCAL HEALTH BOARD

and

HYWEL DDA LOCAL HEALTH BOARD

and

VELINDRE NHS TRUST

and

PUBLIC HEALTH WALES NHS TRUST

and

WELSH AMBULANCE SERVICES NHS TRUST

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THIS MEMORANDUM is made of 1st June 2012

BETWEEN

(1) **CWM TAF LOCAL HEALTH BOARD** of Ynysmeurig House, Navigation Park, Abercynon, Mid Glamorgan, CF45 4SN;

(2) **BETSI CADWALADR UNIVERSITY LOCAL HEALTH BOARD** of Ysbyty Gwynedd, Penrhosgarnedd, Bangor, Gwynedd, LL57 2PW;

(3) **POWYS TEACHING LOCAL HEALTH BOARD** of Mansion House, Bronllys, Brecon, Powys, LD3 0LS;

(4) **ABERTAWE BRO MORGANNWG UNIVERSITY LOCAL HEALTH BOARD** of One Talbot Gateway, Baglan Energy Park, Baglan, Port Talbot, SA12 7BR;

(5) **ANEURIN BEVAN LOCAL HEALTH BOARD** of Mamhilad House, Block A, Mamhilad Park Estate, Pontypool, Torfaen, NP4 0YP;

(6) **CARDIFF AND VALE UNIVERSITY LOCAL HEALTH BOARD** of Whitchurch Hospital, Park Road, Whitchurch, Cardiff, CF14 7XB;

(7) **HYWEL DDA LOCAL HEALTH BOARD** of Merlin's Court, Winch Lane, Haverfordwest, Pembrokeshire, SA61 1SB;

(8) **VELINDRE NHS TRUST** of Unit 2 Charnwood Court, Parc Nantgarw, Nantgarw, Cardiff, CF15 7QZ;

(9) **PUBLIC HEALTH WALES NHS TRUST** of 14 Cathedral Road, Cardiff, CF11 9LJ;

(10) **WELSH AMBULANCE SERVICES NHS TRUST** of H.M.Stanley Hospital, St Asaph, Denbighshire, LL17 0RS.

BACKGROUND

(A) The NHS in Wales and the Welsh Government has developed and implemented a new model for the management of Shared Services that are used by all NHS Bodies in Wales. Shared Services are professional, administrative and technical services provided to the health service in Wales. Most of these Shared Services were originally hosted by individual Local Health Boards and NHS Trusts, with the intention that all NHS Wales organisations can work together collaboratively and make use of their expertise. A full list of initial Services is attached at Schedule 1.

(B) From the 1st June 2012 the function of managing and providing shared services to the health service in Wales has been included within the **Velindre National Health Service Trust (Establishment) (Amendment) Order 2012**. All contracts of employment of shared services staff have transferred to Velindre from 1 June 2012. In addition, from 1 June 2012 funding for shared services functions have been provided to Velindre and any property used in the provision of shared services has either been transferred to Velindre or made available as appropriate.

(C) A Shared Services Partnership Committee has been established under Velindre NHS Trust which will be responsible for exercising Velindre's shared services functions including the

management and provision of shared services to the NHS in Wales. The **Velindre National Health Service Trust Shared Services Committee (Wales) Regulations 2012** provide that the committee be comprised of the chief officers of each Local Health Board and NHS Trust in Wales (or their nominated representative), the Director of the Shared Services, together with a chair who is to be appointed by the Committee in accordance with the Shared Services Partnership Committee Standing Orders. This is to ensure that the views of all NHS organisations are taken into account when making decisions in respect of shared services activities. The Velindre NHS Shared Services Committee is to be known as the Shared Services Partnership Committee (SSPC).

(D) The new arrangements have necessitated putting into place this Memorandum of Co-operation between all Local Health Boards and NHS Trusts in Wales setting out the obligations of the NHS bodies to participate in the SSPC and to take collective responsibility for the delivery of those services. It is considered important to ensure that responsibility for the exercise of the shared services functions does not rest with the Board of Velindre NHS Trust but is a shared responsibility of all NHS bodies in Wales in order to ensure that notwithstanding the fact that Velindre NHS Trust is providing the legal framework for the exercise of the shared services functions, responsibility for setting the policy for and delivery of shared services to the health service in Wales remains a collective responsibility of the NHS in Wales.

(E) The NHS Wales Shared Services Partnership Senior Management Team is responsible for the delivery of Shared Services. The Senior Management Team is led by the Director of Shared Services, who is an officer of Velindre NHS Trust. The Director of Shared Services holds accountable officer status, and shall assume overall accountability in relation to the management of Shared Services.

