

# Guidelines for Developing Governance Arrangements for HealthOne® NSW Services



Guidelines prepared for the NSW Department of Health by:

**WestWood Spice**

21a Elliott Street

BALMAIN NSW 2041

Tel. 02 9555 4429

Fax. 02 9352 3443

Email. [mail@westwoodspice.com.au](mailto:mail@westwoodspice.com.au)

[www.westwoodspice.com.au](http://www.westwoodspice.com.au)

CFW Spice Pty Ltd trading as WestWood Spice

ABN 17 095 066 318

**NSW DEPARTMENT OF HEALTH**

73 Miller Street

NORTH SYDNEY NSW 2060

Tel. (02) 9391 9000

Fax. (02) 9391 9101

TTY. (02) 9391 9900

[www.health.nsw.gov.au](http://www.health.nsw.gov.au)

This work is copyright. It may be reproduced in whole or in part for study training purposes subject to the inclusion of an acknowledgement of the source. It may not be reproduced for commercial usage or sale. Reproduction for purposes other than those indicated above requires written permission from the NSW Department of Health.

© NSW Department of Health 2011

SHPN (IGFS) 110158

ISBN 978 1 74187 658 1

Further copies of this document can be downloaded from the  
NSW Health website [www.health.nsw.gov.au](http://www.health.nsw.gov.au)

July 2011

# Contents

<b>Glossary of terms and abbreviations .....</b>	<b>2</b>
Other Abbreviations.....	4
List of resource documents and websites .....	4
<b>1. Introduction and background.....</b>	<b>5</b>
HealthOne NSW.....	5
Approval and Planning .....	5
Purpose of this document .....	5
Disclaimer .....	6
Structure of the document .....	6
Background to the HealthOne NSW governance project.....	6
What is governance and why is it important? .....	7
<b>2. Governance in the context of HealthOne NSW .....</b>	<b>8</b>
Communication and decision making .....	8
Factors that facilitate decision making in the HealthOne NSW context.....	8
<b>3. Recommended approach to the development of HealthOne NSW governance arrangements and agreements .....</b>	<b>10</b>
Overview.....	10
Three key areas for decision making .....	11
Process for consultation and movement to agreement .....	11
<b>4. Nature and types of governance-related documents .....</b>	<b>13</b>
<b>5. HealthOne NSW governance: legal vehicles and structures .....</b>	<b>16</b>
Memorandum of Understanding .....	17
Heads of Agreement .....	17
Company Limited by Guarantee .....	17
Other possible governance arrangements.....	18
<b>6. Terms and guidelines for writing Letters of Intent, Memoranda of Understanding and other formal agreements.....</b>	<b>19</b>
Introduction .....	19
General points .....	19
Context of the agreement/arrangement .....	20
Essential terms for Agreements .....	20
Legal Compliance .....	21

## List of Tables

<b>Table 1:</b> Variations in HealthOne NSW model and capital requirements .....	10
<b>Table 2:</b> Types of documents and agreements.....	13

## List of Figures

<b>Figure 1:</b> HealthOne NSW governance: range of stakeholders .....	9
<b>Figure 2:</b> Process for developing formal agreements and governance arrangements.....	12
<b>Figure 3:</b> Recommended legal agreements for HealthOne NSW services .....	16

## Attachments

<b>Attachment A:</b> HealthOne NSW Capital Planning Flowchart .....	23
<b>Attachment B:</b> Template for working through key issues in developing governance arrangements for HealthOne NSW services .....	24
<b>Attachment C:</b> Risk Management Plan .....	27
<b>Attachment D:</b> Sample Letter of Intent .....	29
<b>Attachment E:</b> Sample Joint Statement of Intent .....	31
<b>Attachment F:</b> Key Terms of Memorandum of Understanding.....	33
<b>Attachment G:</b> Key Terms of Heads of Agreement .....	38
<b>Attachment H:</b> Key Terms of Service Level Agreement .....	48

# Glossary of terms and abbreviations

The following terms are as used in this document. Some are universal (such as “contract”) and many are self explanatory, but some are specific to this document and/or to NSW Health and HealthOne NSW. The context in which they are used here will generally make this clear.

**HealthOne NSW:** Is an integrated primary and community health initiative, bringing together GPs, community health service providers and other health professionals in multidisciplinary teams. The purpose is to facilitate the delivery of accessible, affordable primary care services that are responsive to the needs of patients.

**Contract:** A legally binding agreement between two or more parties promising to do, or refrain from doing, some specified act(s) in exchange for lawful consideration (usually, but not necessarily monetary).

**Corporate governance:** The structure and process for overall and strategic decision-making for an entity or venture. This is ultimately determined by the governing body or bodies – those with ultimate authority and responsibility, but often with a hierarchy of delegations.

**Clinical governance:** The structure and process for decision-making on patient care and treatment, including the keeping of records, etc. This is normally subsidiary to corporate governance, but is best delegated to those with professional expertise and clinical responsibility.

**Divisions of General Practice:** A Division of General Practice is also taken to mean a Medicare Local. Medicare Locals will be established between 2011/12 and 2012/13 and will replace existing Divisions of General Practice.

**Financial Impact Statement (FIS):** Part of a Project Brief that details the capital and recurrent cost implications of the proposed development, the projected revenue, budget growth, efficiency gains, the timetable for funding and commissioning of the new services, activity, financial risks and strategies to manage the risks within the available budget.

**Heads of Agreement (HOA):** Is usually<sup>1</sup> (and should state that it is if so intended) a legally binding document which articulates the exact nature of the arrangements between its contributing parties and the roles and responsibilities of each. It is likely to be developed over a period of time in an iterative manner, and may also set out further, more detailed contractual or other legal arrangements to be entered into between the parties in order to give effect to the Heads of Agreement.

**Lease:** A legal document granting the right exclusively to occupy and use premises for a specified period of time for a specified fee (rent), granted by the owner of the premises as “lessor” (landlord) to the “lessee” (tenant). It is a property right, not just a contract, which means among other things, that if the land is sold to a new owner, the lease still continues. Unless prohibited in the terms of the original lease, a lessee may assign (transfer) the lease to another tenant or sub-let to a sub-tenant or grant a licence (see below) to another party or parties (licensees). **Lease agreement** has the same meaning, but **Agreement for a Lease** and **Deed of Agreement for a Lease** have a slightly different meaning. The latter are contracts only.

<sup>1</sup> The term ‘usually’ is used several times in this glossary in relation to whether a document or agreement is legally binding. This depends on the intention of the parties at the time of entering into the document or agreement. This may be hard to determine unless the parties state this intention at the time, preferably in the document itself.

**Letter of Intent (LOI)/Joint Statement of Intent**

**(JSOI):** A LOI is a letter (electronic or otherwise) expressing an intention (but not a binding promise) of the signing party to enter into a formal agreement in the future, especially a business arrangement or transaction, and usually subject to exploration and satisfaction of certain issues. The letter is usually in general terms and should set out the issues to be explored and satisfied in future. A JSOI is a joint statement by both or all parties to the same effect as a LOI and, in practice, is often simply the original letter counter-signed by the other party/ies.

**Legally binding:** Able to be enforced in a court of law.

**Liability:** A legally binding obligation such as the liability to settle a debt, pay rent under a lease, perform under a contract; or for committing a wrong (criminal or civil).

**Licence:** An authority to do something that would otherwise be unlawful, such as to enter onto premises owned or leased by another person and use the premises for a specified purpose. A licence can be implied (such as for customers of a shop, a theatre etc.) or in writing and may be free or for a price or on other conditions. In the present circumstances it might apply to a GP with rights to use/share rooms and see patients in premises owned or leased by someone else. A licence can only be granted by the party holding the right to occupy. Unlike a lease, it is usually not an exclusive right: that is, the licensor may still occupy and use the premises or grant other licences in a manner not inconsistent with the rights of the licensee.

**Memorandum of Understanding (MOU):** Reflects and captures the convergence of will between two or more parties and the intention to take specified action. The MOU is not usually legally binding, and this should be stated if so intended. The MOU does not legally commit any of the parties to it, but sets out in detail their intentions in good faith.

**Model of Care:** HealthOne NSW Model of Care defines the way in which health care services are delivered and incorporates the following core components:

1. Integrated care provided by general practice and community health services
2. Organised multidisciplinary team care
3. Care across a spectrum of needs from prevention to continuing care
4. Client and community involvement.

**Project Brief (PB):** A PB must be completed for all NSW Government-funded construction projects. Full details are found in the NSW Health Process of Facility Planning. The Project Brief provides a framework for the preparation of approved construction projects, providing a description and location of the proposed project. It addresses existing service gaps and identifies the health service needs that the project will meet, describes the service model to be achieved and the ways in which it will address the issues identified.

**Separate Legal Entity:** Legal entities are those recognised by law and the courts as distinct 'beings' with the right to enter into agreements, and to sue or be sued in their own names. They include adults of sound mind, companies and corporations (including statutory corporations such as Local Health Districts) and the Crown in right of the State of New South Wales.

**Service Model:** The HealthOne NSW service model encompasses the services performed, provided, or arranged by bringing together GPs and community health professionals (and other health professionals and community care providers as required) in multidisciplinary teams. It generally incorporates service arrangements that are developed as co-located, hub and spoke, and/or virtually integrated service structures.

**Service Level Agreement (SLA):** A formal, (usually) legally binding agreement, which details roles, responsibilities, standards and funding arrangements in the delivery of specified services. It is preferable that it specifically states whether or not it is intended to be binding on the parties.

**Service Plan:** Drawing upon a Local Health District (LHD) Plan and other relevant plans, a Service Plan for a HealthOne NSW service demonstrates the need for the service, provides details of current and projected service activity, the proposed service model, related staffing profile and the benefits to be achieved by the HealthOne NSW service. Guidance in the preparation of a Service Plan can be drawn from the Service Planning Handbook for Rural Health Planners, available on the NSW Health Intranet and the LHD Healthcare Services Plans – NSW Health Guide for Development, available on the NSW Health website.

#### **Service Procurement Plan/Project Definition Plan**

**(SPP/PDP):** A Service Procurement Plan/Project Definition Plan must be completed as part of a Project Brief for capital projects estimated at a cost between \$1 – 10 million.

- **The Service Procurement Plan:** Includes the undertaking of a Value Management Study, the description of options for service delivery considered as part of the planning process and concludes with the recommendation of a preferred option. The preferred option is considered to be the most efficient and effective solution for resolving the identified service delivery issues. On approval from the NSW Department of Health, it will form the basis of a Project Definition Plan.
- **The Project Definition Plan:** May be developed at the same time as the Service Procurement Plan, or following it. The Project Definition Plan consists of, but is not limited to, a design brief, service model, operational policies, site planning, room sizes, equipment requirements and project budget.

## Other Abbreviations

**AMS:** Aboriginal Medical Service

**DGP:** Division of General Practice

**DOC:** NSW Department of Commerce

**EOI:** Expression of Interest

**GP:** General Practitioner or General Practice

**LGA:** Local Government Authority

**LHD:** Local Health District

**NGO:** Non-Government Organisation

## List of resource documents and websites

*Australasian Health Facility Guidelines*, available on the NSW Health website, to assist in planning and designing public health facilities.

*NSW Health Process of Facility Planning*, available on the NSW Health website, provides a framework for the planning and procurement of health care facilities in NSW.

*Service Planning Handbook for Rural Health Planners* (available on NSW Health Intranet)

*LHD Healthcare Services Plans – NSW Health Guide for Development*, available on the NSW Health website.

*NSW Government: Guidelines for Economic Appraisal*, available on the NSW Treasury website.

**NSW Department of Health website:**

[www.health.nsw.gov.au](http://www.health.nsw.gov.au)

**HealthOne NSW website:**

[www.health.nsw.gov.au/healthonensw](http://www.health.nsw.gov.au/healthonensw)

**NSW Treasury:**

[www.treasury.nsw.gov.au](http://www.treasury.nsw.gov.au)

**NSW Department of Commerce:**

[www.commerce.nsw.gov.au](http://www.commerce.nsw.gov.au)

**NSW Divisions of General Practice:**

[www.gp.org.au/nsw.html](http://www.gp.org.au/nsw.html)

## SECTION ONE

# Introduction and background

## HealthOne NSW

HealthOne NSW is an integrated primary and community health initiative, bringing together GPs, community health and other health professionals in multidisciplinary teams.

To date the NSW Government has committed \$44 million in capital funds and \$3.3 million in recurrent funds to establish HealthOne NSW services across the state.

Key objectives are to:

- Prevent illness and reduce the risk and impact of disease and disability
- Improve chronic disease management in the community
- Reduce avoidable admissions (and unnecessary demand for hospital care)
- Improve service access and health outcomes for disadvantaged and vulnerable groups
- Build a sustainable model of health care delivery

HealthOne NSW is an evolving program. However, there are a set of principles and core components that define it and the HealthOne NSW services, which are being established through the program.

