



ONTARIO HEALTH TEAMS: GUIDANCE FOR WORKING WITH THE TEMPLATE AGREEMENTS

Borden Ladner Gervais LLP (BLG) has developed four template agreements for use by Ontario Health Teams (OHTs). The templates are offered as a resource to assist teams in entering into agreements with respect to collaborative decision-making and to assist in the implementation of integration projects.

The Ministry of Health has been consistent in its messaging that OHT collaborative decision-making arrangements are to be self-determined by members and fit for purpose and arrangements must:

- be informed in their development by engagements with:
 - local communities
 - patients, families and caregivers
 - physicians and other clinicians
- provide for direct participation in decision-making by:
 - patients, families and caregivers
 - physicians and other clinicians
- address:
 - resource allocation (including of any implementation funding)
 - information sharing
 - financial management
 - inter-team performance discussions

- dispute resolution
- conflicts of interest
- transparency
- identifying and measuring impacts on priority populations
- quality monitoring and improvement
- expansion to more patients, services and providers

The templates are intended to be adapted by OHTs to suit their particular circumstances.

This Guidance offers information about the templates and some options OHTs might wish to consider when using the templates.

OHTs may wish to make reference to the BLG Bulletin “Organizing an Ontario Health Team – Considerations when Creating a Governance Framework” (<https://www.blg.com/en/insights/2019/09/organizing-an-ontario-health-team-considerations-when-creating-a-governance-framework>). This bulletin provides a useful outline of the process to follow in reaching decisions that are relevant for the collaborative decision-making structure of the OHT.

Template Ontario Health Team Collaboration Agreement and Template Ontario Health Team Decision-Making Framework Agreement

Two of the templates offer options for documenting the collaborative decision-making arrangements among team members.

- **Template Ontario Health Team Collaboration Agreement (Collaboration Agreement):** The Collaboration Agreement is intended for use by OHTs with a smaller number of team members where it is expected that every member of the team will have a representative at the decision-making table.
- **Template Ontario Health Team Decision-Making Framework Agreement (Framework Agreement):** The Framework Agreement is suited to larger teams where team members are organized into sectors or networks with sector/network representation at the decision-making table.

There are substantial similarities between the Collaboration Agreement and the Framework Agreement.

Some considerations with respect to those two agreements include:

- **Status of OHTs:** Based on proposed amendments to the *Connecting Care Act*, the Minister of Health may approve the use of the term “Ontario Health Team” without conferring the formal designation under Section 29 of the *Connecting Care Act*. Section 2.4 of the Collaboration Agreement and Section 1 of the Framework Agreement both speak to the *intention* to be designated by the Minister of Health as an OHT. Depending on the stage at which the agreement is entered into, those provisions will need to be reviewed and perhaps modified if the designation as an OHT has been issued under the *Connecting Care Act*.
- **References to geographic region:** Many OHTs have adopted names that reference the geographic area served by team members. OHTs are not being formed with reference to geographical boundaries but rather with reference to attributed populations for which they share accountability. The Collaboration Agreement and the Framework Agreement do not make any specific reference to geographic regions.
- **Shared Vision, Guiding Principles and Values:** Both agreements include a placeholder for development of a vision, guiding principles and values. Our experience has been that this has been an important team and trust building exercise for team members to engage in collaboratively. The development of the common vision, guiding principles and values should be made with reference to OHT

requirements and guidance issued by the Ministry of Health, including commitments with respect to transparency and achievement of the quadruple aim.

