

SOUTH ESSEX PARTNERSHIP AGREEMENT FINAL 9

SOUTH ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

PARTNERSHIP AGREEMENT WITH ESSEX COUNTY COUNCIL

**NHS ACT 2006 – SECTION 75
PARTNERSHIP ARRANGEMENTS IN RELATION TO
MENTAL HEALTH SERVICES IN SOUTH ESSEX**

This agreement dated the 1st day of April 2009, is made between;

Essex County Council of County Hall, Chelmsford, Essex, CM1 1YS

South Essex Partnership University NHS Foundation Trust, of The Lodge, Runwell Hospital, Runwell Chase, Wickford, Essex SS11 7XX

This agreement will continue up until 31 March 2012 or earlier if it is ended by way of a formal termination as set out in section 15.

Signed for and on behalf of **Essex County Council** by:

Joanna Killian
Chief Executive

Date

Signed for and on behalf of **South Essex Partnership University NHS Foundation Trust** by:

Patrick Geoghegan
Chief Executive

Date

1. FOREWORD

This NHS Act, Section 75 Agreement updates by way of an agreed variation the original section 31 Partnership Agreement dated 28 March 2002 to provide the delivery of a single integrated Mental Health services for adults in South Essex.

2. PURPOSE OF THE PARTNERSHIP AGREEMENT

2.1 The purpose of this Partnership Agreement is for the provision of integrated health and social care services, it is to improve quality of services for people with mental health or substance misuse problems and their carers. This will be achieved by integrating health and social care expertise and service delivery within one management structure enabling the provision of seamless services. The integrated provider under this agreement is South Essex Partnership University NHS Foundation Trust.

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- 2.2 South Essex Partnership University NHS Foundation Trust (SEPT) provides integrated health and social care services under the terms of its licence with Monitor, the external regulator, through legally binding contracts with commissioning PCT's and with Essex County Council (the Council).
- 2.3 Extensive formal consultation on the proposal to implement a Partnership Agreement with Essex County Council, Southend on Sea Borough Council and Thurrock Council for an integrated provider to deliver mental health services in South Essex took place from 1 November 2001 to 1 January 2002, meeting the requirements of Regulation 4(2) of the Regulations 2000. The full consultation document was distributed widely throughout the partner organisations and to Primary Care Organisations, Community Health Council's, Local Representative Committees, Trade Unions, District/Borough Councils, other local NHS Trusts, Health Authorities, and Members of Parliament. Four staff meetings were also held during the consultation period to discuss the proposals and the implications in detail with the staff involved.

3. DEFINITION & TERMS

- 3.1 Please see appendix 1 for a complete list of definitions of terms.

4. AIMS AND OBJECTIVES

- 4.1 The overarching aim of this partnership agreement is to improve the quality of services and outcomes for people with significant mental health problems and their carers. This will be achieved by realising the following aims:-
- Combining the expertise of employees in the Trust and the Council Adult Mental Health Social Care services into a single organisation and single management structure to ensure clarity of accountability, improved communication and co-ordination, and easier decision making and access to services. The main purpose of this proposal is to achieve an integrated and seamless Mental Health Service for adults of working age, children, adolescents and carers.
 - Being better able to meet service users and carer needs through combining high quality clinical services with a model that promotes recovery and social inclusion.
 - Ensuring that the range and diversity of services are always appropriate and innovative. This will include any new national requirements to improve the quality of services in an equitable and consistent manner.
 - Developing care pathways and shared care protocols with primary care, housing, the voluntary sector and other organisations to deliver locally responsive services for the benefit of service users and carers.
 - Ensuring continuity of care for service users through improved recruitment and retention of staff by maximising opportunities for training and career development and other measures to improve working lives across the whole economy.
 - Making more efficient and flexible use of all resources. Achieve a critical mass of staff

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to create a wider range of expertise for teaching, research and development, which will help ensure local implementation of national best practice.

- Improving public confidence in services by promoting good mental health and reducing stigma and discrimination.

5. OUTCOMES FROM THE PARTNERSHIP

- 5.1 Guidance on Section 75 of the National Health Service Act 2006, previously Section 31 of the Health Act 1999 Partnership Arrangements, are contained in HSC2000/10: LA2000/09 (27 March 2000) and subsequent amendments, makes clear that the arrangements are one mechanism to raise standards and improve the quality and responsiveness of services. The Council and the Trust must be satisfied that the arrangement will improve services for users.
- 5.2 The Guidance makes clear that the existing performance management frameworks for local authorities and NHS Health bodies should be used as the basis for drawing up indicators for measuring the effectiveness of the partnership. Accountability should be demonstrated through the agreed measures.
- 5.3 The Council and the Trust will monitor the effectiveness of the Arrangements and use measures of performance to develop their work. The performance measures will demonstrate:-
 - Mutual Benefit measured through performance ratings and reputation.
 - Breaking down cultural barriers.
 - Economy: Best use of resources demonstrated through flexibility joint use of budgets and performance on indicators such as C31.
 - Efficiency: Lack of duplication and seamlessness of services.
 - Effectiveness: Integrated working, patient surveys and service user feedback.
- 5.4 The Trust will work in partnership with other mental health services in Essex, separate to this agreement, for example specialist services such as forensic and eating disorder services and services contracted from voluntary and independent sector providers. The Trust will also work in partnership with other key partners to promote independent living and social inclusion for those to whom it provides services.

6. GOVERNANCE ARRANGEMENTS

- 6.1 For the purposes of this Agreement under Section 75 of the NHS Act 2006, the Council and the Trust enter into this partnership in relation to the exercise of relevant NHS and local authority health related functions in order to bring about an improvement in the way these functions are currently exercised.
- 6.2 The Council and the Trust agree to enter into this Agreement for the exercise by the Trust of the social services health-related functions of the Council as defined in Regulation 6 of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 in relation to adults of working age with mental health and /or substance misuse problems and (all within the District Council areas of Basildon, Brentwood, Castlepoint and Rochford), in addition to the exercise by the Trust of its NHS functions.
- 6.3 The framework for the provision of social care services, in the exercise of the Councils

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health related functions, as defined by the regulation 6 of the NHS Bodies and Local Authorities Partnership Arrangement Regulations 2000, by the Trust is detailed in Appendix 2 (The Partnership and Social Care Requirements for Adults of Working Age) and the delegated resources to achieve this is set out in a Service and Financial Agreement between the Council and The Trust (attached as Appendix 3) which will be updated annually.

- 6.4 The Deputy Director of Mental Health Commissioning (Adult Health and Community Wellbeing) will lead the commissioning of social care services through the Service and Financial Agreement.
- 6.5 The Chief Executive of the Trust will be accountable for the delivery of the commissioned social care services on behalf of the Council. Management arrangements within the Trust will ensure full integration of health and social care throughout the Trust and will include social care expertise and knowledge at every level within it.
- 6.6 The Council and the Trust agree that they shall establish and maintain a Partnership Board to manage the arrangements. The Partnership Board will report to the Trust Executive Operational Team which in turn reports to the Trust Board. It will also report to the Adult Health and Community Wellbeing Executive Board which in turn reports to the Council's Corporate Leadership team and also to the Community Wellbeing and Older People's Policy and Scrutiny Committee (Members).

6.7 Partnership Board

The Partnership Board is responsible for the oversight of the management of the Partnership arrangements in accordance with the Regs 2000, this will include to:

- be responsible for overseeing the delivery of statutory responsibilities, performance, finance, and complaints about the Partnership through the receipt of reports.
- ensure that the Council and the Trust are mindful of the reputation of the Partnership and each others organisational reputation through any issues including those that might require joint response and communications.
- ensure that effective safeguarding policies and procedures are in place and maintained.
- receive reports on strategic change and impact on operations
- make reports and recommendations to the Trust Executive Operational Team and the Council Adult Health & Community Wellbeing Executive Board on the strategic change and operational impact.
- receive reports on variations in workforce deployment in the event of exceptional emergency situations and consider the implications for the Partnership.
- review and recommend future Partnership arrangements including to consider and recommend actions to be taken in the event of early termination of the agreement being proposed or actioned
- consider significant disputes where they have been escalated in line with the Partnership Agreement
- Rotate the role of Chair annually and to be taken by the Chief Executive of each partner organisation
- Responsibility for administration of the Board and venues for meetings to be rotated annually with the Chair post
- Meet twice per year
- Quorum to be five people, the Chair plus four others, two from the Trust two from

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the Council.

- To be mindful of other Partnership Agreements in place with Southend and Thurrock and as far as possible aim for consistency in policies and procedures and governance.

6.8 Membership of the Partnership Board will be :

Trust

Chief Executive*

Director of Partnerships*

Director of Operations*

ECC

Chief Executive*

Director of Adult Health and Community Wellbeing*

Strategic Commissioning Director of Adult Health and Community Wellbeing*

Deputy Director of Mental Health Commissioning*

Service Users and Carers

Two Service User/ Carer representatives

*All the above can be represented by a nominated Deputy

6.9 The business of the Partnership Board will be informed by the following groups who will provide reports to the Board:

- Mental Health Social Care Leadership Group (A joint meeting between both Trusts and the Council) focusing on Adult Social Care issues in relation to Mental Health
- Performance Management Group
- Service and Financial Agreement Group

6.10 The Partnership Board will be accountable to the Council through the Director of Adult Health and Community Wellbeing.

6.11 As an NHS body the Foundation Trust is formally accountable in accordance with the relevant NHS legislation and through local commissioning arrangements. (The Trust is accountable to Parliament, to Monitor the independent regulator, the Care Quality Commission and the Council of Governors of the NHS Foundation Trust, and through legally binding agreements to NHS and social care commissioners).

6.12 For its Local Authority health related functions exercised by the Trust through this Agreement, the Trust will report formally to the Council quarterly and annually on the exercise of these functions; [as required by the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000, Regulation 8(3)]. These functions will also be subject to the scrutiny and performance monitoring requirements of local authorities including through the Care Quality Commission.

6.13 At the request of any of the Council or the Trust this Agreement can be reviewed and examined by their internal auditors or an appointed external auditor.

6.14 Social care services commissioned from the Trust by the Council under this arrangement can be examined and reviewed by the Community Wellbeing Older

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People's Policy and Scrutiny Committee of the Council or any subsequent overview and scrutiny committee(s) Cabinet Member that have powers to scrutinise NHS bodies exercising local authority functions under section 75 of the National Health Act 2006.

7. SERVICE USER GROUPS TO WHOM THIS AGREEMENT APPLIES

7.1 The priorities for local authority health related functions exercised by the Trust will be determined by the Council in consultation with the Trust and service users. The detailed services and associated resources will be communicated in the Service Agreement(s), but broadly these cover:-

- People suffering from severe or enduring mental disorders.
- People misusing drugs or alcohol.
- Carers/families of those with serious mental health or substance misuse problems.
- Support to primary care to improve referral quality to secondary services to improve shared care arrangements for those with severe disorders, and to enable primary care through information, training etc., to better manage those with less severe illnesses.

7.2 The above services should ensure equality of access to all individuals regardless of age, gender, ethnicity, sexual orientation, disability and should comply with the provisions of the Sex Discrimination Act 1975, the Race Relations Act 1976, the Race Relations (Amendment) Act 2000, the Disability Discrimination Act 1995, the Disability Discrimination Act 2005, The Employment Equality (Age) Regulations 2006, the Employment Equality (Sexual Orientation) Regulations 2006, the Employment Equality (Religion and Belief) Regulations 2006, and the Equality Act 2006 (which includes the Gender Equality Duty).

7.3 **For Adults with Mental Health Problems** – In determining priorities for support, care or treatment, the following framework guidance will apply:-

7.4 Safety

- Unintentional self-harm, e.g. self neglect
- Intentional self harm
- Safety of others
- Abuse/exploitation by others, e.g. physical, emotional, sexual, financial

7.5 Informal and Formal Care

- Help from informal carers
- Help from formal services, such as day services, paid staff, voluntary services; hospital admissions, medication and detention under the Mental Health Act

7.6 Diagnosis

- Psychotic illness
- Dementia
- Severe neurotic illness

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- Personality disorder
- Development disorder

7.7 Disability

- Employment and recreation
- Personal care
- Domestic skills
- Interpersonal relationships

7.8 Duration

- Any of the above, for periods which vary between six months and more than two years.

7.9 The Trust will work with vulnerable adults who fall outside of the Mental Health Act 1983 as amended and outside the Chronically Sick and disabled Persons Act 1970 but within the National Assistance Act 1948 in collaboration with the partners to the ECC "Practice Guidance for the allocation of adults whose needs fall outside the thresholds for specialist services".

7.10 Referrals will only be accepted where there is evidence of one or several of the following:-

- **Complexity** – The difficulties of functioning in several areas or number of symptoms present and/or presence of another disorder and/or complex family and social situation.
- **Persistence** – The length or time the problem has been present or is likely to last.
- **Severity** – The level of distress or concern it is causing to the child, family or agency and hence the amount of care the child may require.

8. COMMISSIONING, RESOURCE AND FINANCIAL ARRANGEMENTS

8.1 The services commissioned from the Trust using the resources available from the Local Authorities and Primary Care Trusts will be specified in individual Service and Finance Agreements (Appendix 3). Each agreement will detail against specific headings the resources available to the Trust and the service outcomes required in respect of those commissioned service(s).

8.2 Any movement of funds between the service activities detailed in the Service and Financial Agreement will require the prior approval of the Commissioner to such changes. The Commissioner must be consulted about any proposals to redesign the delivery of services that may impact on service outcomes or performance.

8.3 The creation of these arrangements is in no way intended to avoid any VAT liabilities of the Partners involved.

The Trust and the Council will participate in the normal budget setting processes of the local authorities and be given an opportunity to demonstrate any new service demands for services to People with Mental Health needs in its area, or how efficiency improvements may be achieved.

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The local authorities' budget setting process will determine the level/ value of resources available to commission services from the Mental Health Trust. If as a consequent of the budget setting process the level of resources available to a Local Authority varies, from those available in the previous financial year, then the volume, method of delivery, range and / or mix of services will be revised accordingly and detailed in the annual Service and Financial Agreement.

- 8.4 Throughout the financial year, as a minimum quarterly (end June, Sept, Dec and at the year end, or in line with the Council reporting requirements) the Trust will be required to account via the respective Commissioner to the funding bodies for the use of their funds and achievement against the commissioned service outcomes. (See performance section below.) This will be in a context of open book accounting. Notwithstanding this requirement the Trust will notify the Council through the Commissioner immediately of any significant variance from planned spend or performance and of any matter that significantly impacts upon the Trusts financial position. Conversely the Council will inform the Trust of any matters that might significantly impact upon the financial position of the Trust. Where the Local Authority Adult Health and Community Wellbeing directorate identifies a universal efficiency saving target the requirement for the mental health contribution to this will be passed on to the Trust. The method of achieving the target will be negotiated with commissioners
- 8.5 A process for dealing with variances of spend and income against levels contained within the individual Service and Finance Agreements will be linked to the financial reporting as detailed in 8.4. Where it has not been possible to deliver the commissioned volume of service and underspending occurs this should be reported to the Commissioner. The Commissioner will then discuss with the appropriate statutory body the use of such funds. It is intended that regular monitoring as per 8.4 will allow swift intervention to mitigate any significant variances arising at the year-end.
- 8.6 As appropriate the Trust will recommend individual care packages against the assessed needs of individual clients, or where appropriate a Direct Payment (or individual budget) instead. The Trust will recommend the procurement of such care packages from the Councils approved list of service providers as confirmed by the Commissioner and in line with the agreed policies, procedures and systems of the Council. The Council remains responsible for authorising care package expenditure to meet social care needs.
- 8.7 Externally purchased care packages, using funds provided by the Council, will be subject to the Councils charging policy for non residential services and national charging regulations for residential services. The Council will remain responsible for the calculation and collection of such client contributions. The Trust will supply all information in the format required by the Council to enable such calculations and charges to take place in a timely way.
- 8.8 Where services commissioned by the Council are funded in part or full from an external source e.g. a Specific Government Grant, the Trust will be expected to be able to identify through its financial records the use made of those funds. In such circumstances it may be necessary to be able to provide the Councils external auditors with evidence of such expenditure to be able to comply with the conditions of an individual grant.