The features of HealthOne NSW services that differentiate them from other primary and community health services are:

1. Integrated care provided by general practice and community health services
2. Organised multidisciplinary team care
3. Care across a spectrum of needs from prevention to continuing care
4. Client and community involvement

Together these core components make up the HealthOne NSW Model of Care.

The HealthOne NSW Model of Care cannot be realised without supporting strategies. There are four enablers which individually and collectively contribute to the successful implementation of the Model of Care. These are:

1. Service and capital planning
2. Information and communication technology
3. Governance and sustainability
4. Workforce development

While HealthOne NSW is structured around these core components, it is also recognised that local approaches need to be developed to suit local circumstances – for example the size and needs of the local population and the health workforce. Sufficient flexibility has been built into the model to enable partners to configure their service for local circumstances.

## Approval and Planning

The NSW Department of Health approves all proposals for the development of a HealthOne NSW service. A proposal may include a capital works component and will require, depending on the value of the capital component, approval at different levels of NSW Government.

An overview of the HealthOne NSW planning process is outlined in Attachment A on page 23.

## Purpose of this document

This document has been developed as a resource to assist and guide the development of suitable, workable governance arrangements for HealthOne NSW services to meet the needs of the involved parties and facilitate the processes. The materials have been developed by WestWood Spice consultants, Roger West and Margaret Scott, in consultation with NSW Health staff and stakeholders in HealthOne NSW sites across the state. The recommended approach and resources in the document have been informed by the experiences of a wide range of HealthOne NSW services with multiple configurations.

The focus of this document relates primarily to the development of corporate governance arrangements, rather than clinical governance or other aspects of the establishment and operation of a HealthOne NSW service. However, to the extent that corporate governance is about decision-making, it necessarily ventures into both of these other areas.

As a resource document, it does not seek to dictate behaviour, but to guide and assist as required. No doubt it will evolve over time as more sites work through their unique issues, have their own experiences and learn new and different ways to do this – from which others (and we) can learn. Feedback, new insights and ideas from those who use this document will be welcome and may be forwarded via email to [healthonensw@doh.health.nsw.gov.au](mailto:healthonensw@doh.health.nsw.gov.au)

## Disclaimer

Please note that the information provided in this document is not legal advice, nor is it guaranteed to be legally accurate in all respects and circumstances. Legal advice should be sought from a suitably qualified and experienced legal practitioner before major commitments are made, or significant documents signed.

## Structure of the document

This document outlines what is meant by governance and the features of effective governance, with particular reference to establishing partnership arrangements for a HealthOne NSW service. It outlines a recommended sequential approach to guide the development of HealthOne NSW agreements. A range of tools and templates is included to assist the planning process, along with samples of various types of governance documents in the Attachments, which can be adapted for local use.

It also offers some ideas about the different legal vehicles that can be used for governance: agreements, contractual arrangements, partnerships or companies; and describes the advantages and disadvantages of each. It is emphasised that these issues are secondary to what is sought to be achieved by a HealthOne NSW service, what it will look like to the participating service providers and the patients, and who will be making the practical decisions. Almost any vehicle can get you where you want to be. You can start informally then upgrade in formality as the issues become clearer and the need for more formal structures emerge.

## Background to the HealthOne NSW governance project

The establishment of new integrated care services in diverse settings across NSW constitutes an innovative approach to providing primary health care for the community. This involves new partnerships and shared arrangements for primary health care service delivery between General Practitioners (as Commonwealth-subsidised private businesses), community health teams (as state funded services) and a range of other service providers. This requires new ways of working for all concerned and the establishment of suitable governance arrangements which meet individual and collective needs and comply with relevant legislation.

For each HealthOne NSW service there are many different contextual factors to consider and navigate, including local participants, service structure, scope, resources, opportunities, relationships, history and sensitivities. To date the establishment of HealthOne NSW services has involved breaking entirely new ground in very complex territory, while negotiating capital arrangements to NSW Government requirements. The new service models require appropriate premises for service delivery, along with clinical care protocols and clarity about the roles and responsibilities of the participants. They require the establishment of agreed mechanisms for decision-making across a spectrum of issues.

HealthOne NSW service arrangements vary in nature and complexity, which has implications for the types of governance documents which will be required. HealthOne NSW services generally incorporate services that are co-located, delivered under a 'hub and spoke' model, or provided under a virtually integrated service structure.

## What is governance and why is it important?

**Governance**, in the context of the HealthOne NSW services, refers to the arrangements, processes and structures for decision making in relation to corporate/organisational issues, and this also necessarily embraces financial, physical infrastructure and clinical matters.

Corporate governance is defined as the act or function of exercising authority. It encompasses the roles and responsibilities of participants in relation to financial, contractual and business arrangements, and the structures and agreements that support and define these.

Clinical governance relates to specific clinical decisions relating to aspects of quality care, safety and patient needs. It should be considered in the context of the clinical service delivery model. It is only tangentially dealt with in this document.

It is often and correctly observed that “governance is the glue” ... but it all really depends on what it is that you want to stick together.

## Elements of good governance

- A culture of goodwill, transparency and accountability.
- Clear decision-making frameworks.
- Clear financial arrangements.
- Effective communication mechanisms.
- Effective participation by diverse interests.
- Appropriate capacity and skills, such as financial management.
- Not too complex, minimal bureaucracy.

## Barriers to good governance

- Lack of communication.
- Lack of trust.
- Unclear, unrealistic or unaligned expectations.
- Anxiety, fear of the unknown.
- Unchartered territory, few precedents.
- Structural/cultural differences from different sectors and interests.
- Insufficient time and commitment.

# Governance in the context of HealthOne NSW

HealthOne NSW services involve a range of participants and stakeholders that varies from site to site and can include the NSW Department of Health, Local Health Districts, General Practitioners, Divisions of General Practice, Local Government Authorities, non-government organisations and others. These participants need to come together through a governance structure as illustrated below. An associated set of documents will allow the parties to deliver the model of integrated patient care that is sought and envisaged.

## Communication and Decision Making

Good communication between stakeholders is an essential element of a successful HealthOne NSW partnership. Consideration of communication styles and organisational requirements, both formal (e.g. NSW Health briefings) and informal, is important and can pose challenges in the communication and decision-making process when developing and delivering a HealthOne NSW service. Respecting and learning of each party's requirements will contribute to a strong foundation that ultimately facilitates communication and decision-making.

There are many areas and levels of decision-making to be achieved during the establishment of each HealthOne NSW service, and these will generally evolve over a period of time through a series of iterative processes, consultations and the development of agreements. Not all participants will need to have an ongoing decision-making, governance role – but the form of each one's input needs to be considered.

The three broad areas requiring the formalisation of processes for decision-making in HealthOne NSW services relate to:

1. Clinical service model – the nature and mechanisms for delivery of integrated primary care services to the community.
2. Premises/site for service delivery – property arrangements, ownership, leasing/licensing, fit-out and financing.
3. Corporate governance – the overarching administrative framework for the development and ongoing operation of the HealthOne NSW service.

It is usually best to decide on the practical arrangements first and then find a legal framework or vehicle for a formal governance structure that best fits the purpose. A recommended process for working through the issues in each of the key areas above is outlined in Section 3.

## Factors that facilitate decision-making in the HealthOne NSW context

HealthOne NSW models of integrated health care delivery involve many levels of complexity and new ways of working between diverse participants. What is known so far about ways of approaching the development of effective governance arrangements in HealthOne NSW services include the following key features.

### Common purpose and vision

At the outset it is important to be as clear as possible about the overall purpose and vision for each particular HealthOne NSW service and to ensure, as far as possible, that this is a shared vision for the participants. This includes having realistic expectations of what can be delivered for a particular community. Developing a shared understanding between different parties of what the vision is also requires a mutual commitment to working collaboratively towards that vision. Central to this common purpose is a shared understanding of the particular model of care to be delivered for the community and the specific HealthOne NSW service model which will be developed locally to provide this care.

### Development of goodwill and trust

Building relationships over time in a spirit of good will is critical to progressing HealthOne NSW arrangements between the different stakeholders. It is important to develop an appreciation of the different perspectives, cultures, drivers and working processes at play, particularly between Local Health Districts and General Practitioners. This reflects essentially the differences between public health service providers and private, for-profit health care professionals working predominantly on a fee for service basis.

Strong pre-existing working relationships developed through local initiatives, such as shared-care arrangements, can be an important facilitator of trust in progress towards the establishment of a HealthOne NSW service.

### Allowing time

Building shared understanding and developing trust requires time, an ongoing demonstration of good will and a willingness to accommodate other perspectives and priorities. Developing and maintaining transparent consultative processes throughout is vital and can be facilitated by effective communication. Including all key participants at the earliest stage possible and bringing them on the journey can expedite developments and avoid having to repeatedly set up new relationships and understanding of the vision.

That said, the key participants may need to develop the core purpose and the nature of the HealthOne NSW service model to a certain point before it is appropriate to introduce others.

### Effective communication and consultation processes

It is important to set agreed processes for communication which will work for all parties, and to monitor the effectiveness of these processes along the way. Ensuring the inclusion of relevant stakeholders at various stages in the development process is as critical as developing appropriate types and levels of consultation. Some people may need to be kept in the information loop as a courtesy or for information only. Others may be involved only in a one-off consultation, while others will need to be kept informed throughout.

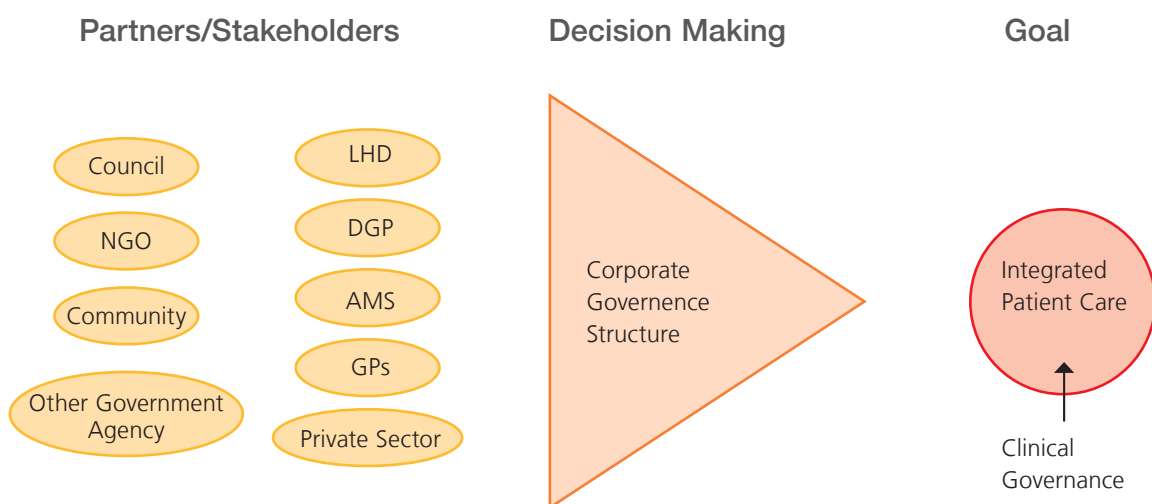
### Importance of documentation of process/decisions

It is highly recommended that from the outset, discussions and agreements are documented, and that a record is maintained of all meetings and communication. This provides an incremental building of understanding that may start with a Letter or Statement of Intent. The Letter or Statement of Intent can be further developed and modified into a Memorandum of Understanding, followed, if necessary, by formal legal documents and agreements such as Heads of Agreements, Service Level Agreements, Leases and Licences. Coming to agreement about different issues will necessarily involve an iterative process and there are likely to be many versions of documents for different stages and purposes. The types of documents that can be used for different HealthOne NSW purposes are outlined in Section 5. It is useful to keep tight version control of each document by developing an agreed coding system.

### External facilitation and expert advice and support

Arranging for an external, independent facilitator to guide and assist in progressing discussions and agreements can be very useful, particularly where there are diverse stakeholder interests at play and where tensions and misunderstanding may occur or slow the process. Issues from all perspectives can be raised and discussed constructively in a forum with independent facilitators who have no vested interest in the outcomes. This has been an important catalyst in the development of a number of HealthOne NSW services.

Figure 1: HealthOne NSW governance: range of stakeholders



# Recommended approach to the development of HealthOne NSW governance arrangements and agreements

## Overview

The process below (represented diagrammatically in the flow chart at Figure 2 on page 12) outlines a suggested approach to the sequential development of the various levels of governance arrangements and documentation for HealthOne NSW services. For each service there will be many contextual factors to consider – different participants, scope, opportunities, resources, relationships, sensitivities, challenges and constraints. In particular there may be a range of service-specific complexities in relation to the physical premises or land/site proposed – for instance in relation to ownership, rights of occupancy, local government requirements (such as Development Applications), and other legal considerations.

Specific NSW Department of Health, NSW Treasury and HealthOne NSW service planning processes and the processes required for capital planning for health services are set out at Attachment A in the HealthOne NSW Capital Planning Flowchart on page 23.