- **Collaboration Council:** The decision-making structure in both agreements contemplates a Collaboration Council, the terms of reference of which are set out in a schedule to the relevant agreement. The Collaboration Agreement contemplates that each team member will have a representative at the Collaboration Council. Because the Framework Agreement is contemplated to be used with a large number of team members, it provides for the organization of team members into networks with each network having representation at the Collaboration Council. Another difference between the two agreements is the role of a Chairs' Council. The Collaboration Agreement contemplates a Chairs' Council comprised of the board chairs of all team members. Once again, this structure is better suited to a smaller team. OHTs will recognize that building "board to board" relationships among team members is important to the success of the OHT. Accordingly, in the Framework Agreement, the mandate of the Collaboration Council includes ensuring engagement at a board level among team members. Some teams may elect to adopt the Framework Agreement and include in that agreement a role for a Chairs' Council.
- **Two-tiered Model:** Some OHTs may wish to adopt a "two-tiered model" for decision-making. This may be driven by the size of the team or by the year one priorities. For example, the Collaboration Council could include a representative of each team member or network, and an Executive Leadership Council could be formed with a subset of those individuals. The Executive Leadership Council will drive the year one implementation strategies and report to the Collaboration Council, which will in turn report to all team members. If this model is desired, the agreement could be modified by either contemplating the Executive Leadership Council as a sub-committee of the Collaboration Council or by developing specific terms of reference for the Executive Leadership Council and including them as a schedule to the agreement.
- **Sub-Committees/Working Groups:** The Collaboration Council Terms of Reference in both the Framework Agreement and the Collaboration Agreement provide for the Collaboration Council to establish subcommittees or working groups to assist in fulfilling its role. It is expected that the Collaboration Council will establish such subcommittees or working groups that align with its population and other priorities. These subcommittees and working groups will provide an opportunity to engage additional representatives from team/network members who are not currently sitting on the Collaboration Council. The subcommittees and working groups will also provide additional opportunity for representation from the Patient/Client, Family and Caregiver Advisory Council and from primary care and specialist care.
- **Role of Patients/Clients/Families and Caregivers:** Both agreements contemplate that a Patient/Client, Family and Caregiver Advisory Council ("PFAC") will be established which will provide advice directly to the Collaboration Council and also serve as the vehicle through which representation from PFAC will sit as voting members of the Collaboration Council.
- **Primary Care and Specialist Care:** Both agreements contemplate the formation of a primary/specialist care council, which would be the vehicle through which to ensure the voice of primary and specialist care providers is represented at the Collaboration Council. Considerations that need to be addressed include: how to define primary care (physicians, midwives, nurse practitioners), is there one primary and specialist care council or is specialist care separately represented in OHT decision-making through another means, and how does the primary care council come together and determine its representatives to the Collaboration Council. It is also likely that primary care/specialist care will be represented at the working groups established by the Collaboration Council.

- **Dispute Resolution:** The Collaboration Agreement contemplates the role of the Chairs' Council in dispute resolution. As explained above, the Framework Agreement does not include a Chairs' Council but one could be formed for the purposes of dispute resolution. An alternative to using a Chairs' Council for dispute resolution might be the formation of a Dispute Resolution Committee. For example, a Dispute Resolution Committee could be formed comprised of representatives of each network who could be chairs or board members of network members. With respect to dispute resolution, there may be various avenues for resolving disputes that can be explored by the Collaboration Council before invoking the formal dispute resolution process.

Template Ontario Health Team Fund Holder and Indemnity Agreement

This agreement is intended to allow one team member to act as the fund holder for any funds received by the OHT from the Ministry of Health or for any funds that the team members agree will be held as pooled funds for the benefit of the work of the OHT. The Collaboration Council will designate the fund holder and the fund holder will act with the consent of and the direction of the Collaboration Council with respect to holding and disbursing any such funds. Accordingly, the Fund Holder and Indemnity Agreement sets out the obligations of the fund holder with respect to holding funds and the entitlement to an indemnity in respect of any losses incurred as a result of taking on the role of fund holder. With respect to indemnification, the agreement contemplates team members having proportionate shares in respect of the obligation to provide the indemnity such proportionate shares to be set out in a schedule to the Fund Holder and Indemnity Agreement.

Template Ontario Health Team Project Agreement

The Project Agreement is intended to provide the framework to assist OHTs in turning their minds to the various questions that must be asked when implementing a specific project. The process for identifying opportunities for collaboration/projects is set out in Article 4 of the Collaboration Agreement and in Section 9 and Schedule D of the Framework Agreement. One area that will need to be carefully addressed by the Collaboration Council is conflict of interest in the implementation of projects. Team members should be guided by their current conflict of interest and procurement provisions but may, over time, wish to ensure that a common set of principles and processes is adopted by team members with respect to managing conflicts, possibly by way of policies adopted by the Collaboration Council pursuant to its Terms of Reference. Conflict of interest policies could address issues such as personal interests and relationships but should clarify that the interest of each of the team members in the implementation of projects is not, in and of itself, disqualifying.

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