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8.9 The Trust will allow Council staff and/or their external auditors direct access to Trust staff and their auditors for the purposes of certifying all information relating to financial systems used by the Trust to verify the sums due and payable under the terms of this agreement.

The Council will conversely allow Trust staff and/or their external auditors directly access to their staff and auditors for the purposes of certifying all information relating to financial systems used by the local authorities to verify the sums due and payable under the terms of this agreement.

8.10 All aspects of the delegated functions will be covered in the Standing Financial Instructions and associated procedures of the Trust, to ensure efficient and transparent financial management; financial probity; the management of financial risk; and the achievement of value for money.

8.11 All Equipment, which prior to this arrangement, was owned by the Council and used for the delivery of services to People with Mental Health needs, shall as at the date of this agreement become the property of the Trust. The Trust shall, for the period of this Agreement be responsible for the insurance, maintenance and replacement of this equipment subject to provision by the Council to the Trust of funds to enable the Trust to do so. In the event of termination or expiry of this Agreement the equipment and / or replacement equipment funded by the Council during the period of this Agreement shall be transferred back to the respective Council in a condition equivalent to that at the time of delivery to the Trust, subject to normal wear and tear.

8.12 All the Council IT equipment (computers networks and related software) will remain the responsibility of the Council through its strategic partner for its IT services. The Trust and the Council will work together to ensure wherever possible the compatibility of IT systems and build interfaces to improve the quality and timelines of information.

8.13 The Protocol for the Trust's use of Council property or where there is shared occupation will be agreed. These leases or licences will be agreed and signed by the relevant Partners (see Appendix 4(b)). These arrangements shall be subject always to the continued provision by the Council to the Trust of funds to allow the Trust to meet its rental and other obligations under the leases and licences.

8.14 The Council will consider proposals from the Trust for capital funding towards developments that are intended to achieve social care objectives. Such proposals should fully indicate how any revenue consequences (including debt servicing costs) will be funded and will be considered by the local authorities as part of their normal capital budget setting processes.

9. PERFORMANCE MANAGEMENT

9.1 It is anticipated that the Trust will be inspected as an organisational entity and not separately for each of its functions. The Trust reports to Monitor in line with the requirements, standards and targets included in the Compliance Framework and is subject to the regulatory monitoring regime of the Care Quality Commission.

9.2 The Local Authorities health related functions contained within this Partnership Agreement will be subject to Best Value provisions contained in the Local Government Act 1999 and the requirements of the Governments Efficiency Review of the public sector as it affects the Partnership. Health functions will be subject to

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Clinical Governance arrangements and any Best Value requirements resulting from implementation of NHS Plan. Any Best Value or efficiency review will need to take a holistic approach to overall effectiveness of the services provided under this Agreement.

- 9.3. A number of the Services to be commissioned are subject to external performance management disciplines. Since under this arrangement the statutory bodies remain responsible for the discharge of their legal responsibilities they must also retain their responsibility for such external reporting e.g. the Performance Assessment Framework (PAF). The Trust will be required to contribute to the Council Adult Health and Community Wellbeing data collection and reporting of performance information monthly, as set out in the performance framework attached to the Service and Financial agreement which is agreed annually.

10. SECONDMENT PROTOCOL

- 10.1 A protocol and list of all seconded staff, provides the basis for the temporary secondment of Social Services staff employed by the Council to the Trust. The purpose of the secondment is to achieve integrated and seamless mental health services for adults of working age, and carers. Consultation has taken place with appropriate Trades Unions and briefing session arranged for all affected staff prior to establishment of the new organisation. The Partners agree to operate the Protocol and comply with its provisions.
- 10.2 The secondment of council employees to the Trust may occur on a full or part-time basis. The employee's contract of employment continues with the seconding local authority, despite the possibility that the employee's role may change albeit on a temporary basis. As a consequence the employee's existing terms and conditions of service, together with pension provision, remain intact, subject to any subsequent agreement to vary any existing terms and conditions. Where the Trust propose to use local authority employed staff across all local authority boundaries, they will be obliged to refer the matter to the Joint Partnership Board and the Commissioner, implement a proper consultation process and ensure that the appropriate steps are taken in respect of employees' contracts of employment.
- 10.3 Each seconded employee will sign an individual secondment agreement, the details of which are outlined within the Protocol. The Secondment Protocol describes the following arrangements:-
- Who will be seconded;
 - Parties to the secondment protocol and individual secondment agreements;
 - Inclusions and attachments to secondment agreements;
 - Responsibility/Accountability;
 - Supervision and Performance Management;
 - Professional Development;
 - Responsibility for resources;
 - Payment of salaries and expenses;
 - Workforce information;
 - Data Protection;
 - Replacement of Seconded staff;
 - Statements of Terms and Conditions for seconded staff;

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- Disciplinary and Appeal Procedures;
- Grievances;
- Continued links with Essex County Council;
- Human resources policies and procedures – Change Management;
- Early termination of the Partnership Agreement;
- Confidentiality;
- Insurance;
- Conflicts of interest;
- Review date;

10.4 For the avoidance of doubt, the partnership arrangements do not include Section 114 appointment of Approved Mental Health Professionals hereafter referred to as AMHP's and Section 115 (Powers of Entry and Inspection) of the Mental Health Act 1983 as amended by the Mental Health Act 2007. The supervision and management arrangements must ensure that AMHP's act in a personal capacity when carrying out their statutory duties as set out in the Mental Health Act 1983 as amended by the Mental Health Act 2007.

10.5 The Trust will comply with the Single Status Collective Agreement for Essex County Council seconded staff. This provides that pay progression with Bands 1 to 4 is dependent on satisfactory performance of objectives and achievement of competencies, with reference also made to the Essex Competencies Framework attached to the post. In Essex competencies are defined as the skills and abilities required to deliver quality services. Using competencies for pay progression means that Essex is able to assess that its staff are displaying these skills and abilities to the required levels.

11. INFORMATION

11.1 A protocol for information sharing between the Council and the Trust will be agreed covering the following issues:-

- Definition of the framework within which information is exchanged
- Definition of process under which information will be exchanged
- Definition of responsibilities for managing the exchange process
- Identification of confidentiality and security frameworks
- Reference to legal and policy frameworks
- Clarification of ownership of interface software/hardware and written records
- Identification of contract responsibilities for services, software and hardware, which will support information exchange

11.2 The Trust and the Council will work together to establish a means by which appropriate data can be exchanged electronically and manually to support the CPA approach. The Trust will be responsible for ensuring that a core dataset for clients on CPA is transferred to SWIFT including hazard alerts. The Council and the Trust will work together to ensure the relevant details are entered on SWIFT to enable information to be exchanged between SWIFT and the Service Placement System for the purchase of approved care packages.

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11.3 The Trust and the Council will provide resources to progress the above and devise and implement appropriate plans and project structures, in accordance with recognised IS&T methodologies.

12. COMPLAINTS

This section will be reviewed in July 2009 in the light of the new complaints regulations following the publication of Making Experience Count.

12.1 The complaints procedure to be operated by the Trust shall be based upon the new statutory Complaints Procedure requirements and shall be followed for all complaints relating to services delivered under these partnership arrangements.

12.2 Complaints against independent service providers from whom services are contracted should normally be referred in the first instance to the service provider concerned. If the complainant remains dissatisfied, the matter may then be pursued using the Trusts procedure. Where the complaint is of a very serious nature, or where the complainant is unwilling to raise it directly with the independent service provider, an investigation under the Trust's procedure may be appropriate from the outset.

12.3 Each service provider, whether in Health or Social Care and whether in the Statutory or the Independent Sector, must have a complaints procedure which is made known and readily accessible to service users and to their relatives and advocates. All such procedures must aim to encourage the speedy resolution of complaints, as near as possible to the point of origin of the complaint, as their first stage.

12.4 The Trust remains accountable for all the services it provides, whether directly from its own resources or through contracts with other agencies, and therefore has a right to investigate complaints about any of those services. Where the complainant is not satisfied with the outcome of an attempt at local resolution of a complaint about a service provided under contract, the Service Provider's own procedure must accordingly provide for the complaint to be promptly referred for formal consideration under the second stage of the appropriate Statutory Procedure. Where complainants remain dissatisfied, such cases are then subject to scrutiny by Review Panels and by the Health Service or Local Government Ombudsman.

12.5 In line with the relevant Regulations S1 200/617, Regulation 10(3), it is intended that the Partnership Board with responsibility for overseeing commissioning and the Partnership arrangements will receive reports on complaints and outcomes but any deliberation of that subgroup shall not form part of the formal complaints procedure.

13. RISK MANAGEMENT, INSURANCE & LIABILITY

The Trust will be responsible for the risk management arising from the service provision as detailed in the Service and Financial Agreement but "liabilities" will fall to the Council and/or Trust as outlined in 13.1.

13.1 In this clause 13, "liabilities" shall be deemed to include all costs claims, liabilities, expenses and demands made against or suffered or incurred by the relevant Partner including (but not limited to) the following matters:

- public liability;

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- employer's liability;
- professional indemnity (including but not limited to officers liability and clinical negligence);
- employment claims including (but not limited to) claims for:
 - damages, costs and expenditure including (but not limited to) claims for wrongful and unfair dismissal and under TUPE;
 - damages, costs and expenditure in relation to sex, race or disability discrimination and equal pay claims;
 - other claims for breach of employment contract;

For the avoidance of doubt those employees seconded to the Trust by the Council and employed by the Council will remain the liability and responsibility of the Council in respect of:

- Employment claims (see above)
- Ombudsman awards;
- claims for breach of the Human Rights Act 1998;

and "liability" shall be construed accordingly.

- 13.2" Uninsured liabilities payment" means any payment in respect of any liabilities of a Partner arising (directly or indirectly) from any of the Functions during the period in which the relevant Functions shall be included in the Partnership Arrangements to the extent that such payment shall not be recoverable from any insurance monies (or equivalent under NHS schemes) received or receivable by the relevant Partner. This shall include such payment arising as a result of any liability to make any payment under the indemnity in Clause 13.4. It shall also include any payment to the extent, which it is not recoverable under any insurance arrangements (or equivalent) due to the excess provisions in such arrangements.
- 13.3 For events prior to the commencement date, the Council will indemnify and keep the Trust indemnified against all liabilities arising directly or indirectly from any events acts or omissions in relation to the Council Functions occurring prior to the date on which they are included in the Partnership Arrangements. For the avoidance of doubt (and without limitation) this includes all claims by staff whose employment may be transferred to the Trust under Transfer of Undertakings (Protection of Employment) Regulations 2006. Save to the extent that such liabilities shall arise out of any act or omission of the trust or its employees, contractors, servants and/ or agents.
- 13.4 For events after the commencement date, the Trust will indemnify and keep indemnified the Council against all liabilities arising directly or indirectly from any events acts or omissions of the Trust or its employees or contractors in respect of the Functions which shall occur during the period in which the relevant Functions shall be included in the Partnership Arrangements save to the extent that such liability shall arise out of any act or omission of the Council or its employees and contractors.
- 13.5 The Partners shall, so far as is possible at reasonable cost and allowable by law or guidance, agree and effect appropriate insurance arrangements in respect of all potential liabilities arising from the partnership arrangements. In the case of the Trust it may effect, through the National Health Service Litigation Authority, alternative arrangements in respect of NHS schemes in lieu of commercial insurance.

The obligations in this clause shall include insurance (or equivalent) arrangements

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after the date of determination of this Agreement in respect of any events acts or omissions prior to such determination.

- 13.6 The Partners' insurers (or equivalent alternative providers to cover NHS schemes) may agree from time to time, common policies and protocols for the handling of claims covered by the Partners' insurance arrangements (or equivalent) for the Functions. Such policies and protocols as are agreed may be applied to the partnership arrangements. As at the commencement date of this agreement a non legally binding protocol has been agreed between the Council's insurers and the National Health Service Litigation Authority.
- 13.7 Where a Partner makes an Uninsured Liability Payment it may elect that the same be paid from either of the following;
- Any funds contributed by that Partner or;
 - Any other financial resources available to that Partner.

Where the source of this payment is from a funds contributed by a Partner and that payment leads to an exceptional in year cost pressure then the Trust will agree with the relevant Council how this financial impact will be managed and any resulting variation to the services detailed in the Service and Financial Agreement.

- 13.8 Each Partner agrees to discuss with their insurers (or equivalent providers) and request their agreement not to enforce any subrogated rights against the other Partner arising out of any liability under the Partnership Arrangements to the extent that the sum claimed is not recoverable under the other Partner's insurance (or equivalent) arrangements.
- 13.9 The parties may agree alternative insurance and indemnity arrangements to the foregoing from time to time advising the other Partners accordingly in writing.

14. RESOLUTION OF DISPUTES / MEDIATION

- 14.1 In the event of a dispute between the Partners in connection with this agreement the parties shall endeavour to resolve the dispute at the appropriate operational level. Where the dispute cannot or fails to be resolved at an operational level, then the Chief Executives of the Partners or their nominated representatives shall consider and resolve the dispute. If the Chief Executives fail to resolve the dispute then the matter shall be referred to mediation on terms and by a mediator to be agreed by the parties.
- 14.2 If a question or difference between the Partners can not be resolved through mediation within six weeks of any Partner declaring that such question, dispute or difference has arisen it may be referred on the election of any Partner to an arbitrator to be agreed or in the event of failure to agree within four weeks to be nominated by the Chartered Institute of Arbitrators and the arbitrators shall be in accordance with and subject to the provisions of the Arbitration Act 1996 or any re-enactment for the time being in force and the costs of the arbitration shall be borne as the arbitrator directs.
- 14.3 The Parties shall be under a general obligation to use all reasonable endeavours to negotiate in good faith and to settle amicably any dispute of whatsoever nature arising

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in connection with this agreement. Nothing contained in this Schedule shall prevent either party in seeking any interim or interlocutory relief from the court or taking any action in order to fulfil its statutory duties and or mitigate any possible losses and ensure that relevant deadlines and timetables are met.