*Of particular importance in the initial stages of the development of a HealthOne NSW service is that all stakeholders develop a shared vision for what the service will be offering to the community.*

## HealthOne NSW service model variations

HealthOne NSW services are established in a variety of arrangements according to the local primary health service infrastructure and the needs and preferences of stakeholders. In terms of the service model, a HealthOne NSW service may have participating health professionals co-located or virtually connected, or it may operate through a Hub and Spoke arrangement with or without virtual connections.

The physical infrastructure arrangements are equally varied. The unique nature of each HealthOne NSW services means that there is no “off the shelf” product that can be universally applied. Processes and documents will vary from site to site.

Table 1: Variations in HealthOne NSW model and capital requirements

Local Health District site	Site owned by another party
Refurbishment/extension of existing LHD facility (eg Community Health Centre, hospital, MPS): <ul style="list-style-type: none"> <li>a) GPs (and other private providers) lease space</li> <li>b) The facility provides the “Hub” or rooms where shared administrative and/or clinical activities take place by arrangement</li> </ul>	LHD staff and/or GPs and/or other private providers lease space in an existing facility which may be owned by: <ul style="list-style-type: none"> <li>a) General practice</li> <li>b) Local Government</li> <li>c) Other party</li> </ul>
Construction of new facility by LHD, either as a standalone facility or as part of a larger capital development: <ul style="list-style-type: none"> <li>a) GPs (and other private providers) lease space</li> <li>b) GPs (and other private providers) contribute to capital costs</li> </ul>	NSW Health contributes to the capital costs of constructing a new facility, amortising future lease costs. GPs (and other private providers) lease space
NSW Health constructs new facility on site owned by and leased from the Crown. GPs (and other private providers) lease space	

## Three key areas for decision making

A range of issues common to all sites needs to be considered and agreement reached between the relevant parties, prior to developing a legally binding agreement, for the eventual operation of a functioning HealthOne NSW service. These issues have been grouped into three main areas for decision making:

1. **clinical service model;**
2. **premises/site** (including the land itself – who owns, who has the occupancy rights, approvals needed for development and use); and
3. **governance.**

The relevance and importance of the issues for consideration in relation to the three areas will vary according to the specific characteristics of each HealthOne NSW service.

The recommended process is to identify the key issues to be addressed in each of these three areas and then to begin to scope and address them at a higher, “in-principle” level sufficient to proceed to the next stage. Progressively, more detail will be required and new issues will emerge, so that agreement can be reached and documented at each new level. Over time, each issue will be fully addressed, but some of these may not become fully clear or resolved until the service is up and running. Others may be “deal breakers” that need resolution before anyone, or a particular party, can proceed.

## Process for consultation and movement to agreement

A recommended process for the establishment of governance arrangements for each element of the HealthOne NSW service: **clinical service delivery, premises/site**, and corporate governance is set out below. Figure 2 on page 12 sets out these processes in diagrammatical form.

1. Establish a planning group and undertake start-up scoping, discussions, conceptualisation and proposals to secure initial grants to proceed further (as per HealthOne NSW planning process).
2. With relevant stakeholders, work through the issues in each of the 3 main areas for decision making.
3. Document throughout the process the outcomes of discussions, early agreements and intentions in minutes, Letters of Intent and draft Service Plans.

4. Establish a risk management plan early in the process and concurrently review potential risks and how these will be mitigated (some will be addressed in the various legal documents).
5. As broad agreements become clear, progress to formalisation of the issues with the completion of a Memorandum of Understanding
6. Over time, review and modify documentation as required.

The **Template for working through key issues in developing governance arrangements for HealthOne NSW services** at Attachment B can be adapted for each service according to local needs and resources. The template is intended as a guide to systematically work through with the relevant parties and move towards a series of agreements for each of the key elements. It can also be used for monitoring progress towards formal agreements.

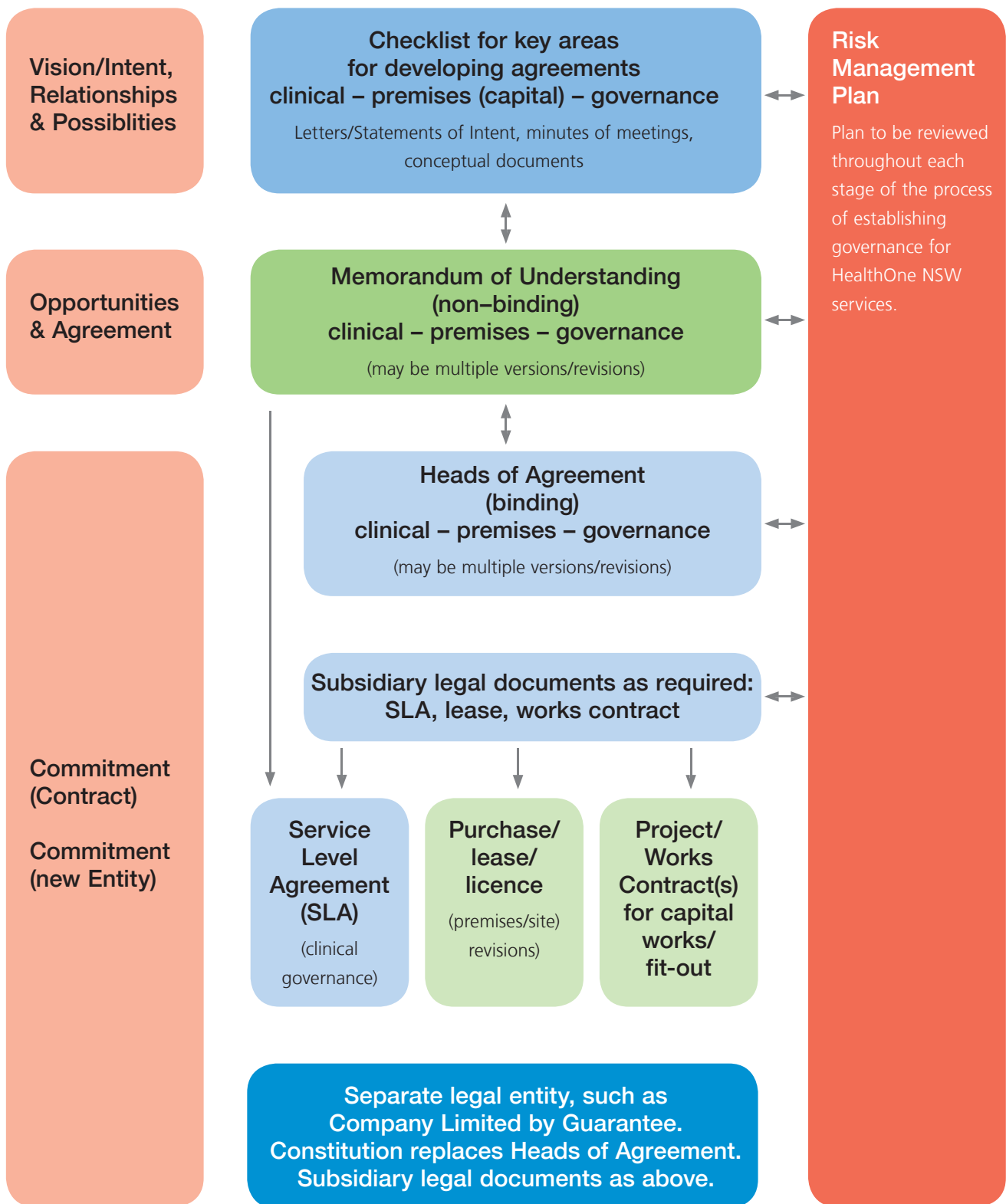
Consideration of risks needs to be captured and addressed from the outset in a **Risk Management Plan**, which may be reviewed, updated and amended over time to reflect emerging issues and risks. A model Risk Management Plan is set out at Attachment C.

It is suggested that the participants progressively work through locally relevant issues towards the development of a **Memorandum of Understanding** as the first major stage of in-principle agreement (Attachment F). The MOU reflects and captures the convergence of will between the parties and the intention to take specified action. It can evolve over a number of iterations as further detail and agreements are reached over time. A MOU can be modified and updated over time as more specific details emerge. It may be superseded by a binding document, such as a Heads of Agreement and additional or subsidiary legal documents as required.

In most cases it will be advisable or necessary to progress to a legally binding **Heads of Agreement** (Attachment G). A HOA is usually required by NSW Treasury as part of the capital works budget approval process. The type and nature of subsidiary legal documents to the Heads of Agreement will vary according to the specific arrangements for each HealthOne NSW service.

In the case of a HealthOne NSW service moving over time to establish a separate legal entity, such as a Company Limited by Guarantee, additional legal documents will need to be developed, such as a constitution.

Figure 2: Process for developing formal agreements and governance arrangements



## SECTION FOUR

# Nature and types of governance-related documents

As previously mentioned, it is strongly recommended that details of meetings, discussions and agreements as they are reached are documented carefully. Documents of varying levels of formality can be used for different purposes at each stage of the establishment of a HealthOne NSW service. Some of these will be legally 'non-binding', i.e. for recording proceedings, actions, discussions and ideas, while others will be legally binding and require detailed consideration and

legal advice. It is also good practice to **expressly state in documents whether or not they are intended to be legally binding.**

In order to secure NSW Government approval for capital grants, other documents may be required, such as a Service Plan and a Project Brief.

Table 2: Types of documents and agreements

Document	Status	Contents/format	Comment
Risk Management Plan	Non-binding (although can be part of another legally binding document such as a HOA)	Plan to identify and assess risks and agree actions to avoid and/or mitigate risks.	Should be prepared early in the service establishment process. May be used throughout the course of a project, or can be put in place for the longer-term life of a service or enterprise.
Minutes of meetings	Non-binding	Record of meetings, agreements and actions.	Important record throughout process.
Letter of Intent	Non-binding	Informal broad statement of an individual party's position.	Valuable to capture early agreements.
Joint Statement of Intent	Non-binding	Informal broad statement of mutually agreed position – "handshake".	May be required as part of the capital works funding requirements.
Memorandum of Understanding (MOU)	Non-binding (usually)	Documented, more detailed understandings between parties. Covers common intent and major roles and responsibilities.	Can lead directly to the development of a subsidiary legal document such as Service Level Agreement, or can be a building block on which a formal binding contract, such as Heads of Agreement, is developed.
Heads of Agreement (HOA)	Binding	Formal legal document with more detailed understandings, common intent, major roles and responsibilities.	Could be MOU converted to binding form. May be required as part of the capital works funding requirements.
Service Level Agreement (SLA)	Binding	Subsidiary legal document that details how various aspects of clinical service model will be delivered by different parties.	Forms basis of HealthOne NSW services and needs to be supported by strong clinical governance.
<b>Continues</b>			

Document	Status	Contents/format	Comment
Project/ works contract(s)	Binding	Subsidiary legal document. Detailed agreements for expenditure of capital grants for specific purposes, e.g. building construction, modification and/ or fit-out.	Required as part of the capital works funding requirements.
Lease agreement	Binding	A subsidiary legal document. Agreement to be a tenant and to occupy/ use premises for a specific purpose, with exclusive rights of occupation. May include a right to sublet.	May be required as part of the capital works funding requirements prior to building completion.
Licence agreement	Binding	Subsidiary legal document. Agreement to occupy/ use premises for a specific purpose, but without a right to exclusive occupation.	May be applicable to the use of premises by a range of health practitioners.

## Risk Management Plan

(See sample at Attachment C)

An effective Risk Management Plan is an important part of any project and should be developed at an early stage in the HealthOne NSW service development process. The Risk Management Plan will identify potential risks to the establishment of the HealthOne NSW service and strategies to reduce, mitigate and/or address them.

## Minutes of meetings (non-binding)

It is important from the outset to keep minutes of meetings and to maintain them in a chronological file. Minutes can be brief, but at a minimum need to include:

- Date, venue.
- Attendees.
- Purpose of meeting.
- Topics and key issues discussed.
- Agreements reached – either in principle or specific, and unanimous or by majority.
- Actions to be taken – what, by whom and by when
- Next steps.

Circulating minutes for corrections and for concurrence can be important in seeking common agreement on what has transpired. It can also be useful to circulate minutes to stakeholders who did not attend but who need to be kept informed about progress and key issues.

## Letter of Intent (non-binding)

(See sample at Attachment D)

A LOI is a written statement expressing the intention of the signing party to enter into a formal agreement in the future, especially a business arrangement or transaction, subject to exploration and satisfaction of certain issues. The statement is usually in general terms and should set out the issues to be explored and satisfied.

## Joint Statement of Intent (non-binding)

(See sample at Attachment E)

The JSOI is similar to the LOI but is signed by several (or all) parties and represents their joint or mutual intent. This is useful in focussing the parties, clarifying the key issues and progressing the project. It is also useful for interested third parties to see the degree of commitment of the participants.