(F) Local Health Boards and NHS Trusts in Wales have collaborated over the operational arrangements for the provision of the shared services and have agreed the terms of this Memorandum of Co-operation to ensure that the arrangements are introduced and operate effectively by collective decision making in accordance with the policy and strategy set out above.

1 DEFINITIONS AND INTERPRETATION

1.1 In this Memorandum, the following definitions shall apply:

"2006 Act"	means the National Health Service (Wales) Act 2006;
Accountable Officer	means an officer appointed as such by the Accounting Officer for NHS Wales. The essence of the role of Accountable Officer is the designation of personal responsibility for the propriety and regularity of the public finances for which the Accountable Officer is answerable
"Annual Business Plan"	means a plan for the future business activities of Shared Services as required by paragraph 1.1.4 of Schedule 2;
"Annual Report"	means a report on the activities of Shared Services for each Financial Year as required by paragraph 1.1.8 of Schedule 2;

“Commencement Date”	means 1 June 2012
Committee Regulations	means the Velindre National Health Service Trust Shared Services Committee (Wales) Regulations 2012
“Financial Year”	means a one year period from 1 April to 31 March of the subsequent year, or any replacement financial year period implemented across NHS Wales;
“Law”	means: (a) any statute or proclamation or any delegated or subordinate legislation; (b) any enforceable community right within the meaning of section 2(1) European Communities Act 1972; (c) any guidance, direction or determination with which the Parties are bound to comply to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Transferee; and (d) any judgment of a relevant court of law which is a binding precedent in England and Wales;
"Legal Requirements"	means all obligations or requirements deriving from the Law;
“LHB”	means Cwm Taf Local Health Board, Betsi Cadwaladr University Local Health Board, Powys Teaching Local Health Board, Abertawe Bro Morgannwg University Local Health Board, Aneurin Bevan Local Health Board, Cardiff and Vale University Local Health Board and Hywel Dda Local Health Board and their statutory successors;
“Memorandum“	means this memorandum of Co-operation agreement
“Nominated Officer”	means a person appointed in accordance with Clause 8.1;
“NWSSP”	Means the NHS Wales Shared Services Partnership, which is the operational name of the shared services organisation created pursuant to this Memorandum and the associated agreements
“Partner “	means the parties to this Memorandum;
"Senior Management Team"	means the senior management team which shall work for the Director of Shared Services in relation to the day to day management of the Shared Services;
"Shared Services"	means the shared services (Professional, Technical & Administrative Services) which are provided to any one or more

	of the Parties, which at the Commencement Date, are as specified in Schedule 1;
"Shared Services Partnership Committee "	means the Committee to be established by Velindre in accordance with the Committee Regulations
"Shared Services Staff"	means the staff engaged wholly or mainly in the delivery and management of the Shared Services;
"Shared Services Standing Orders"	The Standing Orders adopted by Velindre to govern the activities of the SSPC pursuant to the Committee Regulations
"SSPC"	means the Shared Services Partnership Committee
"Third Party Contracts"	has the meaning given in Clause 10.1;
"Trusts"	means Velindre NHS Trust, Public Health Wales NHS Trust and Welsh Ambulance Services NHS Trust and their statutory successors;
"Velindre"	means the Velindre NHS Trust
"WG"	means the Welsh Government.

1.2 The Schedules form part of this Memorandum and shall have effect as if set out in full in the body of this agreement. Any reference to this Memorandum includes the Schedules.

1.3 A reference to a statute, statutory provision or subordinated legislation is a reference to it as it is in force from time to time, taking account of any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.

1.4 References to the plural include the singular and vice versa.

2 COMMENCEMENT AND TERM

2.1 This Memorandum shall come into effect on the Commencement Date and continue until terminated in accordance with Clause 11.

3 SHARED SERVICE FUNCTIONS AND PRINCIPLES

3.1 The LHBs and NHS Trusts agree to exercise their functions so as to cooperate with each other in relation to the provision of shared services having regard to the following principles

3.2 Cooperation should ensure that the shared services arrangements provide, overall, added value to the NHS in Wales in terms of optimum utilisation of resources and the avoidance of duplication of services:

3.2.1 co-operation should be designed to deliver innovation in the provision of shared services and demonstrable benefits;

3.2.2 co-operation should ensure a more extensive and consistent use of evidence to support effective decision making in terms of standardisation of processes, improved use of technology, improvements in economies of scale and better procurement;

co-operation should support the LHBs and the Trusts in working together more effectively, in an open and transparent way, for the benefit of all stakeholders;

3.2.3 co-operation should focus upon cost efficiencies, reviewing evidence of good practice, designing models of service and producing clear service specifications; and

3.2.4 co-operation should promote the sharing of risks and benefits between the LHBs and Trusts on an equitable basis.