15. TERMS AND TERMINATION

- 15.1 Subject to the provisions as to termination, this Agreement shall be for a period of three years from 1 April 2009 to 31 March 2012. There shall be a formal review of the operation of the Agreement and its terms and conditions at the end of each year of the Agreement. During the course of the third year of this Agreement (and subsequent years) the parties shall review the Agreement and decide whether to continue the Agreement for a further year (subject always to the rights of early termination set out in this Agreement).
- 15.2 This Agreement may subject to the provisions as to termination be terminated by the Council, or the Trust giving to the other not less than one year's written notice to expire on 31 March of any year.
- 15.3 Either party may any time by notice in writing to the other party terminate this Agreement as from the date of service of such notice if
- The other party commits a material breach of any of its obligations hereunder which is not capable of remedy, or
 - The other party commits a material breach of any of its obligations hereunder which is capable of remedy but has not been remedied within a reasonable time after receipt of written notice from the terminating party service notice requiring remedy of the breach.
- 15.4 Either party may by written notice to the other party terminate this Agreement if:-
- As a result of any change in law or legislation it is unable to fulfil its obligations hereunder;
 - Its fulfilment of its obligations hereunder would be in contravention of any guidance from any Secretary of State issued after the date hereof;
 - Its fulfilment of its obligations would be ultra vires.
- And the parties shall be unable to agree a modification or variation to this Agreement so as to enable the party to fulfil its obligations in accordance with law and guidance
- 15.5 In the case of notice pursuant to 14.4 the Agreement shall terminate after such reasonable period as shall be specified in the notice having regard to the nature of the change in law or legislation or the guidance referred to, as the case may be. In the case of notice served in circumstances where fulfilment of the obligations would be ultra vires then this Agreement shall terminate as from the date of service of such notice.
- 15.6 Either party may by not less than six months written notice given to the other party terminate this Agreement if:-

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- For budgetary reasons, that party is no longer able to contribute resources at the agreed level to the Arrangements or
- That party is of the reasonable opinion that in light of the other's proposed financial contribution the Arrangements are no longer viable

15.7 Termination of this Agreement (whether by effluxion of time or otherwise) shall be without prejudice to the parties' rights in respect of any antecedent breach.

15.8 It is the intention of all parties that circumstances raising the possibility of termination and/or notices of termination shall be referred to and considered by the Partnership Board or appropriate members of the Partnership Board (meeting in emergency session if necessary), preferably before a termination notice is served.

15.9 In the event of the termination of this Agreement, the Council's Local Authority Health Related Functions provided by the Trust will be transferred back to the Council. Any assets (excluding equipment referred to in clause 8.10), property or accommodation shall be dealt with in accordance with the property protocol. In default of agreement the matter shall be referred to a mediator appointed pursuant to the medication clause.

15.10 The leases, licences and other agreements entered into in pursuance of this Partnership will be terminated by the Council in the event of termination of this Agreement.

15.11 The Council will review the services provided to Essex Drug and Alcohol Action Team (DAAT) under the terms of this Agreement and new agreements will be drawn up with the Trust to deliver these services as a result of the review. Subject to the outcome of such review and notwithstanding or without prejudice to clauses 15.1 to 15.10 of this Agreement the Council reserve the right upon giving 3 months notice to the Trust to withdraw the Services provided by the Trust to DAAT under the terms of this Agreement. Upon the Council exercising such right clauses 15.1 to 15.10 and 14.1 to 14.3 will not be exercised or take effect.

16. NOTICES

16.1 Any notices required to be served under this Agreement shall be sufficiently served if sent in writing to the other Partner and shall be deemed to be sufficiently served two working days after the time of posting.

17. SUPPORT FUNCTIONS

17.1 The Council shall make available or arrange to be made available the provision of support service functions to the Trust in respect of the provision of social care on behalf of the Council. These services cover Legal Services; Human Resources; Finance; Information Technology Support; Information and Performance Management; and Communications. Protocols setting out these working arrangements have been established and are attached as Appendices.

The Trust and the Council may review the provision of these support service functions at a future date.

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- 17.2 The Council will continue to meet the costs associated with the support functions identified in these protocols so long as the activity levels do not vary from those indicated.
- 17.3 The Partners will monitor the appropriateness and effectiveness of the support functions set out in the protocols. Where appropriate, Partners may consider and explore alternative ways of providing these support functions, including direct provision by the Trust or the Council via Service Agreements. Where changes are agreed to the provision of the support functions covered by these protocols then such changes will be recorded in writing between the Partners.

18. OMBUDSMAN

- 18.1 Both the Council and the Trust will co-operate with investigations undertaken by their respective Ombudsman.

19. WINDING DOWN

- 19.1 In the event that this Agreement is terminated (whether by effluxion of time or by notice of termination) the Partners agree to co-operate to ensure an orderly wind down of their joint activities as set out in this Agreement with the minimum disruption to service users.

20. CONFIDENTIALITY

- 20.1 Except as required by law, each party agrees at all times during the continuance of this Agreement and after its termination to keep confidential all documents or papers which it receives or otherwise acquires in connection with the other and which are marked "Commercial – in confidence" or such other similar words signifying that they should not be disclosed. For the avoidance of doubt this clause will also cover confidential information relating to any client of any party and shall not affect the rights of any workers under Section 43 A-L of the Employment Rights Act 1996.
- 20.2 Prior to the issue of any press release or making any contact with the press on any issue attracting media attention the Chief Executive of the Trust (or such person as he/she shall designate) and the Director of Social Services of the Council (or such person as he/she shall designate) will consult with each other to agree a joint strategy for the release or handling of the issue. The provisions of this clause are subject to any alternative arrangements that the parties may agree in writing for press relations in particular situations.

21. CHANGES TO THIS AGREEMENT

- 21.1 It is acknowledged that during the period of this Agreement the partnership working arrangements and service requirement are likely to change. Changes shall be documented in writing as appropriate and shall be agreed by the Council and the Trust and appended to the existing agreement for clarity.

22. WAIVERS

- 22.1 The failure of either party to enforce at any time or for any period of time any of the

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provisions of this Agreement shall not be construed to be a waiver of any such provision and shall in no matter affect the right of that party thereafter to enforce such provision.

22.2 No waiver in any one or more instances of a breach of any provision hereof shall be deemed to be a further or continuing waiver of such provision in other instances.

23. TRANSFERS

23.1 The parties may not assign mortgage transfer sub-contract or dispose of this Agreement or any benefits and obligations hereunder without the prior written consent of the other except to any statutory successor in title to the appropriate statutory functions.

24. NO PARTNERSHIP

24.1 Nothing in this Agreement shall create or be deemed to create a legal partnership or the relationship of employer and employee between the parties.

25. CONTRACTS (Rights of Third Parties) ACT 1999

25.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and accordingly the parties to this Agreement do not intend that any third party should have any rights in respect of this Agreement by virtue of that Act.

26. GOVERNING LAW

26.1 This Agreement shall be governed by and construed in accordance with English Law.

SOUTH ESSEX PARTNERSHIP AGREEMENT FINAL 9

PARTNERSHIP AGREEMENT WITH ESSEX COUNTY COUNCIL

APPENDICES TO ESSEX AGREEMENT

| | |
|----|--|
| 1. | Glossary of Terms |
| 2. | The Partnership and Social Care Requirements for Adults of Working Age |
| 3. | Service and Financial Agreement |
| 4. | Property Leases and Licences Protocol |
| 5. | Legal Services Protocol |
| 6. | HR Protocol |
| 7. | Finance Protocol |
| 8. | IMT Management Protocol which includes Information sharing Protocol |

SOUTH ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

DEFINITIONS & GLOSSARY OF TERMS

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| Arrangements and Partnership Arrangements | Means the arrangements described in Clause 6 |
| Approved Mental Health Professional (AMHP) | A registered professional (either social worker, nurse, occupational therapist or psychologist), who has been approved and authorised to act as an AMHP by the local Social Services Authority as defined in Section 145 of the Mental Health Act 1983. |
| Commissioner | Essex County Council Officer responsible for commissioning services on behalf of the Council |
| Commissioning Agreement | An agreement in which the arrangement and funds for service commissioning by a local authority and/or a statutory health body are set out |
| Council | Essex County Council |
| CPA | Care Programme Approach |
| Direct Payment | Funds made available to a local authority client from which they arrange for and procure their own care services |
| Equipment | Fixtures, fittings, moveable items of furniture, electrical equipment and stocks of consumable items |
| Function | The Local Authority Health Related Functions and the NHS Functions |
| Local Authority (Service) Commissioner | The Officer within each Local Authority who is responsible for the commissioning of Mental Health Services in South Essex |
| Local Authority Health Related Functions | The functions specified in Regulation 6(a) of the Partnership Regulations for the provision of social services to the client groups identified in this Agreement in respect of their mental health needs. This is subject to the exclusions listed in Regulation 6 together with such exclusions and additions as are agreed between the parties |

SOUTH ESSEX PARTNERSHIP AGREEMENT FINAL 9

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| NHS Functions | The functions specified in Regulation 5 of the Partnership Regulations |
| Partners | The Council and the Trust |
| Performance Assessment Framework | A set of statistical and financial indicators used to compare the performance of local authority personal social services functions |
| Primary Care | Health Care and services usually provided outside hospitals e.g. by GP's or District Nurses |
| Primary Care Organisations | A collective name given to organisations that are responsible for the commissioning and possibly direct provision of Primary Health services. |
| Protocol | A document in which agreed arrangements between the partners are set out in respect of a given subject area |
| Regulations 2000 | NHS Bodies and Local Authorities Partnership Arrangement Regulations 2000 |
| Secondary Care | Health Care and services usually provided following referral from primary care services |
| Secondment | An arrangement under which Council staff will be made available to and managed by the Trust as detailed in the secondment protocol annexed at Appendix 5 |
| Service and Financial Agreement | The agreement between the Council and the Trust which includes detail of the services to be provided by the Trust; the service outcomes; the financial resources available; how the financial resources will be managed; and the performance and monitoring arrangements |
| Statutory Authority | The legislation under which these arrangements are made is the Health Act 1999 |
| Statutory Body | An organisation that has been created by statute e.g. a Health Authority, a Local Authority |
| Trust | South Essex Partnership University NHS Foundation Trust |

THE PARTNERSHIP AND SOCIAL CARE REQUIREMENTS FOR ADULTS OF WORKING AGE

1. Purpose of Partnership Arrangement

- 1.1 To create a mental health service which promotes independent living, supports people with mental health or substance misuse problems in overcoming social exclusion, and best ensures the delivery of seamless health and social care services which are safe, sound and supportive. The secondment arrangement acknowledges achievements of the past in joint working locally between health and social care, and facilitates the creation of a new identity and culture for the future.

2. Social Work Role and Philosophy of Care

- 2.1 The Directorate's social work staff are the main resource through which it meets its statutory obligations, ably supported by a number of skilled non-professional staff. In seconding social workers to the Trust the County Council is seeking to enable the new organisation to provide a full social work service to those identified in the Partnership Agreement as falling within the Service User population.
- 2.2 Social work maintains and promotes a holistic perspective in understanding individual and family needs, harnessing not only the resources of the individual but also strengths within family, friendship and wider community networks in assisting the process of recovery. More fundamentally the value base supports a clear needs-led approach to care planning and recognises those needs within the context of socially structured forms of disadvantage. Medical treatment and psychological therapies provide valued contributions to meeting individual needs where the focus is on positive outcomes for individuals which promote independence and empower service users, within the context of good risk assessment, to take control over their lives.
- 2.3 By closer integration The Council is seeking to:
- Make services easier to understand and to access for service users/carers;
 - Improve communication and co-ordination both within and outside the organisation;
 - Make the most efficient use of buildings and resources;
 - Maximise the opportunities for training and career development with the aim of recruiting and retaining high quality staff who provide greater continuity for service users and carers;
 - Achieve an eclectic service model which is needs led, values diversity and supports staff in empowering service users to maximise control over their own lives.

In attempting to remove as many structural barriers as possible to assessment and delivery of care, the Council is not seeking to abandon the social model of care, nor the independent role of the social worker particularly in relation to Mental Health Act responsibilities. Indeed the Council is seeking to promote the Social Model of Disability throughout the new organisation.

3. Statutory Framework

- 3.1 The Local Authority Social Services Directorate has a wide range of statutory duties placed upon it, the most significant pieces of legislation being:

The National Assistance Act 1948
 The Chronically Sick and Disabled Persons Act 1970
 The National Health Services Act 1977
 The Mental Health Act 1983
 The Police and Criminal Evidence Act 1984

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The Disabled Persons (Services, Consultation and Representation) Act 1986
The Children Act 1989
The NHS and Community Care Act 1990
The Criminal Justice Acts 1971 and 1993
The Mental Health (Patients in the Community) Act 1995
The Carers (Recognition and Services) Act 1995
The Education Act 1996
The Community Care (Direct Payments) Act 1996
The Crime and Disorder Act 1998
The Human Rights Act 1998
The Carers and Disabled Children Act 2000
The Health and Social Care Act 2001
The National services Act 2006
The Mental Capacity Act 2005
The Mental Health Act 2007
The Health and Social Care Act 2008

4. Service Expectations

4.1 The Council expects the Trust to offer a full social work service arising from the above legislation to the service user populations as defined in the Partnership Agreement. In addition to the duties relating to the role of Approved Social Workers also apply to older people with mental health problems and may apply to adolescents.

4.1.1. Mental Health Social Work

- a. All duties as laid down in the Mental Health Act 1983 as amended by the Mental Health Act 2007, the Mental Health (Patients in the Community) Act 1995, and associated Codes of Practice/Guidance, including specific duties relating to the Approved Mental Health Professional and those other duties as require social work involvement such as Tribunal and Hospital Manager Reports. The Trust should aim to respond to requests for Mental Health Act assessments as soon as possible but certainly to the standards below:
 - Urgent assessments for people taken to a place of safety under S.136 – response on site within 2 hours
 - Community assessments – response on site within the working day i.e. maximum of 8 hours but the urgency will need to be assessed at referral).
 - Section 5(2) Doctor's holding power – response on site within 24 hours.
- b. Not all AMHP's will be seconded to The Trust as there a number of specialist social workers in other teams who have particular expertise in sensory loss, learning disabilities, older people, children and family services, and are also ASW qualified. They will, however, be available for AMHP duty at a frequency necessary to provide an effective AMHP duty service.
- c. It will be The Trust's responsibility to maintain and manage the AMHP rotas to ensure availability of ASW cover between 08:54 and 17:30 (Mon-Thurs) and 08:54 and 16:30 (Fridays). For the time being, subject to changes to out of hours working for existing services, the Social Services Emergency Duty Service (EDS) will continue to maintain AMHP cover outside these hours and at weekends.
- d. The Trust and the EDS should work to the existing protocol in operation for the transition between daytime AMHP and EDS services. Further protocols will need to be agreed for:
 - Agreeing access to any out of hours/extended hours services developed by The Trust for known service users

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- Access to team managers within The Trust for consultation out of hours
- e. The Council retains responsibility to ensure sufficient AMHP's are in place to provide adequate cover over a 24hour period, and will do this with advice and support from The Trust. Nominated seconded senior managers from Social Services will manage the overall approval and re-approval process, linking with Social Services Organisation and Staff Development section, and issue appropriate documentation as proof of approval in liaison with relevant Personnel staff. The lead manager for AMHP issues will ensure in liaison with relevant colleagues the maintenance of an accurate database of AMHP's, and reapproval schedules. It is expected that all Team Managers in The Trust will be active in identifying and prioritising prospective AMHP candidates.
- f. The Trust will offer a placement service to social work students wishing to gain experience in mental health as part of their development and will nominate appropriate social work staff as placement supervisors. Priority will be given to those staff seeking placement for, or in preparation for, their Approved Mental Health Professional training and to those undertaking the Degree in Social Work.
- g. The Director of Adult Social Care will nominate, within the group of senior managers seconded to The Trust, a manager responsible for oversight of AMHP activity and standards. This manager may also have similar responsibilities in respect of AMHP's outside The Trust, and this should be recognised as part of the work requirement of this manager. The role will include offering advice and support on AMHP practice matters, and making whatever arrangements are most appropriate for AMHP's to share good practice and to ensure safe practice arrangements are followed. This will include co-ordination of Care Quality Commission reporting and visiting requirements of local authorities. This manager must be free to support and monitor the independent role of the Approved Mental Health Professional in Mental Health Act assessments without feeling compromised by the organisational framework. He/She will also need to take responsibility for prioritising training AMHP candidates across the whole of Essex, not just those from South Essex using criteria agreed with the Director of Adult Social Care.
- h. The Council will ensure specialist legal advice is available on AMHP matters, to ensure independent advice with regard to the Mental Health Act.
- i. The responsibility for acceptance and discharge of Guardianship applications will be held by the Deputy Director of Mental Health Commissioning within the Council. Information requires by the Department of Health on an annual basis will be made available to the Director of Adult Social care or his/her nominee. This senior manager may also have responsibility for Guardianship issues across the rest of Essex. Working practices will be agreed between The Council and the Trust.
- j. The Council will ensure arrangements are in place for AMHP's to access trained interpreters in order for them to fulfil their duties as they relate to the Mental Health Act. These arrangements are made clear in the "Interpreting and Translation Services Guidelines Booklet". All operation and support services teams of Essex Social Care can also access the Language Line Service, which is geared to satisfy any instant or spontaneous need for an interpreting service, whilst Adult Social Care continues to subscribe to this service

4.1.2 Community Care

Assessment Care Management and Casework Interventions

- a. Social Workers, alongside professional colleagues from other disciplines, play a key role

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in assessment and care management, the requirements of which are fully integrated into the Care Programme Approach (CPA). The value base and perspective that social workers bring to this function within Community Mental Health Teams (CMHT's) provides an essential element to the skill mix of these teams. Social workers will often employ traditional casework skills throughout the assessment and care management process and like their health colleagues, with appropriate post-qualifying training and development, are able to offer a range of specialist therapeutic interventions.