## Memorandum of Understanding (non-binding)

(See sample MOU at Attachment F)

The MOU reflects and captures the convergence of will between the parties and the intention to take specified action. It can evolve over a number of iterations as further detail and agreements are reached over time. The MOU is not usually legally binding (and preferably this will be

specifically stated in the MOU). As such, the MOU does not legally commit the parties, although it sets out in detail their good faith intentions. The MOU may be superseded by a legally binding document such as a Heads of Agreement, but can lead directly to the completion of service level agreements and contracts where the budget required for the establishment of the HealthOne NSW service is low and risks are considered to be minimal.

### **Heads of Agreement (binding)**

(See sample at Attachment G)

A Heads of Agreement is usually (and should state that it is) a legally binding document which articulates the arrangements between the parties and the roles and responsibilities of each. It is likely to be developed over a period of time in an iterative manner, and will often be supplemented by other legal documents such as a Service Level Agreement, a Lease Agreement and/or other documents relating to premises.

A number of schedules are likely to be attached to the Heads of Agreement which outline specific aspects of the initiative, as well as other relevant documents, such as a Service Level Agreement (see below) and subsidiary legal documents.

### **Service Level Agreement/ Service Contract (binding)**

(See sample at Attachment H)

A Service Level Agreement (SLA) is a contract between the parties which is legally binding and details which party will be responsible for delivering particular service types and levels. In the context of HealthOne NSW services, a SLA is likely to be used to formalise agreements between General Practitioners and Local Health Districts in regard to the details of a service being provided.

The content and level of detail required in the Service Level Agreement will vary according to the circumstances and should be drafted accordingly. They may include a description of services, function and activity being contracted, the roles and responsibilities of the parties, contract terms and agreement, performance indicators, fees and payment schedule.

### **Project/ works contract**

A project or capital works contract is a legal document subsidiary to a MOU or Heads of Agreement. Following the tender for construction, the project or works contract is completed between the parties and a building contractor to capture the scope and cost of capital works to be undertaken to refurbish, extend or build a health facility.

### **Lease agreement**

A lease agreement is a legal document subsidiary to a MOU or Heads of Agreement that is prepared to capture the terms for the lease of land for the construction of health infrastructure or for premises for the accommodation and delivery of primary and community health services. Unlike a licence agreement, the lease agreement gives the lessee the exclusive right to occupy and use premises for a specified period of time for a specified fee. The lease agreement is a property right, not just a contract.

The majority of HealthOne NSW services are accommodated and delivered from LHD-owned land and infrastructure. Private/non-government service providers lease space within these facilities under a lease and/or licence agreement.

However, some LHDs lease land or premises owned by external organisations, such as local councils, for the co-location of community health with other primary health services under the HealthOne NSW model. Where a commercial lease is required to secure land or premises for the establishment of a HealthOne NSW service, the expertise of the LHD's capital/asset management team and formal legal counsel should be engaged in the completion of this document.

### **Licence agreement**

A licence agreement is a legal document subsidiary to a MOU or Heads of Agreement setting out the agreed terms for the use of premises by a health service provider, such as a general practitioner or a visiting medical officer, an individual or organisation. The licence agreement does not provide for the exclusive right to occupy and use the premises, rather, it sets out the arrangements for the occupation and use of premises, the services to be provided by the licensor, terms for the payment of the licence fee, indemnity, OH&S, etc.

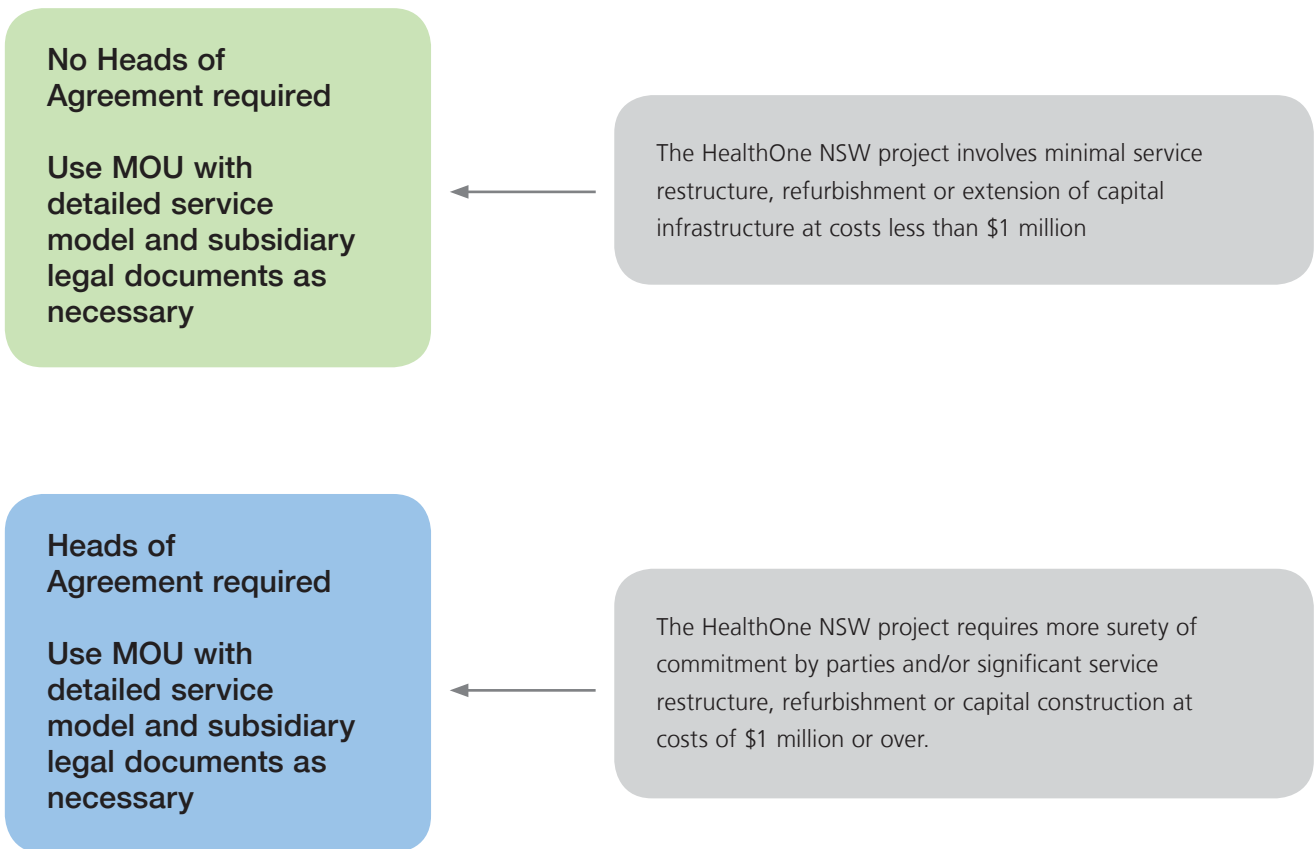
# HealthOne NSW governance: legal vehicles and structures

In coming to decisions about appropriate governance models it is usually best to decide the practical arrangements first, and then find a legal framework that best fits these practical elements.

In most situations, a Heads of Agreement (binding) will ultimately be required by NSW Treasury where significant government funding (generally \$1M or more) is provided for the refurbishment, extension or complete construction of premises to accommodate the HealthOne NSW service.

A Heads of Agreement is also required where the combination of services to be delivered requires surety of the commitment of the parties. The parties to the Agreement may include GPs, Divisions of General Practice, Local Government Authorities and other non-government service providers in addition to Local Health Districts.

Figure 3: Recommended legal agreements for HealthOne NSW services



## Memorandum of Understanding

### **A non-binding agreement that sets out the good faith intentions of the parties, the operating principles and guidelines for co-operation.**

The least formal of the recommended structures is a non-binding Memorandum of Understanding between the parties. These may include a Local Health District, a GP or General Practice, a local government authority and/or one or more non-government service providers. The MOU captures the intent of the venture, the operating principles and guidelines for co-operation. This document can be modified over time by mutual agreement, and can include the addition of other parties.

As illustrated by Figure 2 on page 12, the MOU can lead directly to the development of a Service Level Agreement and other subsidiary legal documents where the HealthOne NSW service development involves minimal service restructure and/ or refurbishment or extension of capital infrastructure at costs less than \$1 million. However, any risks or liabilities for relationships with third parties, such as staff employment contracts, purchase contracts, the lease or licence of premises, equipment and insurance would fall upon the individual parties to the MOU.

The MOU has the advantage of simplicity and is often used in the early stages of the development of a HealthOne NSW service, even if a more formal structure, such as a Heads of Agreement is subsequently created. It is anticipated that parties would amend the clauses in the sample MOU provided to reflect the circumstances unique to their HealthOne NSW. Simply, the MOU may act as an endpoint with subsequent legal documentation in place (see figure 2, page 12) or as a stepping stone to a more formal arrangement such as a Heads of Agreement. Therefore, every MOU will vary in complexity and content.

## Heads of Agreement

### **A legally binding document that articulates the roles and responsibilities of the parties and the operating principles and guidelines for co-operation.**

One step up the ladder of formality is for the same parties to enter into a legally binding agreement, or series of agreements, for the development and operation of a HealthOne NSW service. The Heads of Agreement is usually

supplemented by subsidiary legal documents such as a Service Level Agreement, a Lease or a works contract.

This degree of commitment maybe desirable or even necessary where significant investments are being made in terms of money and resources. A Heads of Agreement provides surety of the commitment of the parties where they are making significant decisions and career choices. A GP may be committing to move to or stay in a particular town and needs to be sure that his or her practice arrangements are as stable and secure as possible. The NSW Department of Health and the LHD are committing significant resources to a capital development and to the development of a service whose future is reliant upon the participation of a private GP or general practice.

The advantage of the Heads of Agreement is that the parties demonstrate their commitment by exposing themselves to greater legal consequences if they break the agreement, and this offers a far greater degree of certainty for the other parties. The commitments are not absolute because they can always be terminated or modified by mutual agreement.

Again, no separate legal entity is created, and legal relationships with third parties would need to be entered into by one or more of the parties to the Agreement.

## Company Limited by Guarantee

### **A separate entity with a legally-binding constitution, principles and guidelines for the way in which the service will operate.**

Parties wishing to take governance arrangements a further step may wish to create a new and separate legal entity to operate the HealthOne NSW service. A Company Limited by Guarantee is the most common form of separate legal entity for the operation of a non-profit making venture such as a HealthOne NSW service, formed on the principle of having the liability of its members limited to the respective amounts that the members undertake to contribute to the property of the company if it is wound up. Being a separate entity allows it to enter into legal relationships on its own behalf rather than having to do this through some other entity. It can employ its own staff, enter into its own contracts for purchase and/ or occupation of premises, purchase and/ or lease of equipment, service agreements of all kinds and insurance contracts. This is often a great advantage in terms of transparency, clarity and autonomy. It can also give a stronger sense of identity and common purpose.

Within the regulated legal framework, there is still a large degree of flexibility and choice in terms of what this entity does, and what the existing entities, such as the LHD, DGP or individual GPs may continue to do. Members of a Company Limited by Guarantee can vote equally to appoint a board. The Company Limited by Guarantee may simply be a governance vehicle such as a board, and all or some staff may continue to be employed by their existing employer/s and paid or seconded to work in or from the HealthOne NSW service. Similarly, premises and equipment may stay in the name of their existing owner and be made available to the new entity by lease, licence or contract.

There is also great flexibility with a board structure and membership structure while, at the same time, the framework is "tried and true" with clear rules of governance and procedure.

The Company Limited by Guarantee is regulated by and subject to a degree of scrutiny through corporate law and associated frameworks, such as the Australian Securities and Investments Commission. This also gives the entity a degree of credibility. It is a relatively robust structure on which to build a complex, non-profit organisation and in which to arbitrate the interests of the participating parties.

It also has the advantage of limited liability, which means that the participating or member organisations (such as Local Health Districts and Divisions of General Practice, and even individual practitioners) are not exposed to legal liability for the actions of the company (unless they give guarantees or attract liability through their own actions).

The primary disadvantages are that the new entity has its own set of responsibilities and compliance obligations. The Company Limited by Guarantee must lodge annual returns and financial reports, meet occupational health and safety requirements and ensure staff are employed to industry awards and conditions. These are not unfamiliar issues, but they are onerous, and there is an additional cost and complexity in dealing with them. Also, the structure is relatively unfamiliar to many of the participants in the development of a public sector HealthOne NSW service. For these reasons, it is often desirable to postpone a move into this structure until it is clear that the venture will be proceeding and that the benefits outweigh the short-term disadvantages.

## Other possible governance arrangements

Technically, there is a range of other possible governance structures under which HealthOne NSW services could be offered. These include **partnerships** under the *Partnership Act 1892*, a **Proprietary Limited Company** (private company with shares), a **Public Limited Company** (public company with shares) or even a **Mutual** (like the NRMA and some health funds), but these are not likely to be suitable or acceptable in the present circumstances and have not been explored further for this document.