3.3 The agreed aim of the Local Health Boards and NHS Trusts is to always achieve collective decision making in a collaborative manner through consensus. The SSPC will have a collective responsibility to try to resolve and minimise any local challenges or any disproportionate impact of national decisions on any one Health Board and Trust or a specific geographical area.

4 SHARED SERVICE COMMITTEE:

4.1 Velindre shall establish the SSPC in accordance with the Committee Regulations with the terms of reference set out in Shared Services Standing Orders.

4.2 The SSPC shall undertake its functions in accordance with Legal Requirements and in particular to ensure that it and the Senior Management Team :-

4.2.1 adhere to the standards of good governance set for NHS Wales which are based on the WG's Citizen Centred Governance Principles

4.2.2 act in accordance with the Velindre Welsh Language Scheme and other relevant legislation in preparing papers and delivering services on behalf of the SSPC

5 CORE PRINCIPLES

5.1 The core principles that the Partners shall bear in mind in relation to the arrangements for the Shared Services are as follows:

5.1.1 collaboration should be in the best interests of NHS Wales;

5.1.2 collaboration should be designed to deliver changes in the Shared Services and demonstrable benefits;

5.1.3 collaboration should ensure a more extensive and consistent use of evidence to support effective decision making;

5.1.4 collaboration must not diminish local involvement and needs;

5.1.5 collaboration should support the Parties in working together more effectively, in an open and transparent way, for the benefit of all stakeholders;

5.1.6 collaboration must enhance resource utilisation in the planning process to reduce duplication and overlap;

5.1.7 collaboration should focus upon cost efficiencies, reviewing evidence of good practice, designing models of services and producing clear service specifications;

5.1.8 collaboration should promote equity in the delivery of the Shared Services; and

5.1.9 collaboration must respect the role of Velindre as host of the shared services and adhere to the principle that Velindre should not bear any additional risk or gain any additional benefit from its role as host.

6 OBLIGATIONS OF THE PARTNERS

6.1 Save as agreed with the Shared Services Senior Management Team, each party will make available such facilities as are currently used by the Shared Services immediately prior to the Commencement Date, on such terms as may be agreed

6.2 Each Partner agrees that if the Shared Service is unable at any time to meet a demand for the provision of a service due to lack of capacity or expertise it shall take the appropriate steps through the Director of Shared Services in order to secure provision of such services from other persons.

6.3 The Partners shall consider on an ongoing basis the feasibility of and mechanisms for bringing additional services within the scope of Shared Services

6.4 The Partners shall co-operate in making staff available for meetings of the Committee as required.

7 HOSTING AGREEMENT

7.1 Velindre and the SSPC (acting on behalf of the other parties) shall agree a Hosting Agreement setting out the services to be provided by Velindre and the role it may play in management of the Shared Services where it is appropriate to do so.

7.2 Payments in respect of costs incurred by Velindre in providing the agreed support under the Hosting Agreement shall be charged to the Shared Services budget.

8 NOMINATED OFFICERS

8.1 As of the Commencement Date, the Chief Executive of each of the Partners shall be the officer nominated to act as the representative of that Partner on the SSPC

8.2 Where any Party intends to nominate an alternative Officer of the Party to act as its representative then this nomination must be in writing addressed to the Chair of the SSPC and specify whether the nomination is for a specific length of time.

8.2 The Chief Executive or other officer nominated under clause 8.2 shall be authorised to give or receive any notice required under this Memorandum, to agree variations

to it and to monitor and report back to their appointing Party on the performance of Shared Services Partnership.

9 SERVICE LEVELS

9.1 With effect from the Commencement Date Velindre shall provide the Shared Services in accordance with service level agreements in force immediately prior to the Commencement Date pending the approval of the terms of the service level agreements by the SSPC pursuant to clause 9.2 below.

9.2 The Director of Shared Services, in conjunction with the SSPC will review the existing service level agreements and present proposals to the SSPC for any proposed changes to the terms of the service level agreements.