- b. Care Co-ordinators are expected to think flexibly and creatively in addressing the identified needs of service users or carers, and to do so in a cost-effective manner. The financial arrangements relating to community provision should support this approach.
- c. Community care funding will be made available, based on existing sub-economy locality profiles to The Trust to enable the purchase of appropriate elements of care/support or provision of Direct Payments, according to assessed need and current eligibility/priority criteria. This will include provision for meeting Carer needs.
- d. Direct Payments may be made available as part of the agreed care plan where the service user is eligible, is willing and able to use the Direct Payment scheme, and the need falls within the current Essex policy framework. This can enable the service user to buy in the services they have been assessed as needing with the aim of giving greater choice, control, flexibility and empowerment. Independent Living Advocacy (Essex) currently play an important role in advocating for service users and one of their roles is to provide Direct Payment users with essential information on tax, national insurance, employment rights etc. They are supported in this role by Essex PASS (Personal assistance support services) whose main role is to provide services and support to assist disabled people to employ Personal Assistants who will provide the practical/care support required by the disabled person. Not everyone will be suitable for, or indeed would want to use, Direct Payments. The Government plans to extend Direct Payments to carers and subject to the legislation and the Essex policy, eligibility and priority framework in place it will be possible to meet Carer needs in this way.
- e. Community Provision tend to fall within a number of broad categories:

Community Support – provided primarily through in-house support worker services integrated with CMHT's. Provision of practical/emotional support, including assertive outreach where appropriately trained and supported, and maximising an individuals potential for recovery by supporting them to access community resources which promote their social, leisure, educational and employment opportunities

Home Care – purchased through approved home care providers at declared prices as negotiated by The Council. Mainly used for provision of personal care/support where required, and secures on a “spot” purchase basis according to Directorate procedures.

Day Provision – Loosely defined definition which covers a range of services contracted (other than Coombewood in Rayleigh) from voluntary/independent sector providers for the purpose of promoting independence through social, leisure, educational or employment opportunities. May be provided through a centre, in-house at Coombewood or through block contract with voluntary sector provider, or “spot” purchased as part of an individual care package. Coombewood remains the only in-house day provision and the staff will be seconded to the Partnership Trust. The premises will be made available for use by The Trust in line with the Partnership Agreement. The centre currently provides work focused activities.

Residential/Nursing Home Care – individual placements are spot purchased using the Council contracts, procedures and guidelines. Nursing Home placements will normally be the responsibility of the Health Service; guidance provided as part of the CPA policy and procedures will be followed.

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Supported Housing – a range of housing schemes with on site care/support or floating support, developed through partnerships with Registered Social Landlords and District/Borough Councils, exist across the area covered by The Trust. Nominations will now be managed by The Trust in line with the existing nomination agreements with Essex Social Services, and liaison with housing providers on practice issues will pass to The Trust.

- f. The Trust will follow the Council charging policy:

The provision of social care is subject to the charging policy. People with needs being met through Section 117 Aftercare, will not be charged for any services deemed to be meeting those needs. Section 117 Aftercare is subject however to regular review. Where a service falls within the charging policy, it will be necessary to determine whether an individual meets the criteria for exemption from charging. Where this is not the case, staff of any discipline arranging care are required to undertake a financial assessment of the service user following the financial regulations as outlined in the NHS and Community Care Act 1990 and detailed in the Community Care Guidelines.

- g. In relation to services for Older People, whilst work continues to explore the potential to extend the Partnership Agreement to include Older People Mental Health Services, the social work service will be provided according to arrangements already in existence with predecessor Trusts at the date of commencement of the Partnership agreement. This is likely to be an area of significant interface between the two organisations and appropriate managers within the Trust and The Council Adult Social care must agree clear protocols for case co-ordination and case transfers.
- h. The Trust and the Council Adult Social Care will also agree the protocol for accessing community care funds and resources managed through mainstream older people's services within Adult Social Care, including access to in-house residential provision, day centres, meals on wheels etc.

4.1.3 General Provisions

- a. The Trust will follow the Southend Essex and Thurrock (SET) Protocol for the Protection of Vulnerable Adults. Training/familiarisation should be made available to all staff.
- b. The Council and The Trust will agree the status and support arrangements for those volunteers who assist in mental health settings.
- c. The Trust will co-operate fully with The Council on emergency and winter planning arrangements and will identify lead managers where necessary, as well as identifying individual staff who will be available for debriefing/counselling in the event of occurrences needing this response.
- d. In relation to services to children and younger people, where the service user is a parent/carer and concerns for the children are identified, it may be appropriate for family support to be provided by the seconded social worker in the Trust except where abuse is potentially identified (or considered to be a serious risk), at which point the local Children's Assessment, Protection and Support Team should be notified immediately and any case responsibility determined. It remains the responsibility of The Council to co-ordinate any relevant investigations under the Child Protection procedures.
- e. The Trust will be expected to work closely with The Council to promote the health and well-being of the communities it serves. The Trust will ensure appropriate representation and involvement in work to review and update The Council policy, strategy and processes of relevance to the work of The Trust.

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- f. The Trust will support and facilitate close operational links between seconded staff and The Council to ensure practice remains informed and based upon up-to-date evidence, legislation, policy and guidance and supports the maintenance and development of professional identity. This is important in both adult and child adolescent services.

4.1.4. Financial Arrangements

All appropriate managers, whether directly employed by The Trust or seconded by The Council will be nominated as officers of The Trust and authorised by The Council to manage delegated budgets whether from Health or County Council sources.

The detailed arrangements in respect of budgets brought into The Trust by the Council are outlined in the Commissioning and Service Agreements and elsewhere in the Partnership Agreement.

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| SERVICE AND FINANCIAL AGREEMENT |
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between

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| ESSEX COUNTY COUNCIL And SOUTH ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST |
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This agreement sets out the Mental Health services to be commissioned by Essex County Council from South Essex Partnership University NHS Foundation Trust for the financial year 1st April xxxx to 31st March xxxx along with the associated financial, performance and monitoring arrangements.

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| 1. SERVICES TO BE COMMISSIONED |
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1.1 The local authority health related functions in respect of adults of working age (18 – 65 years) with mental health and / or substance misuse problems and children / adolescents with mental health problems within the District Council areas of Basildon, Brentwood, Castle Point and Rochford, namely for 200x/0x;

- Assertive Outreach Team (part funding)
- Community Mental Health Teams (including re provision)
- Forensic Team (whole of Essex)
- Mental Health Criminal Justice Team
- Substance Misuse Services
- Social Care Training
- Day Care Services (Coombewood)
- Contribution to ASW work across Essex
- Children's Services – budget held by ECC (Further discussions to be held in year)

1.2 In addition to the direct provision of the above services Essex County Council is also delegating to the South Essex Partnership University NHS Foundation Trust the management and procurement of individual care packages in respect of community support, day and residential care, against the assessed need of individual clients, or where appropriate to make a direct payment instead. Spending against the delegated budget requires the prior approval of the Essex County Council nominated Mental Health Commissioner.

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| 2. RESOURCES FOR THE COMMISSIONED SERVICES |
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2.1 The Council will make available as detailed in Annex A to South Essex Partnership University NHS Foundation Trust appropriate resources for the delivery of the specified service outcomes.

2.2 These resources should be deployed in the provision of the service as detailed in Annex A unless variations in their use is agreed with the Council's designated officer responsible for the commissioning of Mental Health Services in South Essex.

2.3 The Trust must provide a clear statement of expenditure of these resources as required under paragraph 8.4 of the Partnership Agreement (see also 4.1 and 4.2 of

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this Agreement).

3. FINANCIAL ARRANGEMENTS

- 3.1 The creation of these arrangements are in no way intended to avoid any VAT liabilities of the Partners involved. The Partners will adopt the advice on VAT in partnership arrangements when issued by the Department of Health.
- 3.2 Any movement of funds, between the service activities detailed in the Service & Financial Agreement will require the prior approval of the Essex County Council nominated Mental Health Commissioner. It should be noted that formal virements will need to be approved by the relevant Cabinet Member where movement of funds crosses policy lines.
- 3.3 Where it has not been possible to deliver the commissioned volume of service and significant under-spending occurs this should be reported to the Essex County Council nominated Mental Health Commissioner. The Commissioner will then agree with the South Essex Partnership University NHS Foundation Trust the use of such funds.
- 3.4 As part of this Service & Financial Agreement, Essex County Council has delegated to the Chief Executive of South Essex Partnership University NHS Foundation Trust (who may delegate it further within the Trust) the ability to procure individual care packages against the assessed need of individual clients, or where appropriate to make a Direct Payment instead, with the prior approval of the Essex County Council nominated Mental Health Commissioner. Essex County Council has agreed to;
- Maintain a commitment record of such care packages. To ensure the accuracy of this record South Essex Partnership University NHS Foundation Trust will advise Essex County Council of all new and ceased placements along with variations to these.
 - Make payments to the external service providers in accordance with the existing County Council contractual framework. The authorization to commence payment will be given to Essex County Council by South Essex Partnership University NHS Foundation Trust at the start of a new commitment.
- 3.5 With the authority of the Essex County Council nominated Mental Health Commissioner, Essex County Council will pay South Essex Partnership University NHS Foundation Trust in equal monthly instalments, on the 15th day of each month (or at such other intervals as agreed between the parties), one twelfth of the annual value of the commissioned services. These payments will be reduced to account for any costs directly incurred by Essex County Council in the provision of these services by South Essex Partnership University NHS Foundation Trust.
- 3.6 With regard to expenditure incurred on behalf of the South Essex Partnership University NHS Foundation Trust and deducted from the sum in 3.5 above, Essex County Council will provide the Trust on a monthly basis, with financial transactions and data in sufficient detail, to enable South Essex Partnership University NHS Foundation Trust to be able to supply such information to its budget holders.
- 3.7 From time to time during the course of the year, there may be variations to the level of

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funding due to unforeseen circumstances. Essex County Council will advise the Trust of any changes to be made including the reasons for such changes. Where major changes occur which affect the level of service to be provided, further detailed discussion will take place between the Trust and Essex County Council, and if necessary signed off by the Trust Board and the Cabinet Member for Community Care.

3.8 Essex County Council under its Non Residential Charging Policy seeks a financial contribution from clients in receipt of non residential services, namely home care, day care and community equipment services. Services commissioned under this agreement are to remain part of the Non Residential Charging Policy. To facilitate the calculation of these client contributions South Essex Partnership University NHS Foundation Trust will be required to;

- Ensure that the appropriate assessments are undertaken and that the Care Plans requirements have been completed.
- Assist service user to complete the Essex County Council financial assessment form. This may be assisted by Financial, Assessment and Benefits Advisors.
- Provide service delivery and attendance data in respect of those service users in receipt of directly provided home and day care services.

3.9 Expenditure from specific grants, joint financed and joint funded activity should be coded to individual cost centres. This will enable the Council's external auditor to verify compliance with the grant rules and ensure that grant has been fully spent. Grant can only be claimed against actual expenditure, therefore it is essential that all posts funded by grants are filled.

3.10 Essex County Council will be responsible for the recovery of specific grants, joint finance and joint funded monies.

3.11 Expenditure on capital items shall be made only with the prior approval and explicit authorisation of the Essex County Council nominated Mental Health Commissioner. Such approval shall be granted for a specific sum. South Essex Partnership University NHS Foundation Trust will undertake to use this approval for the stated purpose, in accordance with capital expenditure terms and to ensure that all disbursements are made within the financial year.

3.12 Essex County Council will reimburse South Essex Partnership University NHS Foundation Trust for all related capital expenditure up to the stated sum. Any changes in the estimated costs of the capital project are to be referred back to the Mental Health Commissioner for approval or otherwise. The Mental Health Commissioner shall be notified and his/her agreement gained before any commitment above the stated sum is incurred.

3.13 Ownership of the resultant asset shall be determined for each individual project and the revenue implications accounted for within the revenue section of this agreement in the current and future years.

3.14 All expenditure incurred for capital purposes shall be coded to separately identifiable cost centres and any such assurance as is required to satisfy audit shall be provided by South Essex Partnership University NHS Foundation Trust.

SOUTH ESSEX PARTNERSHIP AGREEMENT FINAL 9

4. REPORTING ARRANGEMENTS

- 4.1 For its Local Authority health related functions exercised by South Essex Partnership University NHS Foundation Trust through this Agreement, South Essex Partnership University NHS Foundation Trust will report formally to Essex County Council monthly and annually on the exercise of these functions.
- 4.2 Such information and explanations will be provided to the commissioner with details of the services delivered against those detailed in Annex A to date and a projection of the year end activity and financial positions. (See also 3.3 and 3.4) to include information on the Performance indicators, Service Targets and the proposed outcome measures.
- 4.3 South Essex Partnership University NHS Foundation Trust will make available to the commissioner a copy of the monthly financial statement of the Trust position in relation to commissioned and delegated income from Essex County Council as supplied to the South Essex Partnership University NHS Foundation Trust Board.

5. PERFORMANCE ARRANGEMENTS

- 5.1 The Council is required to provide information relating to Mental Health Services to central government and other organisations. The Council and the Trust will work in Partnership to provide such information ensuring that the relevant contributions are made to the monthly community care management reports.
- 5.2 To have fully implemented the Department of Health guidance on the health of looked after children as it relates to the duties of community child and adolescent mental health services towards this group.
- 5.3 To fully comply with child protection procedures.