# Terms and guidelines for writing Letters of Intent, Memoranda of Understanding and other formal agreements

## Introduction

These guidelines are to assist HealthOne NSW key stakeholders in the preparation of Letters of Intent and instructions for lawyers who are assisting in the drafting of legal agreements, but who do not necessarily have an understanding of the business of HealthOne NSW services.

A range of documents can be completed over the course of the establishment of a HealthOne NSW service which are important in establishing a framework for the overall service. They can be used for reference as the final contracts are drafted and negotiated.

The development of a suite of linked documents in an iterative process through different phases of the service development will facilitate a shared understanding of the elements of the service and the key issues to be agreed on, building ownership and commitment.

## General points

### Critical factors

The following factors are important in the development of all documents and will facilitate enhanced clarity and greater ease of understanding through the development and negotiation processes.

**Purpose of document:** Be explicit about the purpose of the document and to whom it relates. State this at the beginning of the document. Ensure the response required (if any) by recipients of the document is clearly stated, e.g. for information/discussion only, for comment, for endorsement, not for circulation, etc. State the response-by date clearly.

**Clarity and precision:** Use simple, clear language with short sentences to avoid ambiguity. Avoid use of jargon wherever possible.

**Terminology:** Use consistent terminology throughout the series of documents for the HealthOne NSW service. Define key terms at the outset to ensure common understanding and where possible use accepted NSW Health terminology.

**Version control:** Be strict about version control as there are likely to be many versions of documents over an extended time. Indicate the version and date on each document. It can be helpful to develop an agreed version/file code early in the process.

### Formality

Documents at various stages and for various purposes will have different levels of formality and degrees of legal enforcement.

**Letter format:** General correspondence (other than a Letter of Intent) can be used as a form of communication between the participants to confirm arrangements in the process of establishing a service has been attained. However, care must be taken not to imply that an agreement has been reached if it hasn't. It is important to realise that a letter in this context is still a legal document that can cause significant harm if not drafted appropriately.

**Nature of document (binding or non-binding):** Be explicit on whether the document is intended to be binding or not. If it is, legal advice should be sought. If it is not (which is often initially the case), explicitly identify the document as a nonbinding Letter of Intent, or for discussion and further decision only.

**Use of 'TBD' (to be decided):** As a Letter of Intent is a proposal, the initial draft need not be complete. It is very appropriate to use blanks and brackets in order to elicit a counter proposal or initiate a discussion on a particular topic. Avoid using 'TBD' which can be ambiguous. It may or may not mean the issues will be addressed prior to completion or execution of the memo, Letter of Intent or

contract, in which case a blank space or brackets are preferable. If the issue will be addressed at some later point in the relationship, after signature of documents, it is clearer to say “to be negotiated in good faith.”

**Countersignature:** the signature of a witness to or confirmation of authority of an existing signatory; also the signature of the other party to demonstrate agreement. A signature shows a level of commitment, but particularly in Local Health Districts, may require multiple levels of approval. If the document is meant to be binding, then countersignatures are essential.

## Styling

Documents need to be clear and understandable and should tell a comprehensible story with logical sequencing and order. Strive to be clear, explicit and succinct using the simplest language possible to convey the meaning and intent.

**Formatting:** Use bullet points, numbered lists or table format, where possible, for simplicity. Include a heading for each item. Include a date, version number and footer for each document with an agreed file coding system.

## Terminology and structure

Do not use the term “partners” as this has a specific legal meaning – use instead “parties”, “key stakeholders” and/or “participants”.

## Checking documents with others before circulating

Have key documents reviewed by at least one other person before sending out. Use someone who knows the intent of the document and does not necessarily know the exact detail of the arrangement so that they can review the document with some distance.

## Context of the agreement/arrangement

### Purpose and direction of the agreement

Consider if there are any particular points that are important to you (today or into the future) that may not be particularly significant or sensitive for the other party/ies.

Also, when drafting agreements, consider implications that may arise into the future which may impact on them, such as the eventual outcomes of national health reforms.

## Relation to other phases/ documents/ agreements

Indicate in the document where and how this iteration of the agreement relates to other HealthOne NSW agreements or proposals. For instance if it is a revision, renewal, continuation, addition or supplement. Is it dependent on other agreements, or does it involve seeking agreement between the parties or third parties such as the NSW Department of Health or NSW Treasury? What happens to this agreement if other agreements expire or are terminated?

## “Poison Pills”

Be careful in drafting provisions that dictate, promise or proscribe future action. They may cause problems in later stages which may impact on future functioning of the HealthOne NSW service. An example may be a promise not to deal with certain other parties, or only to deal with such parties in the future.

## Essential terms for Agreements

### Purpose

Particularly with complex arrangements like HealthOne NSW, it is important to start with a section that describes the purpose in one sentence so that other stakeholders or decision makers don't have to wade through the document before understanding its overall purpose.

### Parties

State clearly who the parties to the arrangement are. What are the relative relationships of sub-parties if any? Should various provisions apply to other sub-parties or affiliates? Is the agreement intended to be transferable?

Be sure to use the correct legal names of the parties.

### Goods and services

Include any material goods and services which are relevant to the agreement, including equipment, supplies and services rendered.

### Governance

What management structures and committee constitutions will be required to guide different aspects of decision making?

## Duration of agreement

State clearly from which date the document takes effect and for how long the document will be applicable. It is recommended that the agreement takes effect from the date of last signature. It can be for a given period, subject to renewal by the agreement of the parties. It should state whether it expires at the end of the period if it has not been renewed, or as in some leases, it continues on, say, a month-by-month basis (or longer period as specified).

## Intellectual property

State clearly the terms of the agreement in relation to intellectual property for the HealthOne NSW service.

## Disputes

The document should set out the process that will be undertaken in the event of a dispute between the parties, and the way in which issues will be resolved.

## Termination

The document should also set out how the agreement can be terminated early and the circumstances for its termination.

## Legal Compliance

It is expected that the establishment of partnership arrangements for HealthOne NSW services will be reflective of the service provided and the requirements of the parties involved and as such vary accordingly.

Agreements for HealthOne NSW services should be prepared in acknowledgement of the legal and regulatory frameworks in which the service as a whole will be administered and specific clinical services provided. Therefore, it is recommended that independent legal advice be sought by the parties involved on the HealthOne NSW service arrangement's compliance with relevant legislation.

This guide does not attempt to describe all of the legislation under which HealthOne NSW services are operated, however it is acknowledged there exist some key legislative and regulatory requirements. Relevant legislation includes but is not limited to the:

- *Health Insurance Act 1973* (Commonwealth)
- *Health Services Act 1997* (NSW)

## The Health Insurance Act 1973 (Commonwealth)

In respect of arrangements for payments to General Practitioners, any agreements put in place must not contravene the *Health Insurance Act 1973*, specifically section 19(2) which states:

- (2) *Unless the Minister otherwise directs, a Medicare benefit is not payable in respect of a professional service that has been rendered by, or on behalf of, or under an arrangement with:*
- (a) *the Commonwealth;*
  - (b) *a State;*
  - (c) *a local governing body; or*
  - (d) *an authority established by a law of the Commonwealth, a law of a State or a law of an internal Territory.*

As there has been no judicial consideration of section 19(2), there is some degree of uncertainty as to the precise scope of the restrictions that it imposes.

The Commonwealth has generally taken the approach that the purpose of section 19(2) is to prevent a service being paid for twice, that is, by Medicare and other public sources. This means that Medicare benefits are not payable for professional services rendered by a General Practitioner where the General Practitioner receives payment from a NSW Health agency for the time spent providing the services.

However, other forms of support or funding for HealthOne NSW services may be provided consistent with section 19(2). Such forms of support<sup>2</sup> may include (but not necessarily be limited to):

- General practitioner allowances, for example on-call allowances
- Incentive payments to General Practitioners to participate in rosters
- Medical consumables
- Costs associated with support staff
- Recruitment costs
- Training
- Business planning
- IT support, hardware, software and maintenance
- Medical and other equipment

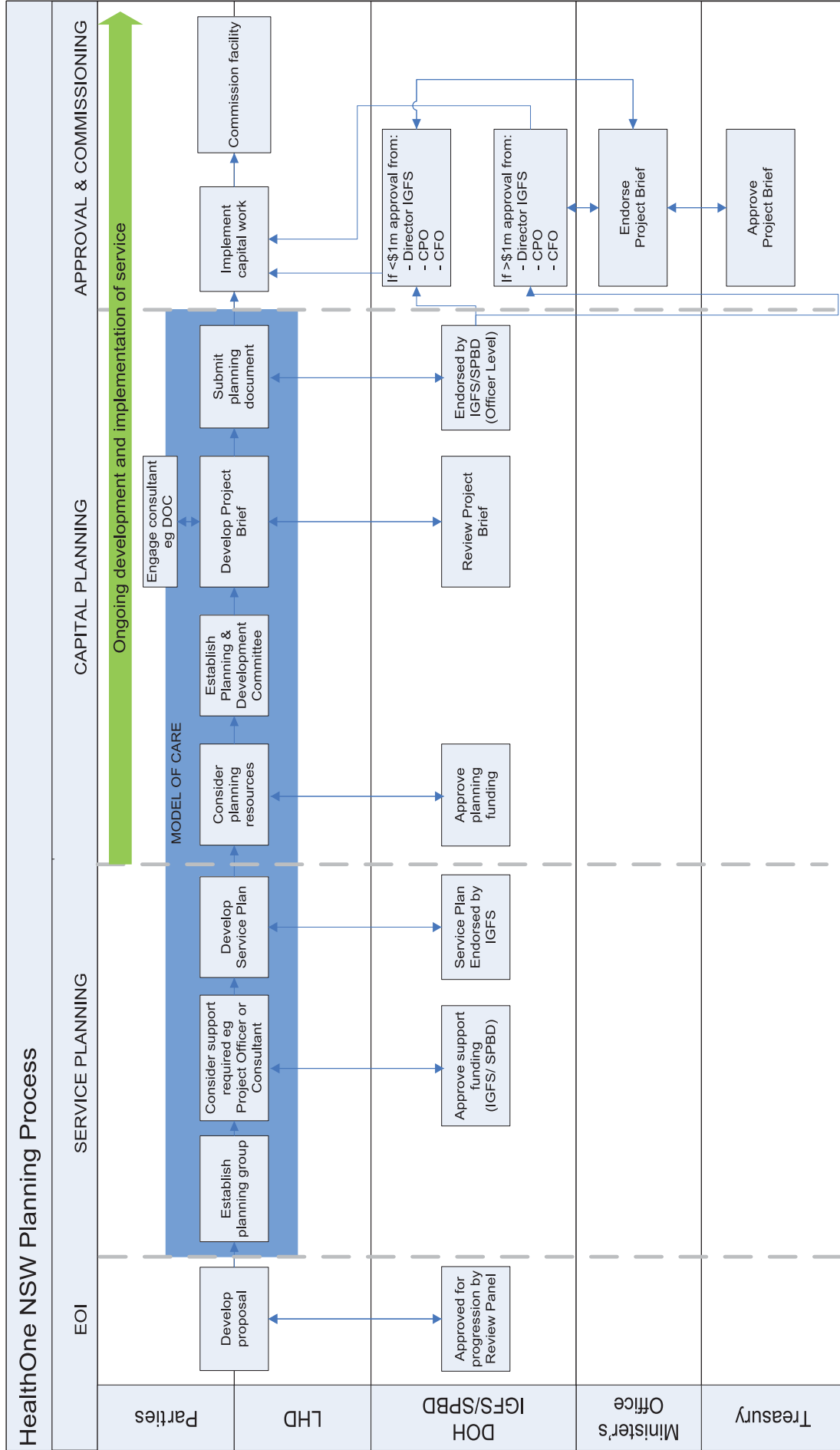
<sup>2</sup> Other examples of support and funding that the Commonwealth considers to be appropriate in the context of Commonwealth support for after hours GP services can be found in the following guidelines: General Practice After Hours Program, Round 2, Program Guidelines 2009-10 [http://www.health.gov.au/internet/main/publishing.nsf/Content/ADAE4CC042F50ECCA25765500136246/\\$File/GPAH2Guidelineswebversion21Oct09.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/ADAE4CC042F50ECCA25765500136246/$File/GPAH2Guidelineswebversion21Oct09.pdf)

**Important note:** These guidelines are not intended to provide legal advice in respect of any particular HealthOne NSW service, as compliance with section 19(2) will depend upon the specific arrangements proposed for each service. It is therefore recommended that legal advice is obtained in any case where there are concerns about compliance with section 19(2) of the Health Insurance Act.

### **The Health Services Act 1997 (NSW)**

NSW public health organisations must comply with the requirements of the *Health Services Act 1997* and other legislation relevant to the provision of clinical care, staff employment conditions, the management of pharmaceutical medicines, etc.