10 THIRD PARTY CONTRACTS

10.1 Subject to the provisions of the Scheme of Delegation adopted by the SSPC and agreed with Velindre from time to time, the Director of Shared Services shall be authorised on behalf of each of the Parties (subject to such restrictions as they may individually decide) to enter into the following contracts with third parties on behalf of each of the Parties, either individually, jointly or separately:

10.1.1 framework contracts; and/or

10.1.2 individual contracts for the provision of services where there is a need or advantage to be gained from external provision

(the "Third Party Contracts").

10.2 Where a Third Party Contract is entered into, it must stipulate which Party is responsible for payments under the Third Party Contract.

11 TERMINATION

11.1 This Memorandum shall terminate on the revocation of the Committee Regulations, or in accordance with any direction by the Welsh Ministers.

11.2 Notwithstanding anything contained elsewhere in this Agreement, the provisions contained in Clauses 1, 9, 10, 11, 12, 13, 14.2, 16, 18, and 19 shall survive the expiry or termination of this Memorandum however caused and shall continue thereafter in full force and effect.

11.3 The termination of this Memorandum for any reason shall be without prejudice to any rights or obligations which shall have accrued or become due between the Parties prior to the date of termination.

11.4 The termination of this Memorandum for any reason shall not affect the coming into force or the continuation in force of any provision of this Memorandum which is expressly or by implication intended to come into or continue in force on or after such termination.

12 LIABILITY

12.1 In principle, all liabilities arising from the day to day operations of the Shared Services will be met from the budgets agreed by the Welsh Ministers and administered through the relevant Parties that host the Shared Services.

12.2 Where a liability arises as a result of negligence, breach of duty or otherwise to a third party, or between the Parties, the loss shall be borne, subject to any recourse to the Welsh Risk Pool, by the Party which incurs the loss.

12.3 Save as expressly provided in this Memorandum or the Hosting Agreement, no claims may be made between the Parties for losses incurred as a result of the operation of the Shared Services.

12.4 No Party shall exclude liability in respect of any loss relating to:

12.4.1 personal injury or death to persons; and/or

12.4.2 fraud or fraudulent misrepresentation by such Party.

13 RISK SHARING

13.1 Velindre as host is not directly responsible for the year end outturn of the Shared Services Partnership. Any variations to the financial/business plan must be managed by the SSPC as set out below.

13.2 In the event that there is a predicted overspend or underspend against the budget in any Year, the Director of Finance for the SSPC shall notify the SSPC, and the SSPC shall consider :-

13.2.1 In the case of an underspend whether there are any alternative uses to which the funds can be put consistent with the overall objectives of the Shared Services Partnerhsip;

13.2.2 In the case of an overspend what steps can be taken to prevent the overspend arising

13.3 Where an underspend arises in any year the SSPC shall consider and where appropriate in consultation with the Welsh Ministers determine the proportions in which the underspend shall be returned to the NHS Bodies in Wales, or whether it should be returned to the Welsh Ministers.

13.4 Where an overspend arises in any year, the SSPC shall consider and where appropriate in consultation with the Welsh Ministers determine the proportions in which the responsibility for funding the overspend (save to the extent that it is agreed to be met by the Welsh Ministers) shall be divided between the Partners.

13.5 In the event that any Partner wishes to challenge the decision of the SSPC in relation to a decision made under paragraph 13.3 or 13.4 above it shall notify the SSPC and Velindre within 14 days of the determination, and shall refer the matter to the dispute resolution procedure.

13.6 The Partners shall within 14 days pay any share so determined to Velindre notwithstanding any reference to dispute resolution pursuant to clause 13.5. If the outcome of the dispute resolution process requires any adjustment between any

Party; the Party required to pay shall do so within 14 days of the determination under the dispute resolution process

13.7 In reaching any decision under paragraphs 13.3 or 13.4 the SSPC shall have regard to the following:-

13.7.1 how the underspend or overspend arose and the extent to which the actions of any party may have caused or contributed to it;

13.7.2 the extent to which any party uses the service or services in which the overspend or underspend arose;

13.7.3 the extent if any to which the overspend or underspend arose as a result of breach of the co-operation agreement;

13.7.4 the overall budget of each partner; and

13.7.5 the extent to which each partner is a user of the services of NWSSP as a whole

14 DISPUTE RESOLUTION PROCEDURE

14.1 For the avoidance of doubt, this Memorandum of Co-operation is a NHS Contract as defined in Section 7 of the 2006 Act. Where a Partner agrees to resolve any dispute which arises out of this Memorandum ("Dispute") by negotiation, then each Partner is to be represented by a person who:

14.1.1 is an Executive Director or person of equivalent status with a Partner; and

14.1.2 has had no direct day to day involvement in the relevant matter to settle the Dispute.