RESOURCES & COMMISSIONED SERVICES BY ESSEX COUNTY COUNCIL

The following services are to be commissioned from South Essex Partnership University NHS Foundation Trust by Essex County Council for the period 1st April 2009 to 31st March 2010.

COMMISSIONED SERVICES

1. GENERAL

Trust Management Costs - £ 291,602

The above figure represents Essex County Council's contribution towards the management costs of South Essex Partnership University NHS Foundation Trust, based on the original statement as shown in the summary statement.

2. MENTAL HEALTH SERVICES

Assessment and Care Management - £ 2,063,611

To undertake the assessment of clients needs against the Essex County Council service eligibility criteria for new clients and provide ongoing care management and service reviews for clients in the District Council areas of Basildon, Brentwood, Castle Point and Rochford meeting the following performance indicators;

- Assessment E50
- Care Management D39/C51
- Carers Assessments and Carers Services C62
- Reviews D40/E50

These activities to support the following outcomes and meet the following performance indicators;

Support Independent Living;

- Helping people to live at home C31
- Encourage more control over all aspects of life – Direct Payments – C51
- Helping people to retain employment, obtain employment and develop skills needed in employment

Ensuring Care Plans have considered the following options;

- Culturally appropriate services
- Gender appropriate services
- Education (access to)
- Recreation (access to)
- Improving social participation
- Exercising choice and control (D.P's, complaints, views)

SOUTH ESSEX PARTNERSHIP AGREEMENT FINAL 9

- Finding and maintaining Housing (links to supporting people)

Reduce the number of admissions to hospital A6

Facilitate timely discharge from hospital D41

Suicide prevention

In setting the 2009/10 level of funding associated with the delivery of these activities the following factors have been taken into account;

- A staffing level at the commencement of the Partnership Agreement provided for 63.67 full time equivalents for the teams identified in 1:1, ensuring fidelity with the staffing levels specified in the NSF models for the Assertive Outreach teams when the PCT's contribution is taken into account as well. Variations to these staffing levels need to be reported and possibly agreed with mental health commissioners if the changes are substantially different e.g. a social worker post being re-designated for a period longer than a year.
- In addition to the above posts SEPT directly fund Assessment and Care Management activities to the value of £113,636. This funds 1 Team Manager, 1 Social Worker post and 1 Senior Practitioner.
- Funding in respect of the above posts is based upon the middle salary point of the pay range and an allowance for staff vacancies.
- A pay increase of 2.4% from April 2009 for management costs.
- Mileage and travel allowances.
- Funding of £393,315 in respect of the following Assessment and Care Management activities (included in the f.t.e. numbers above) funded from the Mental Health Grant, namely;
 - Assertive Outreach - (£210,493)
 - Support Workers - (£112,745)
 - Criminal Justice Team - (£70,077)
- The following activities are part funded by Billericay, Brentwood and Wickford Primary Care Trust (as the lead PCT for Mental Health Commissioning in South Essex) under previous commitments to support the closure of Runwell Hospital, namely;
 - Rehabilitation from Runwell Hospital, South East
 - Rehabilitation from Runwell Hospital, South West

Day Care (directly provided by SEPT) - £ 65,311

Contribution towards the operating costs of Coombewood Resource Centre, Rayleigh

SOUTH ESSEX PARTNERSHIP AGREEMENT FINAL 9
Training - £ 41,479

This budget is entirely funded from Mental Health Grant and therefore details of expenditure should be reported to auditors on request as detailed in section 3.8 of this agreement. This resource should be used to meet the training requirements of seconded staff in agreement with the appropriate Essex County Council Training Manager.

3. DRUG AND ALCOHOL SERVICES

Assessment & Care Management - £ 192,615

To undertake the assessment of clients needs against the Essex County Council service eligibility criteria for new clients and provide ongoing care management and service reviews for clients in the District Council areas of Basildon, Brentwood, Castle Point and Rochford.

In setting the 2009/10 level of funding associated with the delivery of these activities the following factors have been taken into account;

- A staffing level that provides for 5.74 full time equivalent staffing of:

| | F.T.E. |
|-------------------------------------|---------------|
| <i>Team Managers</i> | 1.00 |
| <i>Senior Practitioners</i> | 1.00 |
| <i>Social Workers</i> | 3.00 |
| Clerical and Administrative Support | 0.74 |

- In previous years this funding has allowed for 6.74 FTE staff. During 2005/06 the Arrest Referral Officer post was removed from this agreement and is now funded separately.
- Funding in respect of the above posts is based upon the middle salary point of the pay range and an allowance for staff vacancies.
- A pay increase of 1.5% from April 2009 (pay award pending).
- Mileage and travel allowances.
- Funding in respect of Assessment and Care Management activity (included in the f.t.e. numbers above) is commissioned by the Essex Drug Action Team. This includes a contribution of £20,836 from SEPT to the Essex Drug Action Team in respect of 0.5 Team Managers.

SOUTH ESSEX PARTNERSHIP AGREEMENT FINAL 9

COMMISSIONED SERVICES

General

| | |
|------------------------|---------|
| Trust Management Costs | 291,602 |
|------------------------|---------|

Mental Health Services

| | |
|--------------------------------|-----------|
| Assessment and Care Management | 2,063,611 |
| Day Care (internal) | 65,311 |
| Training | 41,479 |

Drugs and Alcohol Services

| | |
|--------------------------------|-----------|
| Assessment and Care Management | 192,615 |
| | <hr/> |
| | 2,654,618 |

Targets, Outcomes and Reporting Requirements

The following reports are required monthly unless otherwise stated.

Staffing (excluding management posts)

1. A statement of staff in post by grade and type at the start of the financial year
2. A statement of staff in post by grade and type at the end of the financial year
3. A quarterly statement of the numbers of vacancies to coincide with Joint Partnership Board meetings

SOUTH ESSEX PARTNERSHIP AGREEMENT FINAL 9

Financial report

| | <i>Annual Budget 2009/10</i> | <i>Cumulative Actual at Month 1</i> | <i>Cumulative Budget at Month 1</i> | <i>Cumulative Variance at Month 1 over/(under)</i> | <i>Projected Variance at the year-end</i> |
|-------------------------------|------------------------------|-------------------------------------|-------------------------------------|--|---|
| | <i>£000</i> | <i>£000</i> | <i>£000</i> | <i>£000</i> | <i>£000</i> |
| COMMISSIONED SERVICES | | | | | |
| Mental Health Services | | | | | |
| Trust Management Costs | | | | | |
| Assessment & Care Mgt | | | | | |
| Day Care | | | | | |
| Training | | | | | |
| Drug & Alcohol | | | | | |
| Total | | | | | |

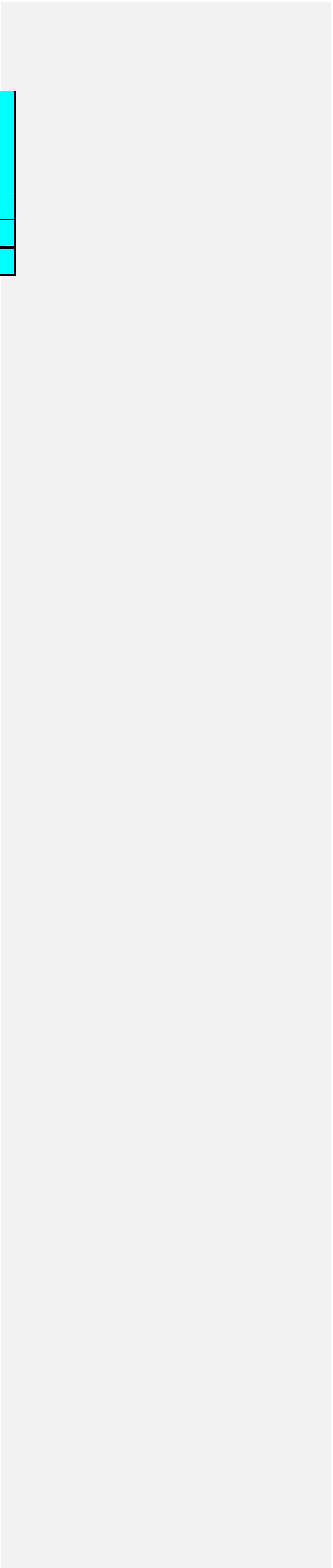
Summary of External Mental Health Budgets Delegated by Essex County Council

Financial Position as at April 2009

| | <i>Client Numbers</i> | | | <i>Financial Forecast</i> | | | |
|---------------------------|-----------------------|----------------------------|----------------------------|------------------------------|-----------------------------------|---|---|
| | <i>Current Month</i> | <i>Forecast March 2007</i> | <i>Forecast March 2008</i> | <i>Annual Budget 2006/07</i> | <i>Current Commitment Month 1</i> | <i>Projected Commitment at the year-end</i> | <i>Projected Variance at the year-end</i> |
| | | | | <i>£000</i> | <i>£000</i> | <i>£000</i> | <i>£000</i> |
| DELEGATED SERVICES | | | | | | | |
| Residential / Nursing | | | | | | | |
| Domiciliary | | | | | | | |
| Day Care | | | | | | | |
| Carers | | | | | | | |
| Direct Payments | | | | | | | |
| Drug & Alcohol | | | | | | | |

SOUTH ESSEX PARTNERSHIP AGREEMENT FINAL 9

| | | | |
|---------------------------------|--|--|--|
| Non-residential charging income | | | |
| | | | |
| | | | |

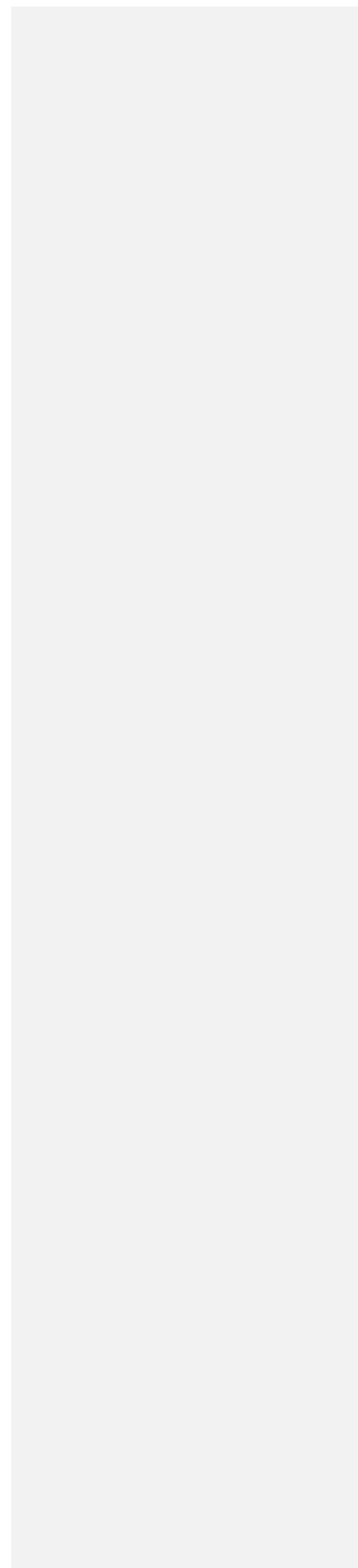


Signed for and on behalf of **Essex County Council** by;

Caroline Robinson, Date _____
**Deputy Director of Mental Health Joint
Commissioning**

Signed for and on behalf of **South Essex Partnership Trust** by;

Philip Howe, Date _____
Director of Forensic, Drug and Alcohol Services



PROPERTIES PROTOCOL

between

**ESSEX COUNTY COUNCIL
and
SOUTH ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST
and
NORTH ESSEX PARTNERSHIP NHS FOUNDATION TRUST**

- Issues outstanding from this version (26/01/09)
- Check Occupiers Liability Insurance requirements (DONE for ECC) **Trusts to check 3.8, 3.9, 3.10**
- Check link to HR Protocol re Health & Safety in the Workplace responsibilities, esp under licences Awaiting comment but probably resolved
- Schedule of accommodation to which this protocol applies TO FOLLOW
- Exclusive or inclusion of organisations / entities created by the partners to deliver aspects of the mental health service, ability to substitute or assign partners occupancy. **OUTSTANDING**

This protocol relates to properties either owned by Essex County Council (ECC) hereafter referred to as "The Council" and occupied in whole or in part by either North Essex Partnership NHS Foundation Trust (NEPFT) or South Essex Partnership University NHS Foundation Trust (SEPT) herein referred to as "the Trust" or "the Trusts" as appropriate or the properties owned by the Trusts and occupied in whole or in part by the Council. This protocol will be divided into two sections, first looking at the Council properties and then at the Trusts properties.

The term "owned" may include properties held on a long lease where the leaseholder has the capacity to allow occupation by others under the terms of the lease or agrees such an arrangement with the freeholder.

This protocol aims to organise mutual arrangements for each of the partners to ensure clarity of responsibility on each side whilst minimising the cost impacts to either party.

The protocol will be used to regularise existing situations where there is an element of sharing of space and to give guidance to the use of these and other property spaces where there is a desire for co-location between the organisations.

This protocol does not create a binding obligation upon any of the parties to provide accommodation for the other/s or to continue to make accommodation available. The partners undertake to advise each other on a regular basis of their future property requirements, proposed changes to accommodation or policy which will directly or indirectly impact upon the occupancy arrangements.

1. INTRODUCTION

The purpose of these arrangements is to formally recognise the usage of the Council properties by the Trusts and vice versa and the rights and responsibilities enjoyed by both.

It is envisaged that the partners will enter into either a license or formal lease according to the circumstances arising at any given location where directly-employed staff of either partner occupy or have cause to work within property owned by the other partner. It cannot be assumed that this will extend to agents, contractors or other appointees: the benefit of this protocol can only be extended to such groups in accordance with the adopted policies of either partner or by express agreement in accordance with the partners adopted Scheme of Delegation.

Where relevant, any lease will be for the same term as the Section 75 Partnership Agreement and will always be excluded from the security of tenure provisions of the Landlord and Tenant Act 1954 subject to the proviso that either party may determine the agreement upon giving 12 months written notice. Furthermore the lease will automatically determine if the service contract is determined for any reason.

Where it is inappropriate to introduce a formal lease, the partners will – as a minimum - enter into a license in the form attached to this Protocol in order to ensure sufficient clarity of responsibility for various property matters and other liabilities arising from the presence of their staff within the property.

The partners will accept the inclusion of terms relating to the following issues within all occupancy arrangements-

- Occupancy fee / license fee (including where this is Nil)
- Accommodation / space to which the Agreement does NOT extend (licenses)
- Responsibility for internal maintenance.
- Responsibility for reactive maintenance and provision of services
- Provision of furniture, fixtures and fittings
- Apportionment of running costs
- Agreed accommodation and space standards – these will reflect the host's adopted standard unless there are legal reasons why this cannot be applied in any given situation.
- Health & Safety responsibilities
- Provision of related services including IT and Facilities Management
- Employers Liability and Public Liability
- Data protection and confidentiality
- Termination arrangements

Unless there are particular circumstances that dictate otherwise it is assumed that the terms of any lease or license under this Protocol will include the terms outlined in the following sections.

2. IN RESPECT OF COUNTY COUNCIL PROPERTIES

2.1. The rent, charge or consideration for occupying the space will be Nil (in respect of license arrangements) or £1 if demanded (in respect of lease arrangements).