# Attachment A: HealthOne NSW Capital Planning Flowchart



**KEY**  
 IGFS: Inter-Government Funding & Strategies  
 SPBD: Strategic Procurement & Business Development  
 DOC: Department of Commerce  
 CPO: Chief Procurement Officer  
 CFO: Chief Financial Officer

Reviewed 21-02-2011

## Attachment B:

### Template for working through some of the main issues in developing governance arrangements for HealthOne NSW services

This template is provided as a guide work for relevant parties to work towards agreement about each of the key elements of the HealthOne NSW service: clinical service delivery, premises/site, and corporate governance. It can also be used for monitoring progress towards formal agreements.

Clinical service						
Key areas for agreement	Priority (H/M/L)	Time-frame	Parties	Sign-off required?	Status	
Service model						
Clinical governance						
Staffing/human resources arrangements						
GP arrangements						
Financial arrangements						
Information and data sharing						
Information technology						
Liability/indemnity						
Monitoring and evaluation of clinical outcomes						
Clinical compliance and general practice accreditation						
Learning and development, capacity building						
Research and development						

Priority: L=Low, M=Medium, H=High

## Premises for service delivery

Key areas for consideration	Priority (H/M/L)	Time-frame	Parties	Sign-off required?	Status
Facilities/amenities required for delivery of service/s					
Purchase, lease or licensing arrangements					
Budget/capital development requirements/ arrangements					
Operational arrangements/building agreements					
Staffing					
Administration, logistics					
Maintenance					
Communication and media					
Information and data sharing					
Information technology systems					
Public liability / insurance					
Maintenance of occupational health and safety standards.					

Priority: L=Low, M=Medium, H=High

<b>Governance</b>						
Key areas for consideration	Priority (H/M/L)	Time-frame	Parties	Sign-off required?	Status	
Governance model						
Governance arrangements						
Monitoring and evaluation of outcomes						
Compliance and accreditation						
Research and development projects						
Partnership maintenance						
New parties to/participants in the service						
Media and communications						
Dispute resolution						
Termination						
Public liability / insurance						
Maintenance of occupational health and safety standards.						

Priority: L=Low, M=Medium, H=High

## Attachment C: Risk Management Plan

Developing an effective Risk Management Plan is an important part of any project. In the early stages of planning for the establishment of a HealthOne NSW service, a risk management plan should be developed in order to consider and identify any risks to the progress of the project as a whole and to set out strategies to address them.

Risks to the project can be identified at an early stage, such as in the preparation of the Service Plan. A workshop held at the service planning stage is an ideal forum for the identification of the risks to the project, to determine the level of the risks envisaged, develop strategies for the mitigation of the risks and any contingency plans, where possible.

Some common risks to service establishment are set out below.

- Service plan is not approved, or requires revision for approval by NSW Department of Health (leading to delay in attainment of this stage of the project).
- Project scope creep leads to increase in overall budget.
- NSW Department of Health or NSW Treasury requires revision of Project Brief, leading to delay in reaching the next project milestone.

- Stakeholder and/or community concern with the proposed service due to inadequate or ineffective communication.
- Inadequate site investigations result in delay to construction, with project timeline and budgetary impact.
- Change of project management team members affects quality of project management and adherence to timelines.

A risk management plan can be prepared in matrix or table form as an adjunct to a project plan, to detail:

- identified risk factors.
- the level of impact they would have on the project.
- strategies for the prevention or mitigation of the risks.
- any contingency plans to deal with risks, if they occur.
- the role or person responsible for action to address the risk.
- timeframe/s for action, if appropriate.

Risk category	Description of risk	Risk level (H/M/L)	Action to prevent, mitigate or address risk.	By whom and when
Planning	<i>E.g. Service plan requires revision prior to NSW Department of Health approval.</i>	L	<i>E.g. LHD staff to liaise with NSW DoH during preparation of Service Plan prior to its submission.</i>	<i>Senior planner</i>
Community support				
Site/ environment				

Risk level: L =low, M = medium, H = high

## Risk management for individual project components

As the project progresses, individual risk management plans can be developed in relation to specific project components, such as:

- financial/budgetary arrangements for the Service.
- operational/service arrangements.
- legal/corporate governance arrangements.
- capital infrastructure refurbishment or development.

Where capital works are required for the refurbishment, extension or complete construction of a HealthOne NSW service facility, a risk management plan is a required component of a Project Brief.

An extract from a Risk Management Plan, prepared in relation to the construction of a NSW health service, is set out below as an example.

Risk category	Risk issue	Risk impact			Action	Responsibility
		L	C	RF		
Budgetary / cost management	<i>E.g. Unable to determine end cost due to poor project definition during planning process.</i>	<i>Unlikely</i>	<i>Major</i>	<i>High</i>	<i>Cost consultant to monitor progress of concept and scheme design. Planning &amp; design consultant to liaise extensively with cost consultant as design is progressed.</i>	<i>Planning Design Consultant/ Senior Planner/s</i>
Change management						
Industrial Relations/ OHS&R						
Design						

L: likelihood  
 C: consequence  
 RF: risk factor

## Attachment D: Sample Letter of Intent (non-binding)

---

[XXX Letterhead]

[GP Partner name individual or company]  
Address  
Address  
NSW postcode

Dear Dr [GP Partner name individual]

### Letter of Intent – HealthOne <location>

This letter sets forth the intent of <name> Local Health District (<XX> LHD) and [GP Partner name individual or company] in relation to the proposed HealthOne <location> premises.

1. The goal of <XX> LHD is to establish an integrated primary and community health service in a HealthOne NSW facility to be constructed/leased at <location>. HealthOne<location>, will bring together General Practitioners, community health and other health professionals within the one premises, or accommodate the hub for a virtually integrated service.

The Key Objectives of the HealthOne NSW initiative are to:

- Build a sustainable model of health care delivery,
- Prevent illness and reduce the risk and impact of disease and disability,
- Improve chronic disease early intervention and management in the community,
- Reduce avoidable admissions (and therefore unnecessary demand for hospital care),
- Improve service access and health outcomes for disadvantaged and vulnerable groups.

<XX> LHD has received approval and funding to establish/lease a HealthOne NSW premises at <location>.

<XX> LHD proposes to:

- Seek approval to purchase land in <location> with a view to building/leasing a HealthOne NSW facility that will provide space for General Practice and community health services to be co-located.

<XX> LHD and [GP Partner name individual or company] agree to enter into negotiations with aim of co-location in the HealthOne <location> premises.

The negotiations between <XX> LHD and [GP Partner name individual or company] will be undertaken with the intention of arriving at a mutually agreed position in regards to:

- Commercial lease arrangement,
- A Memorandum of Understanding towards achieving the key objectives of the HealthOne NSW service model,
- A Service Level Agreement on the delineation of each party's roles and responsibilities in service delivery.

The parties shall use their best efforts to maintain at all times as confidential any aspects of the negotiations that might be reasonably considered commercial in confidence.

The parties also undertake to act in good faith, and to keep each other informed of relevant issues, concerns or events at the earliest possible stage.

This Letter of Intent constitutes the entire understanding of the intent and agreement reached to date between <XX> LHD and [GP Partner name individual or company] in respect of the HealthOne <location> premises. However, it is intended to be non-binding at this stage.

**(Other items can be added as appropriate)**

Should you require any clarification of this Letter of Intent or the anticipated negotiations, please contact the <XX> LHD [name, title and contact details].

Please sign this Letter of Intent and return a copy to <XX> LHD.

<XX> LHD looks forward to the establishment of a mutually advantageous service delivery relationship within the HealthOne <location> premises.

Yours sincerely

Chief Executive  
<XX> LHD  
<date>

Signature: <GP Partner name individual or company>  
<date>

**Note:** When countersigned by the GP Partner, this becomes a Joint Statement of Intent

## Attachment E: Sample Joint Statement of Intent (non-binding)

---

[XXX Letterhead – could be joint, both or none]

### Joint Statement of Intent – HealthOne <location>

[GP Partner name individual or company]	<YY> LHD
Address	Address
Address	Address
NSW postcode	NSW postcode

This statement sets forth the intent of <name> Local Health District (<YY> LHD) and [GP Partner name individual or company] in relation to the proposed HealthOne <location> premises.

The goal of <YY> LHD is to establish an integrated primary and community health service in a HealthOne NSW facility to be constructed/leased at <location>. HealthOne<location> will bring together General Practitioners, community health and other health professionals within the one premises.

The Key Objectives of the HealthOne NSW initiative are to:

- Build a sustainable model of health care delivery,
- Prevent illness and reduce the risk and impact of disease and disability,
- Improve chronic disease early intervention and management in the community,
- Reduce avoidable admissions (and therefore unnecessary demand for hospital care),
- Improve service access and health outcomes for disadvantaged and vulnerable groups.

<YY> LHD has received approval and funding to establish a HealthOne NSW premises at <location>. <YY> LHD proposes to:

- Seek approval to purchase land in <location> with a view to building/leasing a HealthOne NSW facility that will provide space for General Practice and community health services to be co-located.

<YY> LHD and [GP Partner name individual or company] agree to enter into negotiations with aim of co-location in the HealthOne <location> premises.

The negotiations between <YY> LHD and [GP Partner name individual or company] will be undertaken with the intention of arriving at a mutually agreed position with regard to:

- Commercial lease arrangement,
- A Memorandum of Understanding towards achieving the key objectives of the HealthOne NSW service model,
- A Service Level Agreement on the delineation of each party's roles and responsibilities in service delivery.

The parties shall use their best efforts to maintain at all times as confidential any aspects of the negotiations that might be reasonably considered commercial in confidence.

The parties also undertake to act in good faith, and to keep each other informed of relevant issues, concerns or events at the earliest possible stage.

This Joint Statement of Intent constitutes the entire understanding of the intent and agreement reached to date between <YY> LHD and [GP Partner name individual or company] in respect of the HealthOne <location> premises. However, it is intended to be non-binding at this stage.

(Other items can be added as appropriate)

Signature: <GP Partner name individual or company>  
<Date>

Signature: <<YY> LHD Chief Executive or other authorised individual>  
<Date>

**Attachment F:  
Key terms of Memorandum of Understanding (MOU) (non-binding)<sup>3</sup>**

---

**Memorandum of Understanding**

**between**

**WW Division of General Practice Ltd/General Practice (ABN)/other party**

**“WW GP” / “XX other party”**

**and**

**YY Local Health District**

**“YY LHD”**

**for the establishment and operation of**

**HealthOne <location>**

Version 1.0 <date>

*NB: this is a sample MOU which includes notes to the reader in italics. Not all clauses will be relevant and clauses may be added or deleted to reflect the relationship and endpoint.*

<sup>3</sup> This document sets out some standard clauses for a Memorandum of Understanding; however it is not intended to be used as a “template” document. Legal advice should always be obtained about adapting the clauses to the circumstances of individual HealthOne NSW services.

# 1 Purpose

The parties agree to work together for the development, delivery, operation, administration and management of HealthOne ZZ referred to as “the Project”.

## 1.1 Status of this document

This memorandum is intended as a “good faith” expression of the current intention and understanding of the parties and to assist them to work towards a legal relationship if possible. It is NOT intended to be legally binding in any way.

## 1.2 Key Principles to Collaborate

The parties acknowledge the following statement of principles to guide their collaboration under this MOU and any formal agreement in relation to the Project.

- a) Integrated service delivery will be client and outcome focused;
- b) Parties will demonstrate, through their action, a willingness to make collaboration the succeed;
- c) All parties share a common vision, values, and understanding of the scope of their individual obligations under the agreement; and
- d) Integration initiatives will be delivered in a secure environment with acceptable levels of privacy and confidentiality protection.

## 1.3 HealthOne NSW project description

*This section should be completed with details outlining the model of care, target group(s), achievement milestones, service model, identified partners to the HealthOne NSW (who may not be parties to the MOU), etc.*

# 2 Commencement and Operation

## 2.1 Commencement date and conclusion

It is anticipated that a formal agreement will commence from <date> and continue indefinitely or until it is varied or terminated in the ways set out in the agreement.

## 2.2 Role of parties

WW GP, XX Other Party and YY LHD will be equal partners in and for the duration of the Project and therefore hold joint responsibilities for the Project

# 3 Governance

## 3.1 Governance model

The governance model for HealthOne ZZ will support shared decision making for the effective operation of the service. YY LHD, WW GP and XX Other Party are and will continue to be equal partners in Health One ZZ, with input and oversight throughout the planning process, recognising each of the parties as being integral to the project's/ service's success.

*Irrespective of the governance vehicle selected, it is anticipated that the parties are working towards mutual agreements that are entrenched in the respective legal instruments (constitution or contract) and are legally binding. Strengths and weaknesses of each option should be identified as part of the MOU process. A final determination of which model best suits HealthOne ZZ in the long-term may be deferred to allow a concentration of effort on planning and successfully establishing the service.*

## 3.2 Governance arrangements

*If the MOU is drafted in relation to a HealthOne NSW project requiring minimal service restructure or the refurbishment of capital infrastructure at costs less than \$1 million and is intended to lead directly to subsidiary legal documents (E.g. Licence agreement) for the establishment of the HealthOne ZZ service, this should be stated in the MOU and the details of each subsidiary legal document and their intent described.*

Both parties have agreed that the most appropriate governance arrangements are ...

