



**COMMUNITY HEALTH PARTNERSHIPS  
VERSION 6.0 LEASE PLUS/RETAINED AGREEMENT  
BRIEFING NOTE**

## **1 Background and Context**

Community Health Partnerships published an updated version of the Lease Plus Agreement and Land Retained Agreement in December 2015, to reflect legislative updates and best practice changes since the introduction of Version 5. Community Health Partnerships also took the opportunity to seek to realise efficiency savings to deliver better value for money.

Since the introduction of Version 5.1, Eurostat has introduced guidance on the assessment of balance sheet treatment under ESA10 for PPP schemes. This has necessitated further amendments to be made to the Lease Plus Agreement and Land Retained Agreement, as summarised below.

The purpose of this briefing paper is to summarise the new updates to the Lease Plus Agreement and Land Retained Agreement. The goal is to have a new standard form that is sufficiently flexible to be used cost effectively across projects of all values and complexities. CHP will then enforce the use of the new standard form with project specific derogations being the only changes allowed (if a good case has been made).

## **2 ESA10 amendments**

- (a) Lifecycle - removal of sharing of surplus and overspends of lifecycle funds at the expiry of the contract term (or on termination if earlier). Lifecycle openness and transparency provisions have been retained.
- (b) Refinancing – removal of refinancing gainshare provisions. Schedule 24 (Refinancing) of the Lease Plus Agreement, and Schedule 29 of the Land Retained Agreement, has been deleted in its entirety, with consequential amendments to the main body of the Lease Plus Agreement and Land Retained Agreement.
- (c) Hard FM benchmarking / market testing – removal of the right to require the Landlord / Project Co to market test the hard FM contractor. The requirement for the Landlord / Project Co to hold the lifecycle fund (and not to subcontract this to the FM contractor) has been retained.
- (d) Capital payments – the option for capital payments has been retained as per version 5.1, but such payments will be subject to assessment to ensure the accounting treatment of the scheme is not affected by the capital payment.
- (e) Compensation on termination for corrupt gifts and fraud – the provisions of Part B of Schedule 23 of the Land Retained Agreement (compensation on termination for Project Co default) shall apply on termination under Clause 54.4 of the Land Retained Agreement for corrupt gifts and fraud.
- (f) Insurance premium risk share – insurance premium is no longer a pass through cost, but (within a nil change band) is the Landlord's risk. The proposed mechanism is only applied in the event that the insurance premium moves outside of the nil change band.

## **3 Payment mechanism amendments**

Community Health Partnerships has decided to reintroduce Deductions for Performance Failures and the ability to award Service Failure Points to all schemes, as per version 5.

Consequently, the remedy of self help will no longer be applicable, and references in both the Lease Plus Agreement and Land Retained Agreement to self help have been deleted.

Community Health Partnerships has decided the default position for all schemes is that the payment mechanism shall operate 24/7, which is in line with the move to seven day a week service provision.

**23<sup>rd</sup> November 2017**