2.2. The Council will usually be responsible for the properties' running costs, such as rates, energy and cleaning unless occupation by the Trust will give rise to a disproportionate increase in costs (**we need some indication of what this means**) in which case the

- additional reasonable costs will be identified as an exception to this protocol and shall be identified as falling to the Trust in the relevant lease or license. The imposition of such costs upon the Trust will be as negotiated between the partners.
- 2.3. Reactive and structural maintenance costs will remain the responsibility of the Council, who will retain the budget for these services. This will be managed alongside other Council properties, subject to resources made available annually by Members, and work will be prioritised on this basis. This means that the premises will be broadly maintained in their current state.
 - 2.4. The Council will maintain supplies of all services, including lighting, heating, power, and water at all times that such supply is within their control.
 - 2.5. The Council will ensure that the accommodation meets such standards as are adopted across the rest of its portfolio and will advise the Trust of those standards.
 - 2.6. If the Trust wishes to carry out work above and beyond what would normally be provided by the reactive maintenance budgets, it will be at liberty to do so using its own resources or to request additional funding from the Commissioner's budgets. Should the Trust chose to use its own resources to carry out the work, it will first seek the agreement of the Commissioner, in consultation with the Executive Director for *Commerce, Property, and Infrastructure*. The Trust will be responsible for ensuring that any contractors, sub-contractors, agents or others employed to carry out the work comply with current CDM Regulations and Health & Safety requirements to ensure the safety of Council and Trust staff during the course of the works. No additional benefit will accrue to the Trust as a result of these works either at that time or in the future except through the prior explicit *written* agreement of the Commissioner and Council's Head. of Asset Management.
 - 2.7. The Trust will be responsible for health and safety in the workplace within the area occupied by their staff and for alerting the Council to any defects in the fabric of the building that constitute a health and safety hazard unless these are specific to the particular use by the Trust in which case they will effect a remedy immediately. The landlord will be responsible for correcting any *reasonable* defects in the property which impact upon the occupation by the Trust or in its ability to undertake its operational activities and the Council will ensure that its contractors carry out and complete any such works appropriately.
 - 2.8. The Council will arrange Property Insurance on the Buildings, including the Contents for which it is responsible and Public Liability Insurance to cover its liabilities as Property owner with an indemnity limit of £50m any one incident, unlimited in any one year.
 - 2.9. Each party will arrange its own insurance in respect of the Contents for which it is responsible, Employers Liability and Public Liability with an indemnity limit of £50 M, any one incident and unlimited in any one year, to include Occupiers and Property Owners Liability, as appropriate.
 - 2.10. The Council shall not be liable for any injury (including injury resulting in death) or damage to or loss of property whatsoever which may be sustained by the Trust, their employees or anyone for whom the Trust is responsible or any person entering the property in the exercise or purported exercise of the Trust's occupancy unless such injury or damage results from the neglect of the Council or their servants or agents acting within the Council's authority and the Trust shall indemnify and keep indemnified the Council against all claims and liability for such injury or damage and all actions, proceedings, costs, damages and expenses in regard thereto and also from all other liability, claims, demands, proceedings, costs, damages and expenses in respect of injury to (including injury resulting in death) and any damage to or loss of property which may result from the exercise or purported exercise of the licence except as mentioned above.

Comment [E1]: Do we want to define a de-minimus £ or % of costs?

3. IN RESPECT OF TRUST PROPERTIES

- 3.1. The rent, charge or consideration for occupying the space will be Nil (in respect of license arrangements) or £1 if demanded (in respect of lease arrangements).
- 3.2. The Trust will usually be responsible for the properties' running costs, such as rates, energy and cleaning unless occupation by the Council will give rise to a disproportionate increase in costs in which case the additional reasonable costs will be identified as an

exception to this protocol and shall be identified as falling to the Council in the relevant lease or license. The imposition of such costs upon the Council will be as negotiated and agreed between the partners.

- 3.3. Reactive and structural maintenance costs will remain the responsibility of the Trust, who will retain the budget for these services. This will be managed alongside other Trust properties, subject to resources made available and work will be prioritised on this basis. This means that the premises will be broadly maintained in their current state.
- 3.4. The Trust will maintain supplies of all services, including lighting, heating, power, and water at all times that such supply is within their control.
- 3.5. The Trust will ensure that the accommodation meets such standards as are adopted across the rest of its portfolio and will advise the Council of those standards.
- 3.6. If the Council wishes to carry out work above and beyond what would normally be provided by the reactive maintenance budgets, it will be at liberty to do so using its own resources or to request additional funding from the Commissioner's budgets. Should the Council choose to use its own resources to carry out the work; it will first seek the agreement of the Commissioner, in consultation with the Executive Director of Resources. No additional benefit will accrue to the Council as a result of these works either at that time or in the future except through the prior explicit *written* agreement of the Commissioner *and* Associate Director of Estates and Facilities.
- 3.7. The Council will be responsible for health and safety in the workplace within the area occupied by their staff and for alerting the Trust to any defects in the fabric of the building that constitute a health and safety hazard *unless these are specific to the particular use by the Council in which case they will effect a remedy immediately*. The landlord will be responsible for correcting any *reasonable* defects in the property which impact upon the occupation by the Council or in its ability to undertake its operational activities and the Trust will ensure that its contractors carry out and complete any such works appropriately.
- 3.8. The Trust will ensure appropriate insurance for the premises occupied (*needs clarification - assume cover for Building insurance but what about 3rd party and contents - ECC norm is £5m, Health may not be the same Should this replicate 2.8*).
- 3.9. *Should this reflect 2.9?*
- 3.10. *Should this reflect 2.10?*

Attachments-

- Schedule of premises covered by this protocol, to be amended with specific changes in the parties usage prior to that change taking place.
- Standard form of license

Signed for and on behalf of **Essex County Council** by:

Deputy Leader

On behalf of Essex County Council

Date

Signed for and on behalf of **North Essex Partnership NHS Foundation Trust** by:

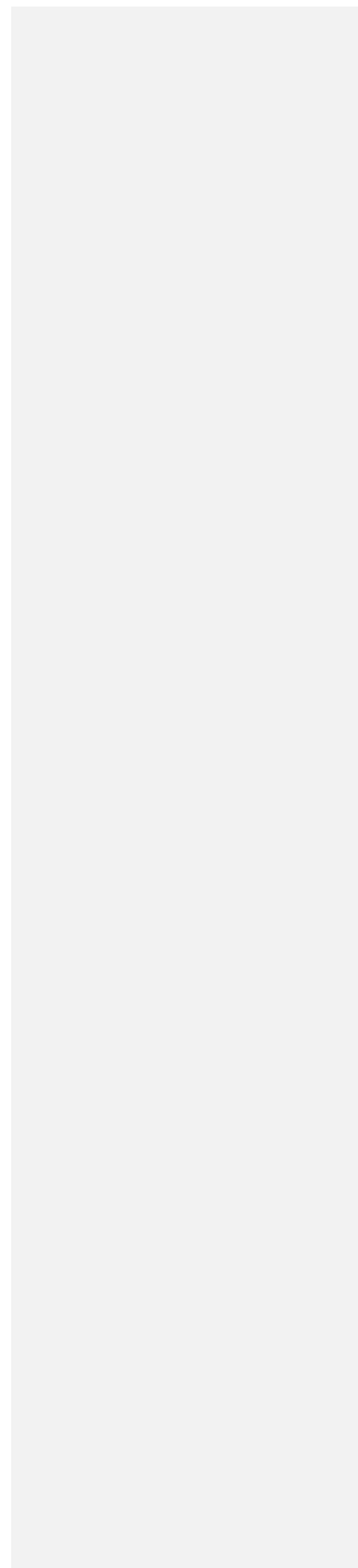
Andrew Geldard,
Acting Chief Executive

Date

Signed for and on behalf of **South Essex Partnership University NHS Foundation Trust** by:

Patrick Geogheghan
Chief Executive

Date



Schedule of properties / accommodation to which the joint ECC / SEPT / NEPFT Property Protocol applies

(to be completed)

DRAFT

Partnership Licence for Shared Accommodation

Owning Partner (The Licensor).....

Occupying Partner (The Licensee).....

1. The Licensor is the freehold or leasehold owner of the properties detailed at Appendix A, at which there is a shared service delivery with the Licensee
2. The Licensor hereby grants to the Licensee a licence to occupy those parts of the Licensor's properties detailed in Appendix B, on the following terms and conditions:-
 - 2.1 The Licence is granted at nil consideration
 - 2.2 The Licensor shall be responsible for all outgoings associated with the occupation of the Licensee, unless otherwise provided for in the Schedule of Exceptions contained in Appendix C
 - 2.3 The Licensor shall maintain the interior of the Licence Area, and all the furniture, fittings and equipment in good and serviceable condition, such items having been listed and an inventory agreed and attached to this licence.
 - 2.4 The Licensor will maintain supplies of all services, including lighting, heating, power, and water at all times that such supply is within their control
 - 2.5 The Licensor shall ensure that the Licence Area conforms to the following accommodation standards, unless otherwise provided for in the Schedule of Exceptions contained in Appendix D
 - 2.5.1 Desk ratio
 - 2.5.2 Floor space ratio
 - 2.5.3 Kitchen
 - 2.5.4 Toilets
 - 2.5.5 Parking
 - 2.5.6 24 hour operation

- 2.6 The Licensor shall ensure that the Licence Area conforms to all current, and when implemented, future Health and Safety Standards and Legislation unless otherwise expressly provided for in the Schedule of Exceptions contained in Appendix E
- 2.7 The Licensor shall ensure that the Licence Area conforms to the provisions of the Disability Discrimination Act 1995
- 2.8 The Licensor shall ensure that the Licence Area conforms to the following Information Technology Standards unless otherwise provided for in the Schedule of Exceptions contained in Appendix F
- 2.8.1 VPN
- 2.8.2 Shared network
- 2.9 The Licensor shall not be liable for any injury (including injury resulting in death) or damage to or loss of property whatsoever which may be sustained by the Licensee, employees or anyone for whom the Licensee is responsible or any person entering the property in the exercise or purported exercise of the proposed Licence unless such injury or damage results from the neglect of the Licensor or their servants or agents acting within the Licensor's authority and the Licensee shall indemnify and keep indemnified the Licensor against all claims and liability for such injury or damage and all actions, proceedings, costs, damages and expenses in regard thereto and also from all other liability, claims, demands, proceedings, costs, damages and expenses in respect of injury to (including injury resulting in death) and any damage to or loss of property which may result from the exercise or purported exercise of the licence except as mentioned above [this clause appears to cover hazards caused by licensors agents as queried in protocol]
- 2.10 The Licensee shall immediately effect a public liability insurance policy for an amount of not less than £50,000,000 (fifty million pounds) in respect of any one incident and unlimited cover in any one year and shall provide a copy of the policy at any time when so requested by the Licensor.
- 2.11 The Licensee will ensure that the Licence Area is occupied in a professional and business-like manner and will not cause wilful or negligent damage to any part of the Licence Area or any of the Licensor's property, or any of the contents therein
- 2.12 The Licensor and the Licensee will co-operate and act in good faith towards each other at all times during the occupation of the Licence Area
- 2.13 Any agreed Amendments to the Schedules of Exceptions shall be made with not less than 3 months notice in writing, unless otherwise agreed by the parties
- 2.14 This Licence can be terminated by either party upon giving to the other not less than 6 months notice in writing, expiring at any time

2.15 The Licensee acknowledges that this Licence has been granted on the express understanding that its occupation shall not be deemed to be a tenancy or any form of agreement such as is protected by Part II of the Landlord and Tenant Act 1954 and that upon vacating the Property it shall not be entitled to any compensation under section 37 of that Act

Signed for the Licensor (name of *Owning Partner*)

.....

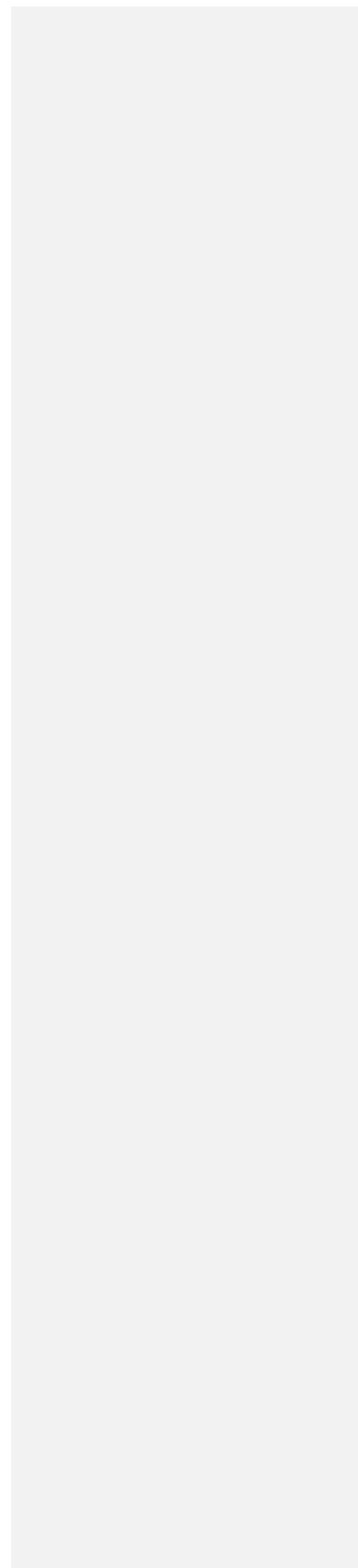
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Print Name and Capacity

Date.....

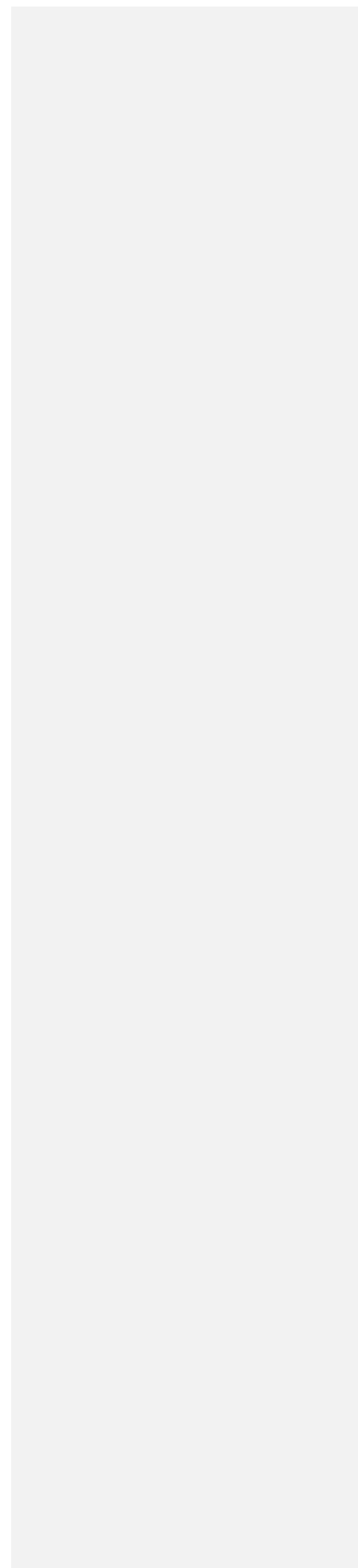
Signed for the Licensee (name of *Occupying Partner*)

.....