*Set out the nature of the governance arrangements*

*E.g. A contract in the form of a binding Heads of Agreement supported by a Service Level Agreement (and other legal documents as required) between YY LHD, WW GP and XX Other Party and, with the contract setting out the agreed operating principles, rights and obligations. The governing body will be a Management Committee with equal representation of the parties.*

## 4 Term, Review and Amendment of the MOU

*This clause is intended to clarify if the MOU is to be the principal governance document for the establishment and/or continued operation of the HealthOne NSW service or if further arrangements are required. Therefore this section sets out arrangements for review and amendment and must be included.*

### 4.1 MOU to be superseded by a legally binding governance arrangement

*Where a HealthOne NSW project requires surety of commitment by the parties to a significant service restructure, refurbishment or capital construction at costs of \$1 million or more, the MOU is likely to be superseded by a Heads of Agreement, and/or the parties may decide to establish a separate legal entity for the management of the service such as a Company Limited by Guarantee. In these instances, the MOU can state that its purpose is to set out the good faith intentions of the parties to it and that it will be superseded by a Heads of Agreement or another legally binding governance framework at an appropriate stage in the progress of the project.*

## 5 Responsibilities

*The MOU can set out the roles and responsibilities of the parties in an attached Schedule, or within the body of the document:*

*For example, WW GP will:*

- *Employ a Project Officer to work on the HealthOne ZZ Project and carry out duties agreed in Position Description to achieve Project aims.*
- *Recruit GPs where agreed to under the funding arrangements*

*XX Other Party will:*

- *Contribute specified items to the project.*

*YY LHD will:*

- *Provide Community Health clinical staff to work in HealthOne ZZ*
- *Provide executive leadership to ensure .....*

WW GP, XX Other Party and YY LHD agree to:

- Contribute to planning and evaluation processes.
- Recognise and respect each others' specialised skills and knowledge.
- Work collaboratively to achieve Project aims and solve problems.

## 6 Funding and financial obligations

The MOU sets out funding or payment arrangements and/or financial obligations of each of the parties to it.

## 7 Performance monitoring, reporting and evaluation

The MOU sets out systems or mechanisms for performance monitoring, measuring, evaluation and/or reporting agreed by the parties to it.

## 8 Dispute Resolution

The MOU sets out agreed mechanisms and/or procedures for the resolution of disputes.

## 9 Indemnity

The MOU sets out agreed mechanisms and/or procedures for indemnity and insurances.

## 10 Termination

The MOU sets out agreed mechanisms and/or procedures for termination by either party.

## COMPLETION OF THE MOU

Signed for and on behalf of WW GP by:

.....  
Signature

.....  
Name and title

in the presence of

.....  
Signature of witness

.....  
Name and position of witness

Signed for and on behalf of XX Other Party by:

.....  
Signature

.....  
Name and title

in the presence of

.....  
Signature of witness

.....  
Name and position of witness

Signed for and on behalf of YY LHD by:

.....  
Signature

.....  
Name and title

in the presence of

.....  
Signature of witness

.....  
Name and position of witness

**Attachment G:  
Key terms of Sample Heads of Agreement (binding)<sup>4</sup>**

---

**Heads of Agreement**

**between**

**WW Division of General Practice Ltd/General Practice (ABN)/other party**

**“WW GP” / “XX other party”**

**and**

**“YY Local Health District”**

**“YY LHD”**

**for the establishment and operation of**

**HealthOne <location>**

Version 1.0 <date>

<sup>4</sup> This document sets out some standard clauses for a Heads of Agreement, however it is not intended to be used as a “template” document. Legal advice should always be obtained about adapting the clauses to the circumstances of individual HealthOne NSW services.

**THIS AGREEMENT** is made the

day of 20...

**BETWEEN**

**WW Division of General Practice Ltd. / General Practice (WW GP) of (address)/**

**XX Other Party (XX Other Party) of (address)**

**AND**

**YY Local Health District (YY LHD) of (address)**

**PRELIMINARIES**

- A. The NSW Government is committed to establishing HealthOne NSW services in the interests of improving coordination of primary health care through collaborative service arrangements and co-location of Community Health Services, General Practitioners, specialty clinics and other community care services.
- B. WWGP, XX Other Party and YY LHD ("the parties") have identified <insert name> region as a focus population area for a HealthOne NSW service to be known as HealthOne ZZ.
- C. The parties have been working together over <insert number> years/months to develop an agreed model of care and common principles for the HealthOne NSW service to be established. These are set out in the Memorandum of Understanding which precedes the drafting of this document, and Project Definition Plan for HealthOne ZZ of which a copy is attached at tab 1.
- D. The parties have located premises for HealthOne ZZ at <full address>.
- E. The parties propose to <insert detail> with funding provided by the NSW Department of Health under terms to be finalised. A copy of the <relevant document/s> is attached to this Agreement.
- F. WWGP, XX Other Party and YY LHD now wish to enter into a binding agreement for the purposes of (e.g. formalising these arrangements sufficiently to justify the agreed costs relating to the premises, in accordance with the approved HealthOne ZZ budget).
- G. The parties intend in due course to enter into a Service Level Agreement that will detail the services to be provided by HealthOne ZZ and the mode of their delivery. In the meantime, the Memorandum of Understanding dated <insert date> is a guide to the current (non-binding) thinking and intent of the parties on matters not covered by this Agreement.
- H. Where there is a clear inconsistency between this Agreement and the MOU, this Agreement will prevail. Otherwise, the MOU continues to operate as a non-binding guide to the establishment of HealthOne ZZ.

**IT IS NOW AGREED AS FOLLOWS**

**1 THE PURPOSE OF THIS AGREEMENT**

- 1.1 This agreement is for the purpose of enabling the formal commencement of the service partnership between WWGP, XX Other Party and YY LHD along the lines agreed in the attached model of care.
- 1.2 Whilst this Agreement is binding on WWGP, XX Other Party and YY LHD, the parties intend to develop arrangements in the future for more comprehensive agreements (such as a "Service Level Agreement") (and the possible creation of a new legal entity (in the form of a Company Limited by Guarantee with 50/50 participation and ownership by WWGP, XX Other Party and YY LHD).

- 1.3 Each party recognises the financial and other contributions of the other and is committed to developing a balanced agreement that is fair and reasonable to all parties.

## 2 THE TERM OF THE AGREEMENT

- 2.1 This Agreement will commence as soon as the parties sign the Agreement, and will expire at the end of three years from that date unless agreed in writing by the parties.

## 3 THE SERVICE MODEL

- 3.1 HealthOne NSW framework

The parties acknowledge that there are a set of principles and core components that define HealthOne NSW services. The parties acknowledge that the features of HealthOne NSW services that differentiate them from other primary and community health services include:

- (a) integrated care provided by general practice and community health services;
- (b) organised multi disciplinary team care;
- (c) care across a spectrum of needs from prevention to continuing care;
- (d) improved care navigation principles and practices;
- (e) improved partnership between acute hospital and primary health care;
- (f) Prevention of unnecessary hospital admissions; and
- (g) client and community involvement.

Together these core components make up the HealthOne NSW Model of Care.

- 3.2 Supporting strategies

The parties acknowledge that the Model of Care cannot be realised without supporting strategies. There are four enablers, which individually and collectively contribute to the successful implementation of the Model of Care, these are:

- (a) service and planning;
- (b) information and communication technology;
- (c) governance and sustainability; and
- (d) workforce development.

HealthOne ZZ will be structured around these core components and WWGP, XX Other Party and YY LHD recognise that local approaches need to be developed to suit local circumstances.

- 3.3 Benefits

The parties wish to record by this Agreement that the benefits of HealthOne ZZ to the wider community are:

- (a) Integrated care

The integration of general practice and community health services (and other health and community care services as required locally) can be expected to:

- (i) improve a person's experience of the health system;
- (ii) improve individual and population health outcomes;

- (iii) reduce the fragmentation resulting from two levels of government funding different parts of the system;
- (iv) create efficiencies through sharing resources and services;
- (v) introduce more robust governance arrangement for the health and wellbeing of populations (and use of resources); and
- (vi) engender professionally satisfying work environments for health professionals.

(b) Organised multi disciplinary team care

A second core component of the Model of Care is multi disciplinary team care provided by general practice, community health and other health and community care professionals as necessary.

A multi disciplinary team involves a range of health professionals, from one or more organisations, working together to deliver comprehensive patient care. The ideal multi disciplinary team for the delivery of the Model of Care includes, but is not limited to:

- (i) general practitioners;
- (ii) practice nurses;
- (iii) community health nurses;
- (iv) allied health professionals (may be a mix of state funded and private professionals);  
and
- (v) health educators.

Multi disciplinary teams convey many benefits to both clients and the health professionals working on the team, such as improved health outcomes and enhanced satisfaction of clients; and more efficient use of resources and enhanced job satisfaction for team members.

(c) Spectrum of care

The third key component of the Model of Care is the provision of co-ordinated and integrated primary health care services that encompass:

- (i) health promotion and illness prevention;
- (ii) early detection and intervention;
- (iii) continuing care for people with chronic and complex conditions;  
and
- (iv) multidisciplinary planned care for those who need it.

(d) Client and community involvement

The fourth core component of the Model of Care is client and community involvement in their care and service planning. This translates into client-centred care at an individual level, client-clinician-carer involvement in planning care pathways or patient journeys, and community involvement in planning for local health services to meet their needs.

In the development of HealthOne NSW services, community and consumer representatives should have the opportunity to collaborate in service planning and delivery. The local community should be engaged in a meaningful way to enable its views to be heard and for it to be kept informed about the service.

### 3.4 Principles

The parties acknowledge the following principles to guide their collaboration under this agreement in relation to the Project.

- (a) Integrated service delivery will be client and outcome focused;
- (b) Parties will demonstrate, through their action, a willingness to make the collaboration succeed;
- (c) All parties to the agreement share a common vision, values, and understanding of the scope of their individual obligations under the agreement; and
- (d) Integration initiatives will be delivered in a secure environment which complies with required levels of privacy and confidentiality protection.
- (e) The development and operation of HealthOne ZZ should be recognised as a joint undertaking between WWGP, XX Other Party and YY LHD;
- (f) The Clinical Governance approach will establish a structure, systems and processes to ensure HealthOne ZZ provides quality services, accepts appropriate referrals and manages clients according to the HealthOne NSW principles and within the agreed resource base;
- (g) Both parties recognise the opportunities afforded through this relationship to develop improved clinical service standards and the professional development for all involved;
- (h) The parties recognise that support from WWGP, XX Other Party and YY LHD staff is essential to the success of HealthOne ZZ;
- (i) The parties agree to transparency and information sharing between WWGP, XX Other Party and YY LHD in relation to the clinical, performance and financial arrangements of HealthOne ZZ in accordance with agreed reporting systems and processes to be further developed;
- (j) As far as possible each party will ensure the other is represented on relevant committees and working groups on an equivalent status; and
- (k) The parties enter this agreement in a spirit of respect and mutual goodwill and will accord to each other all reasonable co-operation and assistance in the use of their respective facilities, resources, services and skills as may be expected between organisations associated with the highest standards of health care.

### 3.5 Details of the service model

The parties acknowledge that the details of the service model are still to be trialled and refined, but the broad agreement at this stage is contained in the attached service model submitted to NSW Health for funding. These details will be incorporated into the proposed Service Level Agreement at an appropriate time.

## 4 GOVERNANCE AND OPERATIONS OF HealthOne ZZ

- 4.1 The HealthOne ZZ strategic planning and model of care development will be undertaken through the HealthOne ZZ Steering Committee whose Terms of Reference and membership are attached. Specific components of the model of care will be guided by respective sub-committees and working parties convened as needed.
- 4.2 The Steering Committee will oversight the HealthOne ZZ service model implementation subject to relevant laws, rules and orders, in accordance with:
  - (a) the terms of this Agreement and any Service Level Agreement the parties subsequently enter into;
  - (b) relevant policies and procedures of each party , in relation to clinical service provision when its sub-contractors and/or employees work within the HealthOne ZZ service;
  - (c) any lease, license or agreements which the parties agree to develop for the purposes of providing a site or sites for HealthOne ZZ;

- 4.3 All staff providing services as part of the HealthOne ZZ will:
- (a) operationally report to their respective employers and will be bound by the policies and procedures of their employing organisation or practice;
  - (b) comply with the HealthOne ZZ principles of service coordination, integration, and collaboration;
  - (c) contribute to the development and comply with the model of care service delivery protocols as determined and endorsed through the HealthOne ZZ Steering Committee and relevant clinical working groups.
- 4.4 A HealthOne ZZ Service Operations Sub-Group will be convened with agreed Terms of Reference and representation reporting to the Steering Committee. It will oversight and support operational procedures of the service hub and guide and monitor the practical implementation of these.