14.2 If the Parties in dispute have not resolved the matter within 14 days either party may refer the matter to a panel of the SSPC which shall recommend a solution.

14.3 If the Parties are unable to settle any Dispute the matter shall be referred to the Welsh Ministers pursuant to Section 7 of the 2006 Act.

14.4 Unless this Memorandum has already been terminated, the Partners shall, notwithstanding that any Dispute is subject to the dispute resolution procedure set out in this Clause 14, continue to carry out their obligations in accordance with this Agreement.

15 VARIATIONS

15.1 In the event that any Partner requires a change to the any of the terms of this Agreement, that Partner shall immediately inform the other Partner/ (s) in writing. Such change(s) shall not come into effect until a written acceptance of the proposed change(s), detailing any consequential amendments, is signed by the Partners' Nominated Officers.

16 NOTICES

16.1 Any notice or other document to be given under the Memorandum of Co-operation shall be in writing and shall be deemed to have been duly given if left or sent:

16.1.1 by hand;

16.1.2 by first class post;

16.1.3 by registered post; or

16.1.4 by facsimile or e-mail,

16.2 To a Party at the addresses or relevant telecommunications number for such Party or such other address or number as the Party may from time to time designate by written notice to the others for such purpose.

16.3 Any notice or other document shall be deemed to have been received by the addressee 2 (two) working days following the date of despatch of the notice or other document by post or where the notice or other document is sent by hand or is given by electronic media simultaneously with the delivery or transmission. To prove the giving of a notice or other document it shall be sufficient to show that it was despatched.

17 NO PARTNERSHIP

17.1 Unless where expressly stated, nothing in this Memorandum is intended to create a partnership or legal relationship of any kind that would impose liability on one party for the act or failure to act of the other party, or to authorise either party to act as agent for the other party.

17.2 No Party shall make representations; act in the name of, on behalf of or otherwise bind another Party.

18 RIGHTS OF THIRD PARTIES

18.1 A person who is not a party to this Memorandum has no rights, express or implied, under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

19 APPLICABLE LAW AND JURISDICTION

19.1 This Memorandum shall be governed and construed according to English and Welsh Law.

Signed by **CWM TAF LOCAL HEALTH BOARD** In the presence of:

Signed (Authorised Officer): _____

Name/Position: _____

Signed by **BETSI CADWALADR UNIVERSITY LOCAL HEALTH BOARD** In the presence of:

Signed (Authorised Officer): _____

Name/Position: _____

Signed by **POWYS TEACHING LOCAL HEALTH BOARD** In the presence of:

Signed (Authorised Officer): _____

Name/Position: _____

Signed by **ABERTAWE BRO MORGANNWG UNIVERSITY LOCAL HEALTH BOARD** In the presence of:

Signed (Authorised Officer): _____

Name/Position: _____

Signed by **ANEURIN BEVAN LOCAL HEALTH BOARD** In the presence of:

Signed (Authorised Officer): _____

Name/Position: _____

Signed by **CARDIFF AND VALE UNIVERSITY LOCAL HEALTH BOARD** In the presence of:

Signed (Authorised Officer): _____

Name/Position: _____

Signed by **HYWEL DDA LOCAL HEALTH BOARD i**n the presence of:

Signed (Authorised Officer): _____

Name/Position: _____

Signed by **VELINDRE NHS TRUST** in the presence of:

Signed (Authorised Officer): _____

Name/Position: _____

Signed by **PUBLIC HEALTH WALES NHS TRUST i**n the presence of:

Signed (Authorised Officer): _____

Name/Position: _____

Signed by **WELSH AMBULANCE SERVICES NHS TRUST** In the presence of:

Signed (Authorised Officer): _____

Name/Position: _____

SCHEDULE 1 : SHARED SERVICES

At the Commencement Date, the following services constitute the Shared Services:

Shared Service
Facilities Services (formerly Welsh Health Estates)
Legal & Risk Services (formerly Welsh Health Legal Services)
Welsh Risk Pool Services
Contractor Services
Prescribing Services
Procure to Pay Services comprising: (i) Former Welsh Health Supplies (ii) Accounts Payable and (iii) Procurement Services
Internal Audit Services
Counter Fraud Services Wales (Central Team)
Oracle Central Team Services
Employment Services comprising: (i) Payroll (ii) Recruitment (iii) Expenses (iv) Pensions (v) Car Leasing (where applicable)