.....
Print Name and Capacity



Date.....



SCHEDULE []

Dealing with Information:

NON-DISCLOSURE AND DISCLOSURE AGREEMENT

Data Protection Act, Caldicott Principles and Freedom of Information Act

1. **Data Protection Act 1998**

- 1.1. In order that the Authority may comply with paragraphs 11 and 12 (relating to the seventh data protection principle) of Part II of Schedule 1 to the Data Protection Act 1998 the Contractor hereby undertakes as follows:
 - 1.1.1. The Contractor will have in place at all times when processing personal data technical and organisational security measures sufficient to ensure that the Data Protection Act 1998 is complied with.
 - 1.1.2. The Contractor shall so far as concerns personal data obtained under or for the purposes of this Contract:
 - (i) comply with the Data Protection Act 1998 and all relevant codes of practice issued under the Act;
 - (ii) maintain the confidentiality of personal data to which he has authorised access under the terms of this Contract;
 - (iii) indemnify the Authority against loss, destruction or processing contrary to the Data Protection Act 1998 of data by himself, his servants or agents;and
 - (iv) in accordance with paragraph 12 of Part II of Schedule 1 to the Data Protection Act 1998 (a) process any personal data supplied to him by the Authority only on instructions from the Authority (but including any set out in this Agreement) and (b) comply with obligations equivalent to those imposed on a data controller by the seventh principle of Part I of the said Schedule.

2. **Caldicott Principles**

The Contractor must also observe the Caldicott Principles, which are set out below.

- 2.1. **The purpose must be justified.**

Every proposed use or transfer of personal data within or from the organisation should be clearly defined and scrutinised, with continuing uses regularly reviewed by an appropriate guardian.
- 2.2. **Personal data must not be used unless it is absolutely necessary.**

Personal data should not be used unless there is no alternative.
- 2.3. **The minimum necessary personal data information is to be used.**

Where use of personal data is considered essential, each individual item of information should be justified with the aim of reducing identifiability.

- 2.4. **Access to personal data should be on a strict need to know basis.**
Only those individuals who need access to personal data should have access to it, and they should only have access to the data that they need to see.
- 2.5. **Everyone should be aware of their responsibilities.**
Those handling personal data - both frontline and support staff - must be aware of their responsibilities and obligations to respect personal confidentiality
- 2.6. **All persons handling personal data must understand and comply with the law.**
Every use of personal data information must be lawful.

3. Freedom of Information Act 2000

- 3.1 The Contractor shall nominate a contact or contacts who will be responsible for ensuring that the Contractor's obligations as set out in this schedule are met.
- 3.2 It shall be a contractual obligation that, if under Section 5(1)(b) of the Freedom of Information Act 2000 the Lord Chancellor designates the Contractor as a public authority for the purposes of the Act, the Contractor shall comply with the Act.
- 3.3 It shall be a contractual obligation that the Contractor shall provide promptly to ECC any information required to allow ECC to respond to requests under Freedom of Information or Data Protection within the statutory deadline. ECC shall only request such information from the Contractor as is required to meet their statutory duty.
- 3.4 ECC shall consider any advice from the Contractor regarding information that may be exempt from disclosure but responsibility for disclosure decisions rests with ECC.

4. Breach, termination and continuance

- 4.1. The Contractor shall permit the Authority to take all reasonable steps to ensure that the provisions of this Schedule (and in particular that the measures referred to in paragraph 1.2) are being complied with.
- 4.2. Failure on the part of the Contractor to comply with the provisions of this Schedule shall entitle the Authority to terminate the contract with immediate effect and to recover the costs incurred in consequence as a civil debt from the Contractor.
- 4.3. On termination of this Contract howsoever arising the Contractor shall, if so requested by the Authority, (a) transfer to the Authority the whole or any part of the personal data and other information received or acquired by the Contractor for the purposes of or in the course of the delivery of the Services and (b) destroy or erase the whole or any part of such personal data and other information retained by the Contractor.
- 4.4. The provisions of this Schedule shall continue in effect notwithstanding termination of this Contract.

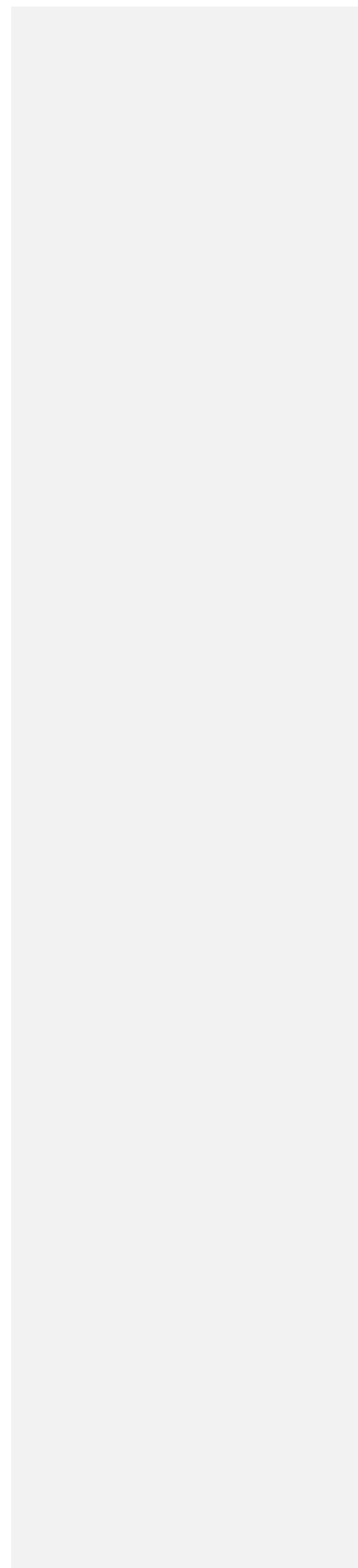
This agreement is made on
Between

1)

2)

Signed By

For



Annex 5

LEGAL SERVICES PROTOCOL

BETWEEN

ESSEX COUNTY COUNCIL

And

SOUTH ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

NORTH ESSEX PARTNERSHIP NHS FOUNDATION TRUST

1. INTRODUCTION

This Protocol forms part of the Section 75 Partnership Agreements dated April 2009 between Essex County Council (ECC) and North Essex Partnership NHS Foundation Trust (NEPFT) and South Essex Partnership University Trust (SEPT) in respect of mental health and substance misuse services. This Protocol relates to legal advice and services that will be provided by Essex Legal Services to the above mentioned Bodies

2. SCOPE, OBJECTIVES AND RANGE OF SERVICE

2.1 SCOPE

Essex Legal Services shall provide legal advice, assistance and Representation to relevant staff in the above mentioned bodies on all aspects of law relating to its functions on behalf of ECC as defined in the Protocol Agreements

2.1.1 Advice and assistance and representation to the Mental Health Act 1983 as amended by the Mental Health Act 2007.

2.1.2 Provide lead and secondary training to Approved Mental Health Professionals i.e. AMHP updates – AMHP accreditation training – general Mental Capacity Act and Mental Health Act training where requested to do so.

2.1.3 The advice is limited generally to advice on the statutory obligations of the local authority and their implementation.

2.2 OBJECTIVES

Essex Legal Services shall

- 2.2.1 Respond in a timely matter to request for legal advice and assistance.
- 2.2.2 To provide the legal advice and assistance as quickly and effectively as possible.
- 2.2.3 To provide the services with all reasonable skill and care and will use reasonable endeavours to meet any timetable or deadline that it may agree with the Trusts
- 2.2.4 The Trust shall provide Essex Legal Services with all necessary documentation and Information required in order to enable the provision of legal advice and assistance.

3. INFORMATION SHARING

- 3.1 Essex Legal Services will treat as confidential all information whether provided orally, in writing or in any other form) which the Trusts provides to it.
- 3.2 Where Essex Legal Services receive personal data and act as a data processor on behalf of the Trust (as defined in the Data Protection Act 1998) and confirms that it will take appropriate technical and organisational measures to protect that personal data against unlawful destruction or accidental loss, alteration, unauthorised disclosure or access. Essex Legal Services also confirm that, in those circumstances, it will only process the personal data in question for the purposes of providing services set out above to the Trust or for other reasonable purposes which are ancillary to the provision of such services.

4. REVIEW OF LEGAL SERVICES PROTOCOL

- 4.1 This Protocol will be reviewed annually by ECC Legal Services to reflect any changes in legislation Government Guidance, core law and provision of service.

Annex 6

**HUMAN RESOURCES SERVICE SPECIFICATION AND
PROTOCOL**

April 2009

**Between
Essex County Council
And
South Essex Partnership University Foundation Trust**

1. Introduction

This protocol sets out the Human Resources services to be provided to seconded employees from Essex County Council to South Essex Partnership University Foundation Trust.

It sets out the expectations of how the Trust and Essex County Council will work together to achieve good communication, consistency and equality for seconded employees.

A HR sub group for South Essex Partnership University Foundation Trust and Essex County Council will meet to discuss and resolve any issues arising, in addition to regular meetings with the SEPT Assistant Director for Social Care.

The HR Sub Group will consist of:

- Assistant Director for Social Care
- HR representative from Essex County Council
- HR Representative from the Trust
- Other representatives as agreed

2. Scope and Range of Service

Essex County Council and the Partnership NHS Trust's Human Resources Service provide strategic advice, policy guidance, employee services and recruitment services to employees of their organisations.

The Services comprise various Human Resources (HR) activities under the following general headings (detailed activities for each are specified later in this document):

- Business Partner
- Employee Relations Service
- Recruitment
- Safeguarding
- Employee records
- Workforce Planning and Information
- Policy, Strategy and guidelines
- Payroll and pensions
- Health and Safety advice

The Human Resources Services will each have their own internal administration and support, which forms part of the services provided.

All parties will work together to develop and shape Human Resources strategies through proactive involvement. It is recognised that there are a number of areas which need to be developed over the next 6 months and the Protocol revised as appropriate.

3. Employee Services

3.1. Human Resources Policies, Strategy and Guidelines

The HR Sub-Group will mutually agree on an annual basis the priorities and implications for HR policies and guidelines planned for implementation by Essex County Council or the Trust.

Essex County Council Human Resources Services will advise and inform the Trusts of any changes to HR policies and guidelines to ensure seconded staff are appropriately informed and briefed.

Essex County Council Human Resources will discuss the implications and planned implementation with the Trust to ensure a smooth and effective change.

Essex County Council Human Resources services will monitor the application of policies and guidelines and up-date them in accordance with any changes in legislation and directives and best practice.

Advice and guidance will be provided with respect to any changes of policy, implementation and implications of all Human Resources policies by the HR Advice and Support Service.

The Essex County Council HR Business Partner will meet with the Trust at a senior manager level to act as a strategic link on people issues and to commission services as required from Essex County Council HR services.

3.2 Employee Relations Service

Advice and guidance will be provided by Essex County Council HR Service with respect to employee relations and employment advice and case management and project support on restructure and change issues.

Essex County Council will provide this service through the HR Advice and Support Team based at County Hall, Chelmsford

Contact is made with the Essex HR Advice and Support Service via three access points:

- Advice line – 01245 430111 (Monday to Friday)
- Email – hradviceandsupport@essex.gov.uk
- Face to face meetings and support

The service offers:

- Advice on all HR policy issues and legal frameworks

- Advice on change processes including redundancy and redeployment
- Advice on conditions of service
- Advice on compliance with Equal Opportunities legislation
- A consultant to follow through any individual casework such as disciplinary, sickness, leave, maternity, paternity leave, disciplinary or grievance management
- Coaching to managers on people management issues
- Job evaluation and grade designation processes
- Advice and guidance on preparation for employment tribunals and support as appropriate for cases with legal assistance.

HR Policies and Advice are available for access 24/7 on the Working Here Essex County Council Intranet Site.

All initial contacts should be through these channels and if necessary, the team will either signpost managers to other contacts or will refer the issue to the appropriate team.

3.2.1. Who will take the lead with HR Issues:

| | |
|-------------------------------|--|
| <p>Capability and Conduct</p> | <p>Management of such issues will be by the seconded employee's line manager either Trust or Council, in liaison with Council HR, using Essex County Council Procedures.</p> <p>A disciplinary must be heard by a designated manager with delegated responsibility and employed within the Council but not necessarily within the Mental Health Service.</p> |
| <p>Grievance</p> | <p>A grievance by a seconded employee related to the Trust's management will be dealt with by the Trust using the Essex County Council procedure.</p> <p>A grievance by seconded staff related to their terms and conditions of employment will be dealt with by Essex County Council.</p> <p>A grievance by a Trust employee against a seconded Essex County Council member of staff will be dealt with as a complaint using Trust procedures and then the outcome, if it is disciplinary or capability, will be dealt with through Essex County Council policies and procedures.</p> |

| | |
|-----------------------------|--|
| | |
| Disciplinary | <p>Management of such issues will be by the seconded employee's line manager either Trust or Council, in liaison with Council HR, using Essex County Council Procedures.</p> <p>A disciplinary must be heard by a designated manager with delegated responsibility and employed within ECC but not necessarily within the Mental Health Service.</p> |
| Attendance management | <p>Management of such issues will be by the employee's line manager either Trust or Council, in liaison with Council HR, using Essex County Council Procedures.</p> |
| Redundancy and redeployment | <p>The lead will be taken by the body undertaking the change with full input and consultation from both sides.</p> <p>If an Essex County Council employee is affected by the change the County Councils policies and procedures will apply.</p> |
| Employment tribunal | <p>The lead will normally be taken by the employing body with input from all parties as necessary depending on the case.</p> |

4. Payroll and Pensions Liaison

Essex County Council employee pay and conditions and pensions services will continue to provide payroll, records maintenance and pensions administration for seconded employees.

The Trust's management will ensure that procedures and processes are followed. Managers in the Trust will follow any Essex County Council establishment control procedure and use the correct process to ensure changes to posts, personal details or salary are maintained on the County Council payroll and HR database systems. Use of the establishment control procedure ensures links into finance and budget maintenance.

Essex County Council employee pay and conditions and pensions services will inform the Trust of any changes to processes or procedures to ensure the correct and timely payment of staff.

Essex County Council will inform the Trust of any implications of changes and will discuss how to manage these either through the HR Sub Group or through the regular HR meeting with the Assistant Director for Social Care or appropriate Trust representative.

Essex County Council Payroll and Pensions Services will keep the Trust informed of any changes to systems or processes that will affect seconded staff.

The Trust will be responsible for determining and funding any additional payments to seconded staff in relation to undertaking Trust roles.

5. Trade Union Negotiations and Consultation

Consultation with trade unions regarding implementation of new policies and employee terms and conditions and changes affecting staff will be in line with Essex County Council policies and procedures. The Council will inform the Trust when such negotiations or consultations take place, and keep the Trust advised of progress and outcomes.

Essex County Council HR service will work with managers to advise on and support with any consultation processes and documentation which will include seconded staff.

Seconded staff will be represented in accordance with Essex County Council policies and procedures. If South Essex Partnership University NHS Foundation Trust is proposing changes which may affect seconded staff it will liaise with the County Council (Deputy Director of Mental Health Commissioning) and, if they are in agreement with the proposals, they will agree appropriate consulting arrangements for seconded staff and staff representatives. All organisations within the Partnership will fully co-operate on issues affecting staff and will seek to develop the most appropriate means of communication and consultation.