## 5 ROLES AND RESPONSIBILITIES OF THE PARTIES

- 5.1 WW GP roles and responsibilities for HealthOne ZZ initiative
- (a) WW GP appointed representatives will lead and/or contribute to the relevant aspects of the planning and implementation of the HealthOne ZZ initiative.
  - (b) WW GP will provide leadership in the engagement of local GPs in the HealthOne ZZ initiative.
- 5.2 WW GP responsibilities and contribution in relation to the service
- (a) Day to day operational responsibilities of the service will be managed in accordance with the delegations determined by the (eg Operations Sub-Group).
  - (b) WW GP will ensure that at all times, all medical practitioners practicing from the HealthOne Service ZZ acknowledge and agree to be bound by the Code of Professional Conduct developed by the NSW Medical Board pursuant to s94A of the *Medical Practice Act 1992* (NSW) and that each medical practitioner is registered pursuant to the *Medical Practice Act 1992* (NSW) or the relevant national equivalent.
  - (c) WW GP will be responsible for complying with the terms of any lease of premises it enters into. It will be responsible for the provision, operation and maintenance of reception and waiting areas, consultation rooms and staff facilities within the HealthOne ZZ Service.
- 5.3 YY LHD roles and responsibilities for HealthOne ZZ initiative
- (a) YY LHD will be the conduit through which formal communication and correspondence between NSW Health and the HealthOne ZZ parties. All such communication and correspondence will be reported/tabled at the next scheduled HealthOne ZZ Steering Committee meeting.
  - (b) YY LHD appointed representatives will lead and or contribute to the relevant aspects of the planning and implementation of the HealthOne ZZ initiative.
- 5.4 YY LHD responsibilities and contribution in relation to the service
- a) YY LHD will provide leadership in the engagement of key health service clinicians and staff in the HealthOne ZZ initiative.
  - b) YY LHD will prioritise and contribute to staffing (nursing, allied health, medical specialists and other) in line with resource availability and HealthOne ZZ model of care implementation priorities.
  - c) Day to day operational responsibilities of the service will be managed in accordance with the delegations determined by the (for example Operations Sub-Group).

- d) YY LHD will ensure that at all times, all staff practising from the HealthOne ZZ Service acknowledge and agree to be bound by their relevant Code of Professional Conduct.
- e) YY LHD will be responsible for complying with the terms of any lease of premises it enters into. It will be responsible for the provision, operation and maintenance of reception and waiting areas, consultation rooms and staff facilities within the Service.

5.5 XX Other Party roles and responsibilities for HealthOne ZZ initiative

- a) XX Other Party appointed representatives will lead and/or contribute to the relevant aspects of the planning and implementation of the HealthOne ZZ initiative as appropriate

5.6 XX Other Party responsibilities and contribution in relation to the service

- a) XX Other Party will assume responsibilities and contribute to the service as appropriate.

## 6 FUNDING ARRANGEMENTS

- (a) WWGP, XX Other Party and YY LHD will provide funds in accordance with the HealthOne NSW funding allocations to ...<insert information as necessary>

## 7 INFORMATION TECHNOLOGY & INFORMATION MANAGEMENT

7.1 The parties acknowledge that the HealthOne NSW Model of Care can only work effectively and efficiently through the sharing of patient information between WWGP, XX Other Party and YY LHD.

7.2 The parties undertake to streamline their IT systems and information management to ensure (wherever possible) that:

- (a) If practical and if possible bookings for HealthOne ZZ services are controlled on a common and centralised IT District and maintained from the reception area. However, if this is not possible alternative and workable options be explored; and
- (b) Patient information can be accessed and shared by WWGP, XX Other Party and YY LHD staff to maximise the potential benefits of the Model of Care within HealthOne ZZ.

7.3 The disclosure of patient information contemplated by clause 7.2(b) is subject to the patient's consent and the provisions of the *Privacy And Personal Information Protection Act 1998* (NSW) and the Code of Professional Conduct developed by the NSW Medical Board pursuant to s94A of the *Medical Practice Act 1992* (NSW).

## 8 TERMINATION OF AGREEMENT

8.1 A party to this Agreement may terminate their participation in the Agreement at any time by notifying the other party in writing and giving six months notice provided that neither party will suffer financial loss as a result of doing so.

8.2 The parties agree to consult and review this Agreement and its obligations on the anniversary date every year (or as near as is reasonable). The review may lead to revisions or amendments to this Agreement, which must be mutually agreed in writing by the parties, or may be terminated by mutual consent subject to the continuation of any ongoing leases or agreements.

- 8.3 This Agreement may be amended at any time by agreement in writing by both the parties and under terms and conditions as agreed by both the parties.

## 9 COMPLIANCE

- 9.1 All parties must comply with, and ensure when necessary, that its sub-contractors and/or employees who work within the HealthOne ZZ from time to time, comply with the required criminal records checks and serious sex, violence and other offences including pursuant to the *Commission for Children and Young People Act 1998* (NSW) and the *Health Services Act 1997* (NSW) (including section 118) and the requirements, where applicable, of such legislation and all other relevant legislation.

## 10 NEGATION OF EMPLOYMENT, PARTNERSHIP AND AGENCY

- 10.1 A party will not represent itself, and will ensure that its sub-contractors and/or employees do not represent themselves, as being an employee, partner, or agent of the other party, or as otherwise able to bind or represent the other party.

## 11 NAME, TRADEMARKS AND LOGOS

- 11.1 Neither party will represent itself as the sole operator of HealthOne ZZ.
- 11.2 Neither party will use the name or any identifying mark or logo of the other party in any material, advertisement, publication, or other medium without first obtaining permission from a duly authorised officer of the other party.
- 11.3 The parties are authorised by the Intellectual property owner to use the Intellectual property for activities directly related to achieving the outcomes contemplated by the Service.

## 12 DISPUTE RESOLUTION

- 12.1 The parties agree to approach all disputes or disagreements in a spirit of co-operation and collaboration and will exert to best endeavours to resolve issues in a timely mutually satisfactory manner.
- 12.2 The parties agree that any dispute arising during the course of this Agreement will be dealt with as follows:
- a) first, the party claiming that there is a dispute will send to the other a notice setting out the nature of the dispute;
  - b) secondly, the parties will try to resolve the dispute by direct negotiation, including by referring the matter to persons who may have authority to intervene and direct some form of resolution; thirdly, the parties have 30 business days from the sending of the notice to reach a resolution or to agree that the dispute will be submitted to mediation or some other form of alternative dispute resolution procedure; and
  - c) lastly, if:
    - (i) there is no resolution or agreement; or
    - (ii) there is a submission to mediation or some other form of alternative dispute resolution procedure, but there is no resolution within 50 business days of the submission, or such extended time as the parties may agree in writing before the expiration of the 50 business days,
- 12.3 Notification of disputes is to be made in writing to each party and notified to NSW Health.

## 13 DEFINITIONS

13.1 In the interpretation of this Agreement:

- (a) HealthOne NSW means the HealthOne NSW initiative, which is a NSW Health initiative for the integration of primary health care and community health services to better meet the health needs of communities throughout NSW.
- (b) Intellectual property includes but is not limited to the names "HealthOne", "HealthOne NSW" and "HealthOne ZZ" and any related trademarks or trade names registered by the Intellectual property owner including the HealthOne NSW logo.

### **EXECUTED as an agreement for and on behalf of WW GP by:**

.....  
Signature

.....  
Name and title

in the presence of

.....  
Signature of witness

.....  
Name and position of witness

EXECUTED as an agreement for and on behalf of XX Other Party by:

.....  
Signature

.....  
Name and title

in the presence of

.....  
Signature of witness

.....  
Name and position of witness

EXECUTED as an agreement for and on behalf of YY LHD by:

.....  
Signature

.....  
Name and title

in the presence of

.....  
Signature of witness

.....  
Name and position of witness

## Attachment H: Key terms of Service Level Agreement<sup>5</sup>

A Service Level Agreement is a formal, legally binding contract that sets out the roles, and responsibilities of the parties to it: the primary and community health service providers in the case of HealthOne NSW services.

The Service Level Agreement, as well as other legal documents such as a lease relating to the premises, can be completed as a subsidiary to a Memorandum of Understanding or a Heads of Agreement.

The completion of a Service Level Agreement between the parties is beneficial in:

- clarifying the roles and responsibilities of the parties;
- setting clear performance expectations for all parties
- delineating the types and levels of services to be delivered;
- focussing attention on the service needs of patients;
- encouraging a culture focussed on the delivery of high quality services;
- providing a mechanism for the evaluation of services and regular planning for the future.

A Service Level Agreement should cover:

- the full range of services that will be delivered and activities that will be undertaken by the HealthOne NSW service, the service standards, staff structure (details of the health practitioners/positions for delivery of services), and the level to which they will be delivered (hours/day/week);
- detail regarding the employment arrangements of personnel providing the HealthOne NSW services: public sector arrangements for public sector employees and employment conditions for non-government personnel;
- the service relationship/s between the public community health service providers and the non-government service providers;
- arrangements for the management and sharing of medical records;
- data collection and evaluation arrangements and requirements;
- governance arrangements for the HealthOne NSW service;
- dispute resolution arrangements;
- arrangements made for the use and lease of the premises;
- other arrangements made according to the specific local and environmental aspects of the service.

A sample/framework for a Service Level Agreement, similar in layout to that of a standard contract, is set out overleaf.

<sup>5</sup> This document sets out guidance to some key clauses for a Service Level Agreement, however it is not intended to be used as a "template" document. Legal advice should always be obtained about adapting the clauses to the circumstances of individual HealthOne services.

# **Service Level Agreement**

**between**

**WW Division of General Practice Ltd/General Practice (ABN)/other party**

**“WW GP” / “XX other party”**

**and**

**“YY Local Health District”**

**“YY LHD”**

**for the establishment and operation of**

**“HealthOne ZZ”**

Version 1.0 <date>

**THIS AGREEMENT** is made the

day of 20...

**BETWEEN**

WW Division of General Practice Ltd. / General Practice (WW GP) of (address)/

XX Other Party (XX Other Party) of (address)

**AND**

YY Local Health District (YY LHD) of (address)

**LIAISON OFFICERS**

Contact details of principal liaison officers for each party are set out here.

**BACKGROUND/ PURPOSE/OBJECTIVES**

Background information and /or the purpose for the establishment of the service may be set out at the beginning of this document.

**MODEL OF PATIENT CARE**

The model of care for the HealthOne NSW service and the way in which the service will operate is set out here. This can be set out in summary form within the body of the document and the comprehensive description attached as an Appendix to it, if required.

**DESCRIPTION OF THE PROPOSED SERVICES**

A summary description of the services can be provided within the body of the document, and set out comprehensively as an Appendix to it. This section may comprise descriptions of the services under separate headings such as, service types, days/hours of delivery, other activities (health promotion/prevention activities, human services and personnel required to deliver services.

**STAFF STRUCTURE/ PROFILE**

Include a description of the staff and staffing levels required to deliver services, such as:

Title: on-site services	Full Time Equivalent
General practitioners	
Practice Nurse	
Administration Offices (inc. Centre Manager)	
Primary Care Nurses	
Child and Family Health Nurse	
Physiotherapist	
Radiographer	
Chronic and complex care co-ordinator	
Primary Care Enrolled Nurse	
Integrated clinical Care Co-ordinator	
Allied Health Worker	

Visiting specialist and allied health and outreach services	Full Time Equivalent
Psychologist	
Paediatrician	
Podiatrist	
Diabetic Educator	
Dietitian	
Aboriginal Health Liaison Officer	

### SERVICE RELATIONSHIPS

This section describes the functional relationships between the service providers, arrangements for collaboration, such as case conferencing, and care co-ordination and protocols for communication.

### SERVICE QUALITY AND CLINICAL GOVERNANCE

This section sets out the requirements for the delivery of the health services to relevant clinical standards, accreditation and legal requirements, as well as any local or jurisdictional systems in place for the monitoring of quality of care.

### MANAGEMENT OF MEDICAL RECORDS

This section sets out the arrangements for the management of medical records, their security and access by health professionals.

### Other provisions/terms

Specific arrangements for the administration and operation of the service as a whole and for the management of services and care of patients/clients can be set out under several common headings, such as:

- MANAGEMENT OF COMPLAINTS AND FEEDBACK
- INDEMNITY AND INSURANCE
- FINANCIAL ARRANGEMENTS
- PERFORMANCE REPORTING
- CORPORATE GOVERNANCE
- ACCOMMODATION
- DURATION OF THE AGREEMENT
- REVIEW
- TERMINATION

EXECUTED as an agreement for and on behalf of WW GP by:

.....  
Signature

.....  
Name and title

in the presence of  
.....

Signature of witness

.....

Name and position of witness

EXECUTED as an agreement for and on behalf of XX Other Party by:

.....

Signature

.....

Name and title

in the presence of

.....

Signature of witness

.....

Name and position of witness

EXECUTED as an agreement for and on behalf of YY LHD by:

.....

Signature

.....

Name and title

in the presence of

.....

Signature of witness

.....

Name and position of witness