A special consultative meeting will be arranged with management and staff representatives from all organisations within the Partnership.

Essex County Council HR service will advise on consultation processes and documents to trade unions

6. Record keeping

It has been agreed that the record keeping arrangements will be reviewed over the next 6 months. Essex County Council will continue to hold the primary staffing records with regular cross checking to ensure accuracy. The review will be organised via the regular meetings between the Trust representative and Essex County Council HR representative. (currently the Business Partner linked to Adults Health and Community Wellbeing)

Essex County Council will maintain personnel files and ensure that they are kept up to date.

7. Recruitment and Retention

Essex County Council will provide a recruitment service via the contract with Capita in accordance with the terms agreed.

Essex County Council will provide monitoring data and information with regard to adverts, applications and equal opportunities through Capita.

Provide advice, guidance and a facilitation service throughout the entire recruitment process. Advice and guidance will be provided with respect to the requirements for Work Permits including

obtaining or renewing and completion of the appropriate documentation.

Provide a back-up service to managers which will include –

- Help to develop recruitment and retention initiatives
- Advice on recruitment initiatives and information
- Statistical information on recruitment
- Assistance with analysis

Collect, collate and compile all relevant information and documentation for the staff personnel files for all new starters and issue contracts.

8. Workforce Planning and Information

Essex County Council will take responsibility for co-ordinating the strategic overview of workforce issues, providing advice and guidance with interpretation and analysis of workforce information. The trust will ensure that the HR system is kept up to date with notification of any changes to ensure the accuracy of statistical information.

9. Safeguarding of vulnerable people

The Trust will comply with Essex County Council procedures for checking employees to safeguard vulnerable adults and children in line with the Safeguarding/Vetting and Barring Policy.

Ensure any staff are listed appropriately in line with Essex County Council procedures as a result of disciplinary and /or dismissal.

10. Health and safety

Seconded employees will work under the Trust's health and safety policies and procedures unless they are accommodated in Essex County Council buildings.

The Trust should ensure that Health and Safety standards are as a minimum equivalent to the County Council Standards. Copies of the Codes of Practice will be provided to ensure the Trust is aware of the standards expected.

It has been recognized that there may be some concerns about the application of health and safety procedures for staff and that this is an area to be reviewed over the next 6 months

The Trust is invited to attend the Adult Health and Community Well Being Health and Safety steering group or equivalent body.

11. Performance Management

The Trust is responsible for implementing internal performance management policies, PRP and procedures and any associated actions as detailed in Essex County Council policies and procedures.

12. Holding of Personal Information

The Trust will hold, and have access to, data on secondees' personal information for the purpose of fulfilling its legal obligations, in accordance with appropriate Data Protection and Human Rights legislation.

13. Review of HR Protocol

This Protocol will be reviewed annually by the Human Resources Sub-Group. Any changes in levels of responsibility will be reflected in subsequent versions and actioned accordingly.

This version revised in January 2009.

Annex 7
FINANCIAL SERVICES SPECIFICATION AND PROTOCOL

April 2009 – March 2010

Between

Essex County Council

And

South Essex Partnership University Foundation Trust (SEPT)

1. Introduction

This protocol forms part of the overall Partnership Agreement with the South Essex Partnership University Foundation Trust and Essex County Council (the Council).

The protocol sets out the financial services to be provided in conjunction with the partnership agreement between the Council and the Trust. It sets out the requirements and arrangements under which financial transactions will be governed under the agreement, including how the two organisations will work together to ensure high quality financial management for the funds involved.

2. Scope & range of Service

This protocol covers financial management and processing arrangements in respect of the funds listed in Annex A 'Commissioned Services & Delegated Services' section of the Service and Financial Agreement (SFA). The Council will update this agreement each financial year as part of the annual agreement of the SFA.

3. Resources to be made available

The resources to be made available under the agreement will be determined each year in accordance with availability of resource under the council's budgeting and financial planning process. Agreement of budgets will be made with the Trust through the Service and Financial Agreement and at the Service and Financial Agreement Meetings. This will include discussion about the impact of any budget deficits.

From time to time during the course of the year, there may be variations to the level of funding due to unforeseen circumstances. The Council will advise the Trust of any changes to be made including reasons for such change. Where major changes occur which affect the level of service to be provided, further detailed discussions will take place between the Trust and The Council and if necessary signed off by the Council nominated Mental Health Commissioner and a nominated officer of the Trust at the Service and Financial Agreement Meetings.

To facilitate financial monitoring and transparency, the Trust will inform the Council of any margins and / or overheads it is proposing to apply for the relevant financial year. This will be discussed as part of the annual SFA sign off meetings ahead of the financial year it relates to.

4. Transfer of funds

Any movement of funds from one commissioned service to another (listed as follows within Annex A of the Service & Financial Agreement), will require the prior approval of the Council nominated Mental Health Commissioner.

- General - Trust Management Costs

- Mental Health Services - Assessment & Care Management
- Mental Health Services - Day Care
- Mental Health Services - Training
- Drug & Alcohol Services – Assessment & Care Management
- Children’s Services – Assessment & Care Management

5. Care Purchasing arrangements

The Trust will make recommendations to the Council for procuring packages against the assessed needs of individual clients. The Council nominated Mental Health Commissioner authorises expenditure to be incurred with respect to the care packages. The Council will undertake to:

- a. Maintain a commitment record of the care packages
- b. Make payments to the external service providers in accordance with the Council contractual frameworks
- c. Record client financial assessment details
- d. Collect client contributions towards the cost of care where appropriate

6. Staff Pay arrangements

In most cases, staff will be employed by the Council into posts which provide services under this agreement. Where this is the case, they will be employed under the Council terms and conditions and the Council will undertake to facilitate payment to the individuals concerned and account for this expenditure in the financial ledgers. The Council will provide details to the Trust in a monthly payroll download.

Where individuals are employed direct by the Trust that organisation will facilitate payment and record expenditure as appropriate.

If the terms of employment provide for the post to have the option of taking a leased car, this will be provided under the appropriate policy of the employing organisation and the employing organisation will fulfil any financial obligations under the lease agreements.

7. Other expenditure

There will be some purchases which do not conform to standard Council care purchasing frameworks. All such purchases must be authorised by the Council Mental Health Commissioner, via an official Council order on Marketplace. Orders may in some circumstances be raised by staff employed directly by the Trust, but all orders will be authorised by the Council Mental Health Commissioner. Payment will be facilitated by the Council in accordance with standard terms of business.

8. End of Year Position (including the Management of Surpluses & Deficits)

At the end of the financial year the Council will carry out a reconciliation exercise to identify the costs incurred directly by the Council in relation to the Service & Financial Agreement. The Trust will provide the Council with details of expenditure incurred in delivering the services within the Service & Financial Agreement. The balancing payment will be determined once the two figures have been collated. Decisions regarding the application of any surplus will be jointly made by the Council MH Commissioner and a nominated officer of the Trust.

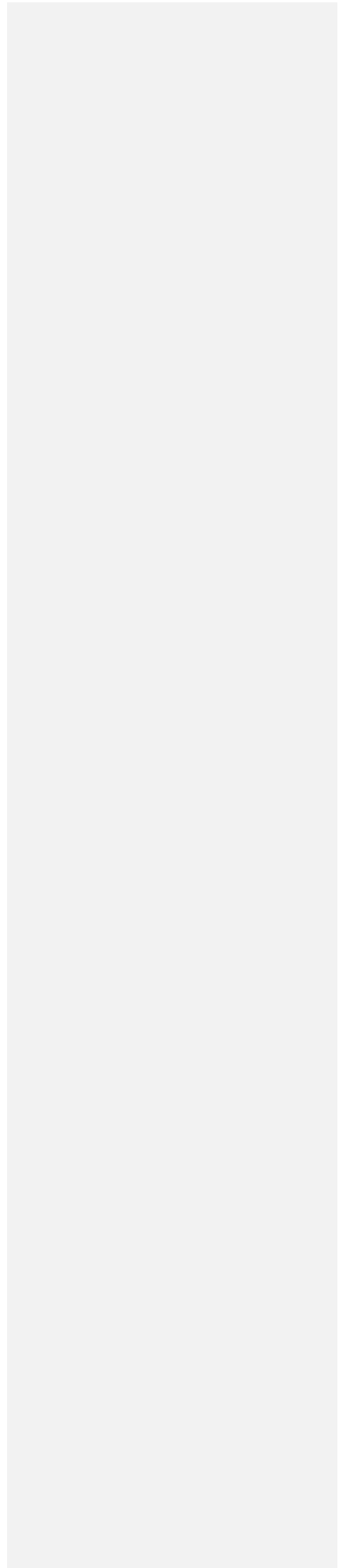
The Trust is not authorised to over spend in relation to the Service and Financial Agreement funding. If, however, it is agreed that a potential over spend cannot be contained the Council Mental Health Commissioner and a nominated officer of the Trust must agree how it is to be financed ahead of such an occurrence.

Overspends that do not arise through planned variances as set out in the Service and Finance Agreement will be presumed to be carried forward to the following financial year and a recovery plan agreed with the Commissioner.

9. Inflation / Efficiency Savings

Amounts to be provided to cover developments, inflation, cost pressures and how to manage efficiency savings will need to be negotiated and agreed between the Council Mental Health Commissioner and the Trust prior to the start of the financial year and reviewed when appropriate.

10. Reporting Requirements



The following table sets out the reporting requirements and the flow of financial information.

| Information to be provided | Provided by | Frequency | Deadline |
|---|-------------------------------------|--------------------|--|
| <i>Funding details as contained within the Service & Financial Agreement will be provided to the Trust for the succeeding financial year. Budget information will be available as determined by the Council's budget setting timetable</i> | <i>ECC Finance to Trust Finance</i> | <i>Annually</i> | |
| <i>Where changes have been made to the Service & Financial Agreement, variation schedules will be sent to the Trust Finance to give an updated budget position</i> | <i>ECC Finance to Trust Finance</i> | <i>As required</i> | <i>By the next SFA meeting</i> |
| <i>Monthly details of salary payments made through the ECC Payroll System on IFS. Report will show names of each person paid and the amount paid for the relevant month. A copy of ECC Genus for data will also be provided monthly.</i> | <i>ECC Finance to Trust Finance</i> | <i>Monthly</i> | <i>To be completed by the end of the 2nd working day of the first week following month end. ECC month end is usually the last Friday of the month.</i> |
| <i>Information detailing all other payments that have been made via ECC Systems. This includes mileage payments, payments made via Market Place etc</i> | <i>ECC Finance to Trust Finance</i> | <i>Monthly</i> | <i>Same as above</i> |
| <i>Monthly reporting of the financial position at the end of each month – showing the spend to date on the accounts of ECC for budgets within the Service and Financial Agreement</i> | <i>ECC Finance to Trust Finance</i> | <i>Monthly</i> | <i>Same as above</i> |
| <i>Copy of the monthly financial statement of the Trust position in relation to commissioned services</i> | <i>Trust Finance to ECC</i> | <i>Monthly</i> | <i>Same as above</i> |

| | | | |
|---|-------------------------------------|-----------------|---|
| | <i>Finance</i> | | |
| <i>End of year return showing final spend against each of the budget lines within the Service and Finance Agreement and highlighting any variation from budget.</i> | <i>Trust Finance to ECC Finance</i> | <i>Annually</i> | <i>To be completed following finalisation of external audit</i> |

11. Establishment Control

The Trust's management will ensure that procedures and processes are followed. Managers in the Trust will follow any Council establishment control procedure and use the correct process to ensure changes to posts, personal details or salary are maintained on the Council payroll and HR database systems.

Annex 8

Essex Mental Health Partnership IMT Management Protocol

1 IMT Governance arrangements

Strategic IMT investment will be aligned to the strategic business objectives of North Essex Partnership Foundation Trust (NEPFT), South Essex Partnership University Foundation Trust (SEPT) and Essex County Council (ECC). The strategic business objectives of these organisations will in part be influenced by Government requirements, in addition to local objectives.

Strategic alignment of IT investment to business strategy, in particular between NEPFT/ECC and SEPT/ECC, will be achieved by the operation of IMT boards where partner IT professionals will be represented, including ECC Corporate IT. This is to ensure that there is an early awareness of planned investments and the implications for partnership working, e.g. a change in a health system resulting from Connecting for Health or a change in Social Care client system. Any decisions taken by the IMT boards need to be fully compliant with partner governance protocols.

Project boards for the implementation of new or revised technologies that impact on joint service provision will also include representation from partner IT professionals. This will ensure that detailed local governance, technical, investment and approval requirements that operate within the partner organisations are fully accommodated as part of a project.

Where appropriate, joint operational service review meetings will be established to ensure that effective processes are followed to monitor service provision that crosses partner organisational boundaries.

Essex public sector organisations collaborate within the Essex Online Partnership (EOLP), as approved by the Essex Chief Executive's Association. Government's agenda to ensure that local services operate in a joined up manner is resulting in the implementation of technologies that link up partners and enable the implementation of shared services. Essex Health organisations are represented, within EOLP governance arrangements, by the NPfIT Programme Director for South East Essex, as agreed with the Regional Health Authority.

2 Information sharing

Information sharing is covered by the Information Sharing Protocol document, which describes how information can be shared within the trusts in accordance with legislative obligations. This protocol has been developed in accordance with the requirements described in the Essex Trust Charter for information sharing between Essex public sector organisations.

3 IT infrastructure

Since the establishment of the Trusts, developments in technology have occurred which enable the introduction of facilities that can enable the removal of dual networking and PCs. On a progressive planned basis the new technologies will be implemented to not only provide a more cohesive operational environment for practitioners, but also to realise revenue savings. The availability of new infrastructure technologies will enable the implementation of a strategic approach where within a partner's office accommodation, the IT infrastructure will only be that which relates to the partner.

Going forward opportunities will continue to be sought to implement technical solutions that underpin partnership working in an efficient manner. Such opportunities will be considered by the IMT boards and included within the respective work programme where there is a case for investment.

Operational Level Agreements will be developed and agreed by ECC and the trusts where there are day to day operational technical dependencies on one another, e.g. the support of the Carebase-SWIFT interface. This being particularly important where there are dependencies on ECC's and trust managed service provision by third parties.

4 Application usage

Staff in the partnership will have access to operational applications (business and clinical) to enable them to undertake their professional duties/responsibilities. In some cases this will entail a health or social care professional accessing systems from both their home organisation and also the partner organisation. All application usage will be subject to the processes and authorisation requirements of the application's host organisation.

System administration will be the responsibility of the application's host organisation, covering for example, access security credentials, confidentiality and security exceptions.

System support and "break fix" of hardware will be the responsibility of the host organisation. Where there are needs for cross organisational support, an Operational Level Agreement will be developed and agreed by the IMT boards of the partners concerned.

5 Special arrangements

There may be special operational requirements that result in the implementation of particular IMT solutions which are not aligned to one particular trust environment, for example the Emergency Duty Service. In such cases the operational needs will be considered by the IMT boards of the partners concerned and the appropriate measures put in place, e.g. deployment of technology, information sharing protocols and operational level agreements.

6 Protocol approval

ECC:

Deputy Director of Mental Health Commissioning

..... Date:

ASC Senior Informatics Manager

..... Date:

Head of IS

..... Date:

NEPFT:

Assistant Director of IM&T

..... Date:

Director of Strategy

..... Date:

SEPT:

Director of Information

..... Date:

Director of Partnerships & Specialist Services

..... Date:

