

DATED 15th November

2013

PORTSMOUTH CITY COUNCIL

and

SOLENT NHS TRUST

AGREEMENT

**under s.75 National Health Service Act 2006
in relation to the provision of an Integrated
Health and Social Care Adult Mental Health
Service**

Legal Services
Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth
PO1 2 PX
~~CC2403~~

CC2402

CONTENTS

CLAUSE

1.	DEFINITION AND INTERPRETATION	2
2.	NHS SUCCESSOR BODIES	7
3.	COMMENCEMENT AND DURATION	8
4.	EXTENDING THE INITIAL TERM	8
5.	PARTNERSHIP ARRANGEMENTS	8
6.	DELEGATION OF FUNCTIONS	9
7.	SERVICES	10
8.	ANNUAL WORK PROGRAMME	11
9.	PERFORMANCE MANAGEMENT	12
10.	FINANCIAL OBLIGATIONS	13
11.	CAPITAL EXPENDITURE	13
12.	SET UP COSTS	13
13.	PREMISES	13
14.	STAFFING (TUPE, SECONDMENT AND PENSIONS)	14
15.	GOVERNANCE	14
16.	QUARTERLY REVIEW AND REPORTING	15
17.	ANNUAL REVIEW	15
18.	VARIATIONS	16
19.	STANDARDS	16
20.	HEALTH AND SAFETY	17
21.	EQUALITY DUTIES	18
22.	FREEDOM OF INFORMATION	18
23.	DATA PROTECTION AND INFORMATION SHARING	19
24.	HEALTH AND SOCIAL CARE RECORDS	19
25.	CONFIDENTIALITY	21
26.	AUDIT	22
27.	INSURANCE	23
28.	INDEMNITIES	23
29.	LIABILITIES	24
30.	COMPLAINTS AND INVESTIGATIONS	25
31.	HEALTHWATCH	26
32.	DISPUTE RESOLUTION	27
33.	TERMINATION	28
34.	CONSEQUENCES OF TERMINATION	29
35.	PUBLICITY	31
36.	NO PARTNERSHIP	31
37.	THIRD PARTY RIGHTS	31
38.	NOTICES	31
39.	ASSIGNMENT AND SUBCONTRACTING	32
40.	SEVERABILITY	32
41.	WAIVER	32
42.	ENTIRE AGREEMENT	33

43.	GOVERNING LAW AND JURISDICTION	33
44.	FAIR DEALINGS	33
45.	CONFLICTS OF INTEREST	33
46.	COUNTERPARTS	33

SCHEDULES

SCHEDULE - AIMS AND OUTCOMES	23
SCHEDULE 2 - TRUST FUNCTIONS	26
SCHEDULE 3 - AUTHORITY FUNCTIONS	27
SCHEDULE 4 - EXCLUDED FUNCTIONS	29
SCHEDULE 5 - SERVICE SPECIFICATION	30
SCHEDULE 6 - HUMAN RESOURCES	31
SCHEDULE 7 - INFORMATION SHARING	44
SCHEDULE 8 - GOVERNANCE ARRANGEMENT	45
SCHEDULE 9 - FINANCIAL ARRANGEMENTS	47

DATE 15th November 2013

PARTIES

- (1) **PORTSMOUTH CITY COUNCIL** of Civic Offices, Guildhall Square, Portsmouth, Hampshire, PO1 2PX ("the **Authority**").
- (2) **SOLENT NHS TRUST** whose offices are situated at Adelaide Health Centre, William MacLeod Way, Millbrook, Southampton SO16 4XE ("the **Trust**")

BACKGROUND

- (A) Section 75 of the National Health Service Act 2006 contains powers enabling NHS Bodies to exercise certain local authority functions and for local authorities to exercise various NHS functions. The Partners are entering into this Agreement in exercise of those powers under and pursuant to the NHS Regulations 2000.
- (B) The Partners are committed to better integration of the NHS Functions and the Authority Health-Related Functions, and therefore wish to enter into the arrangements under this Agreement.
- (C) The Trust enters into this Agreement as provider of the NHS Functions relating to adult mental health services.
- (D) The Authority enters into this Agreement as provider of the Authority Health-Related Functions relating to adult mental health services.
- (E) This Agreement provides the framework within which the Partners will work together to achieve the Aims and Outcomes.
- (F) The aim of this Agreement is to enable the integration of the health and social care elements of learning disability services to deliver the Partners' statutory responsibilities towards people with mental health problems and the requirements of the national Adult Social Care Outcomes Framework and the NHS Outcomes Framework.

AGREED TERMS

1. DEFINITION AND INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

Agreement: this Agreement between the Trust and the Authority comprising these terms and conditions together with all schedules attached to it.

Aims and Outcomes: the objectives of the Partners, setting out how the Partnership Arrangements are likely to lead to an improvement in the way the Functions are exercised, as described in Schedule 1.

Annual Work Programme: has the meaning set out in clause 8.

Authority Health-Related Functions: the health related functions of the Authority listed in Regulation 6 of the NHS Regulations 2000 (and further described in

Direct Losses: means all damages, losses, indebtedness, claims, actions, cash, expenses (including the cost of legal or professional services, legal costs being an agent/client, client paying basis), proceedings, demands and charges whether arising under statute, contract or at common law, but, to avoid doubt, excluding Indirect Losses;

Dispute Resolution Procedure: the procedure set out in clause 31.

EIR: the Environmental Information Regulations 2004 (SI 2004/3391)

Equality Legislation: means the Equality Act 2010, Human Rights Act 1998 and any other relevant law which ensures, among others; equality of access to goods and services; promotion of good relations between groups in society; the provision of Reasonable Adjustments for people with disabilities (as defined in the Equality Act 2010); and equality in employment;

Excluded Functions: such Functions contained in Schedule 4 (Excluded Functions) of this Agreement and/or such Functions as the Partners may agree from time to time are excluded from the Arrangements, together with any exclusions set out in the NHS Regulations 2000.

Financial Obligations: the financial obligations of the Partners as set out in Schedule 9

Financial Year: 1 April to 31 March.

First Financial Year: 1 April 2013 to 31 March 2014.

FOIA: the Freedom of Information Act 2000 and any subordinate legislation made under it from time to time, together with any guidance or codes of practice issued by the Information Commissioner or relevant government department concerning this legislation.

Functions: the NHS Functions and the Authority's Health-Related Functions.

Host Partner: the host partner for the Functions under this Agreement

Indirect Losses: means indirect loss of profits, loss of use, loss of production, loss of business, loss of business opportunity, loss of business revenue, loss of goodwill or any claim for consequential loss or for indirect loss of any nature.

Individual Agreement: the agreements made between each Post Holder, the Trust and the Authority describing the terms on which the Post Holder will be made available by the Trust to the Authority.

Information: has the meaning given under section 84 of FOIA.

Information Sharing Protocol: the protocol describing how the Partners will share Information contained in a form approved by the partners under Schedule 8;

Initial Term: the period commencing on the Commencement Date and ending on the third anniversary of the Commencement Date.

Law: any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, any applicable judgement of a relevant court of law which

Schedule 3 (Authority Functions) of this Agreement) in relation to the provision of, or making arrangements for the provision of, the Services but excluding the Excluded Functions

Authority's Authorised Officer: Angela Dryer, Assistant Head of Social Care

Authority's Financial Obligations: the Authority's financial obligations are set out in Schedule 9.

Change in Law: means the coming into effect or repeal (without re-enactment or consolidation) in England of any Law, or any amendment or variation to any Law, or any judgment of a relevant court of law which changes binding precedent in England that impacts on the Partnership Arrangements and comes into force after the Commencement Date

Commencement Date: 1 July 2013

Confidential Information:

means all information, data and/or material of any nature which either Party may receive or obtain in connection with the operation of the Contract, including any information, data and/or material:

- (a) which comprises Personal Data or Sensitive Personal Data (as both terms are defined in the Data Protection Act 1998);
- (b) the release of which is likely to prejudice the commercial interests of either Party;
- (c) which is a trade secret; or
- (d) is identified at the time of disclosure as being confidential.

Council's Service User Records: means the records created and maintained by the Authority pursuant to clause 23.2.

Data Protection Legislation: this includes:

- (a) the Data Protection Act 1998 (**DPA 1998**);
- (b) Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- (c) the Regulation of Investigatory Powers Act 2000;
- (d) the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (*SI 2000/2699*);
- (e) Directive 2002/58/EC concerning the processing of Personal Data and the protection of privacy in the electronic communications sector;
- (f) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (*SI 2003/2426*); and
- (g) all applicable laws and regulations relating to processing personal data and privacy, including the guidance and codes of practice issued by the Information Commissioner, where applicable.

is a binding precedent in England, directives or requirements of any Regulatory Body, delegated or subordinate legislation, or notice of any Regulatory Body.

NHS Act 2006: National Health Service Act 2006.

NHS Body: shall have the meaning set out in Regulation 3(1) of the NHS Regulations 2000.

NHS Functions: shall have the meaning set out in regulation 5 of the NHS Regulations 2000.

NHS Regulations 2000: the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (*SI 2000/617*) (as amended).

Ombudsman: means the Health Service Ombudsman and the Local Government Ombudsman.

Partner: either the Trust or the Authority, and "**Partners**" shall be construed accordingly.

Partnership Arrangements: the arrangements made between the Partners under this Agreement.

Partnership Management Group: the body of officers of the Trust and of the Authority appointed and with the powers and functions as more particularly described in Schedule 8 (Governance Arrangements).

Personal Data: shall have the same meaning as set out in the DPA 1998.

Post Holder: the individuals identified in Schedule 6 and being the individuals who, as at the Commencement Date, are made available to the Authority by the Trust.

Quarter: the following periods in each Financial Year:

- (a) 1 April to 30 June;
- (b) 1 July to 30 September;
- (c) 1 October to 31 December; and
- (d) 1 January to 31 March.

Regulatory Body: those government departments and regulatory, statutory and other entities, committees and bodies that, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate or influence the matters dealt with in this Agreement, or any other affairs of the Authority and/or the Trust.

Relevant Transfer: a relevant transfer under TUPE.

Representative: a Partner's employee, agent or subcontractor and any employee of the other Partner who is seconded to the Partner and is acting in accordance with the Partner's instructions.

Request for Information: a request for Information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations 2004 (*SI 2004/3391*) (**EIR**).

Service Provider: a third-party provider of any of the Services, as commissioned by the Trust or the Authority before the Commencement Date or the Authority (or a third party commissioned by the Authority in order to facilitate the delivery of any of the Services by the Authority on behalf of the Partners) from the Commencement Date.

Service User: individuals who are eligible to receive the Services, as more particularly described in Schedule 5.

Services: the services to be delivered by or on behalf of the Partners under this Agreement, as more particularly described in clause 7 and Schedule 5.

Term: the period of the Initial Term as may be varied by:

- (a) any extensions to this Agreement that are agreed under clause 4; or
- (b) the earlier termination of this Agreement in accordance with its terms.

Third Party: means any party other than the Authority or the Trust.

Trust's Authorised Officer: Matthew Hall Associate Director

Trust's Financial Obligations: the Trust's financial obligations are set out in Schedule 9.

Trust's Premises: St James' Hospital, Locksway Road, Portsmouth & Block A, St Marys Community Campus, Portsmouth

Trust's Service User Records: has the meaning ascribed to the term in Clause 23.1

TUPE: the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).

VAT Guidance: the guidance published by the Department of Health entitled "VAT arrangements for Joint NHS and Local Authority Initiatives including Disability Equipment Stores and Welfare- Section 31 Health Act 1999".

Working Day: any day other than Saturday, Sunday, a public or bank holiday in England.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.4 Words in the singular include the plural and vice versa.
- 1.5 A reference to one gender includes a reference to the other genders.
- 1.6 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension or re-enactment and includes any subordinate legislation for the time being in force made under it.

- 1.7 A reference to **writing** or **written** includes faxes and e-mail.
- 1.8 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.9 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this Agreement) at any time.
- 1.10 References to clauses and Schedules are to the clauses and Schedules of this Agreement. References to paragraphs are to paragraphs of the relevant Schedule.

2. NHS SUCCESSOR BODIES

- 2.1 The Partners acknowledge that the legal status, identity or constitution of the Trust as an NHS body may change during the Term, including, without limitation, the Trust becoming a foundation trust pursuant to the NHS Act 2006.
- 2.2 Without prejudice to Clause 38.2, the Partners shall use all reasonable endeavours to ensure that this Agreement continues to have effect notwithstanding any such change as is referred to in clause 2.1 including but not limited to reasonable endeavours to secure the novation of this Agreement to any successor body of the Trust where both Parties, acting reasonably, consider this necessary.

3. COMMENCEMENT AND DURATION

This Agreement shall take effect on the Commencement Date and shall continue for the Term.

4. EXTENDING THE INITIAL TERM

The Partners may, by agreement made in writing, extend this Agreement for a period and on varied terms as they agree, beyond the Initial Term, subject to approval of the Partners' boards.

5. PARTNERSHIP ARRANGEMENTS

- 5.1 The Partners enter into these Partnership Arrangements under section 75 of the NHS Act 2006 to provide integrated health and social care services to better meet the needs of the Service Users of Portsmouth than if the Partners were operating independently.
- 5.2 The specific Aims and Outcomes of the Partnership Arrangements are described in Schedule 1.

- 5.3 The Partnership Arrangements shall comprise
- (a) the delegation by the Authority to the Trust of the Authority Health-Related Functions, so that it may exercise the NHS Functions alongside the Authority Health-Related Functions and act as integrated provider of the Services described in Schedule 5 on behalf of both Partners
 - (b) the establishment of an integrated adult mental health service operating under a single line management structure.
- 5.4 In accordance with Regulation 4(2) of the NHS Regulations 2000, the Partners have carried out a joint consultation on the proposed Partnership Arrangements with Service Users, and other individuals and groups who appear to them to be affected by the Partnership Arrangements.
- 5.5 Nothing in this Agreement shall prejudice or affect:
- (a) the rights and powers, duties and obligations of the Partners in the exercise of their functions as public bodies or in any other capacity;
 - (b) the powers of the Authority to set, administer and collect charges for any Authority Health-Related Function; or
 - (c) the Authority's power to determine and apply eligibility criteria for the purposes of assessment under the Community Care Act 1990.

6. DELEGATION OF FUNCTIONS

- 6.1 For the purposes of the implementation of the Partnership Arrangements, the Authority hereby delegates the exercise of the Authority's Health-Related Functions to the Trust to exercise alongside the NHS Functions and act as integrated provider of the health and social care elements relating to adult mental services.
- 6.2 Additional services may be brought within the scope of this Agreement during the Term by agreement.

7. SERVICES

- 7.1 The Trust is the Host Partner for the Partnership Arrangements, and agrees to act as provider of the Services referred to in clause 6.1.
- 7.2 The Trust shall provide the Services or procure that they are provided and shall be accountable to the Authority for the Authority's Health-Related Functions for the benefit of Service Users:
- (a) to ensure the proper discharge of the Partners' Functions;
 - (b) with reasonable skill and care, and in accordance with best practice guidance;

- (c) in all respects in accordance with the Aims and Outcomes, the performance management framework, the provisions of this Agreement, and the Authority's applicable policies set out in Schedule 5;
- (d) in accordance with its standing orders or other rules on contracting; and
- (e) in accordance with all applicable Law.

8. ANNUAL WORK PROGRAMME

- 8.1 The Partners shall prepare a programme for each of the Services at least four weeks before the start of each Financial Year, which shall:
- (a) set out the agreed Aims and Outcomes for the specific Services;
 - (b) describe any changes or development required for the specific Services;
 - (c) provide information on how changes in funding or resources may impact the specific Services; and
 - (d) include details of the estimated contributions due from each Partner for each Service,
- 8.2 Each Annual Work Programme shall be initiated on the first day of the Financial Year to which it relates. Each Annual Work Programme will remain in place for a period of 12 months.
- 8.3 The Annual Work Programme may be varied by written agreement between the Partners during any Financial Year. Any variation that increases or reduces the number or level of Services in the scope of the Agreement shall require the Partners to make corresponding adjustments to the Trust's Financial Obligations and the Authority's Financial Obligations.
- 8.4 If the Partners cannot agree the contents of the Annual Work Programme, the matter shall be dealt with in accordance with clause 32. Pending the outcome of the dispute resolution process or termination of the Agreement under clause 32, the Partners shall make available amounts and, as the case may be, staff and other resources equivalent to the Financial Obligations for the previous Financial Year.

9. PERFORMANCE MANAGEMENT

- 9.1 The Partners shall adhere to the performance management framework set out in internal policy documents as agreed between the Partners.
- 9.2 Without prejudice to the implementation of the performance management framework referred to in clause 9.1, in the event that the Authority has any concerns on the operation of the Arrangements or the standards achieved in connection with the carrying out of the Functions, it may convene a review with the Trust with a view to agreeing a course of action to resolve such concerns.

Nothing in this Clause shall prejudice the Authority's right to terminate this Agreement pursuant to clause 32.

10. FINANCIAL OBLIGATIONS

The Partners' Financial Obligations in respect of the Partnership Arrangements shall be discharged in accordance with the arrangements set out in Schedule 9.

11. CAPITAL EXPENDITURE

The Financial Obligations shall be directed exclusively to revenue expenditure. Any arrangements for the sharing of capital expenditure shall be made separately and in accordance with section 256 (or section 76) of the NHS Act 2006.

12. SET UP COSTS &

12.1 Each Partner shall bear its own costs of the establishment of the Partnership Arrangements under this Agreement.

13. PREMISES

13.1 The Trust shall make available the Trust's Premises to the Partnership Arrangements.

14. STAFFING (TUPE, SECONDMENT AND PENSIONS)

14.1 The Partners have agreed that pursuant to arrangements under Section 113 of the Local Government Act 1972 the Post Holders will be made available by the ~~Trust to the Authority~~ in accordance with the terms of the Section 113 Agreement and the Individual Agreements and the Partners agree that TUPE will not apply on the commencement of this Agreement, during the Agreement Term or on the expiry of this Agreement (in whole or in part). However, if during the Term, TUPE operates so as to transfer the employment of a Post Holder from one Partner ("the Transferor") to the other Partner ("the Transferee") the Partners shall comply with:

- (a) their legal obligations under TUPE
- (b) if applicable, the Statement of Practice

14.2 The Partners agree that the provisions of Schedule 6 shall apply to any:

- (a) Relevant Transfer of staff under this Agreement; and
- (b) secondments of ~~Trust~~ staff to the ~~Authority~~ under arrangements pursuant to Section 113 of the Local Government Act 1972.

Authority to the Trust

IC
NL

IC
NL

15. GOVERNANCE

- 15.1 The Partners agree that the arrangements specified in Schedule 8 shall have effect.
- 15.2 The Trust shall nominate the Trust's Authorised Officer, who shall be the main point of contact for the Authority and shall be responsible for representing the Trust and liaising with the Authority's Authorised Officer in connection with the Partnership Arrangements.
- 15.3 The Authority shall nominate the Authority's Authorised Officer, who shall be the main point of contact for the Trust and shall be responsible for representing the Authority and liaising with the Trust's Authorised Officer in connection with the Partnership Arrangements.

16. QUARTERLY REVIEW AND REPORTING

- 16.1 The Partners shall carry out a quarterly review of the Partnership Arrangements within 30 days of the end of each Quarter in accordance with this clause 16.
- 16.2 The Trust's Authorised Officer shall submit a quarterly report to the Partnership Management Group setting out:
- (a) the performance of the Partnership Arrangements against the performance management framework in the preceding Quarter; and
 - (b) any issues of concern in respect of the Financial Obligations.

17. ANNUAL REVIEW

- 17.1 The Partners agree to carry out a review of the Partnership Arrangements and progress against the Annual Work Programme (**Annual Review**) including:
- (a) the performance of the Partnership Arrangements against the Aims and Outcomes;
 - (b) the performance of the individual Services against the service levels and other targets contained in the relevant contracts;
 - (c) plans to address any underperformance in the Services;
 - (d) review of plans and performance levels for the following year; and
 - (e) plans to respond to any changes in policy or legislation applicable to the Services or the Partnership Arrangements.
- 17.2 The Trust shall prepare an annual report following the Annual Review for submission to the Partners' respective boards.

18. VARIATIONS

This Agreement may be varied by the Partners at any time by agreement in writing in accordance with the Partners' internal decision-making processes.

19. STANDARDS

- 19.1 The Partners shall collaborate to ensure that the Partnership Arrangements are discharged in accordance with:
- (a) the service standards set out in Schedule 5;
 - (b) the prevailing standards of clinical governance;
 - (c) the Authority's standing orders; and
 - (d) the requirements specified by the Care Quality Commission and any other relevant Regulatory Body.
- 19.2 The Partners shall develop operational guidance and procedures to reflect compliance with clause 19.
- 19.3 The Partners shall ensure that each employee is appropriately managed and supervised in accordance with all relevant prevailing standards of professional accountability.

20. HEALTH AND SAFETY

- 20.1 The Trust shall (and shall use reasonable endeavours to ensure its Representatives) comply with the requirements of the Health and Safety at Work Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to the Services and persons working on the Services.
- 20.2 The Trust shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974), together with related policies and procedures, are made available to the Authority on request.
- 20.3 The Trust shall notify the Authority if any incident occurs in the performance of the Services, where that incident causes any personal injury or damage to property that could give rise to personal injury, and the Trust shall ensure that its Representatives:
- (a) comply with any guidance provided by the Authority as to the form in which any notifications are to be made and provide any further information which the Authority may require in relation to the incident or accident;
 - (b) promptly notify the Authority and the Trust of such incident or accident and, where relevant, outline what action has been taken by the relevant member of staff as a result of the incident or accident; and

- (c) at the discretion of the Authority, carry out an investigation into the incident or accident and its causes and make the results available to the Authority or permit the Authority to carry out such investigation and fully co-operate with such investigation.

21. EQUALITY DUTIES

- 21.1 The Partners acknowledge their respective duties under Equality Legislation to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between different groups.
- 21.2 The Trust agrees to adopt and apply policies in its carrying out of the NHS Functions and Authority Health-Related Functions, to ensure compliance with their equality duties under applicable provisions of Equality Legislation
- 21.3 The Trust shall take all reasonable steps to secure the observance of clause 21 by all servants, employees or agents of the Trust and all Service Providers employed in delivering the Services described in this Agreement.

22. FREEDOM OF INFORMATION

The Partners acknowledge that each is subject to the requirements of FOIA and the EIR, and shall assist and co-operate with one another to enable each Partner to comply with these information disclosure requirements, where necessary.

23. DATA PROTECTION AND INFORMATION SHARING

- 23.1 Each Partner shall (and shall procure that any of its Representatives involved in the provision of the Services shall) comply with any notification requirements under Data Protection Legislation. Both Partners shall duly observe all their obligations under Data Protection Legislation, which arise in connection with this Agreement, which shall include, without, limitation, ensuring that all Personal Data processed by its staff on behalf of and/or in the course of this Agreement, is processed in accordance with the provisions and principles of Data Protection Legislation.
- 23.2 Subject to applicable Law, the Partners shall share information about Service Users to improve the quality of care and enable integrated working.
- 23.3 The Partners shall adhere to the Information Sharing Protocol when sharing information under this Agreement and the obligations referred to in Schedule 7 to this Agreement.

24. HEALTH AND SOCIAL CARE RECORDS

- 24.1 The Trust shall hold, and be responsible for maintaining and the safekeeping of the Authority's Service User Records for the Term, in accordance with Data Protection Legislation and which shall consist of all information relating to the social care interventions in relation to a Service User pursuant to the Authority's obligations under this Agreement;
- 24.2 The Trust shall be responsible for facilitating Service Users in accessing their Personal Data under the DPA 1998.
- 24.3 Upon the expiry or early termination of the term of the Agreement, the Partners shall work in good faith and cooperation in reaching an agreement as to whether Clause 24.4(a) or 24.4(b) shall apply to the Trust's Service User Records.
- 24.4 Subject to the agreement reached by the Partners pursuant to Clause 24.3, upon the expiry or early termination of the Agreement, the Trust shall either:
- (a) use its reasonable endeavours to provide copies of, and reasonable access to the Trust's Service User Records on receiving reasonable notice from the Authority; or
 - (b) transfer the Trust's Service User Records to the Authority or a replacement service provider designated by the Authority and the provisions of Clause 24.5 shall apply.
- 24.5 Where the Trust has complied with its obligations set out in Clause 24.4 (b), the Authority shall allow and procure that any new service provider allows the Trust access on reasonable notice to the Trust's Service User Records. The Trust shall, in such circumstances comply with its obligations under Data Protection Legislation.
- 24.6 The Trust's Service User Records and the Council's Service User Records shall be treated as confidential between the Partners. No copy, extract or summary of the Trust's Service Records and the Council's Service User Records, any part of them or any comment on them shall be supplied to any Third Party (other than in compliance with Law or for the purposes of obtaining legal advice) without the prior written approval of the Partners.

25. CONFIDENTIALITY

- 25.1 In respect of any Confidential Information it may receive from the other Partner (the "**Discloser**") and subject always to the remainder of this Clause 25, each Partner (the "**Recipient**") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any Third Party, without the Discloser's prior written consent provided that:

- (a) the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the commencement of the Agreement; and
- (b) the provisions of this Clause 25 shall not apply to any Confidential Information which:
 - (i) is in or enters the public domain other than by breach of the Agreement or other act or omission of the Recipient; or
 - (ii) is obtained by a Third Party who is lawfully authorised to disclose such information.

25.2 Nothing in this Clause 25 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable law.

26. AUDIT

- 26.1 The Trust shall arrange for the audit of the accounts of the Partnership Arrangements in accordance with its statutory audit requirements.
- 26.2 The Trust shall provide to the Authority any reports required concerning the Authority Health-related functions on reasonable notice and free of charge.
- 26.3 The Partners shall co-operate in the provision of Information, and access to premises and staff, to ensure compliance with any statutory inspection requirements, or other monitoring or scrutiny functions. The Partners shall implement recommendations arising from these inspections, where appropriate.
- 26.4 The Authority shall during the Term of this Agreement provide to the Trust on reasonable notice access to all information, books, receipts and other records which the Trust may reasonably require in order to audit or otherwise verify the sums invoiced to the Trust under the arrangements set out in Schedule 9.
- 26.5 The Trust shall keep and maintain until 12 years after the end of the Term, or as long a period as may be agreed between the Partners, full and accurate records of the Agreement including the Services supplied under it, all expenditure reimbursed by the Authority, and all payments made by the Authority. The Trust shall on request and at its own expense afford the Authority or the Authority's Representatives such access to those records as may be requested by the Authority in connection with the Agreement.

27. INSURANCE

- 27.1 Each Partner shall effect and maintain a policy or policies of insurance, providing an adequate level of cover for liabilities arising under any indemnity in this

Agreement, which shall include without limitation, appropriate insurance arrangements in respect of employer's liability, liability to Third Parties and all other potential liability under this Agreement. The obligations in this Clause shall include insurance (or equivalent) arrangements after the date of the determination of this Agreement in respect of any events, acts or omissions prior to such determination.

- 27.2 Each Partner shall be responsible for insuring the premises and assets it contributes to the Partnership Arrangements.

28. INDEMNITIES

28.1 Nothing in this Agreement shall affect:

- (a) the liability of the Authority to the Service Users in respect of the Health-Related Functions; or
- (b) the liability of the Trust to Service Users in respect of the NHS Functions.

28.2 Each Partner (the "**Indemnifying Partner**") shall indemnify and keep indemnified the other Partner (the "**Indemnified Partner**") against all Direct Losses, whether arising in tort (including negligent act, or omission), default or breach of this Agreement, to the extent that any loss or claim is due to the breach of contract, negligence act, omission, wilful default fraud or breach of statutory duty of itself or the Indemnifying Partner's Representatives arising out of or in connection with this Agreement, except to the extent that the loss or claim is directly caused by or directly arises from the negligent act or commission, breach of this Agreement, or applicable Law by the Indemnified Partner or its Representatives.

28.3 If any Third Party makes a claim or intimates an intention to make a claim against either Partner, which may reasonably be considered as likely to give rise to an indemnity claim under these provisions, the Indemnified Partner shall:

- (a) as soon as reasonably practicable give written notice of that matter to the Indemnifying Partner specifying in reasonable detail the nature of the relevant claim;
- (b) not make any admission of liability, agreement or compromise in relation to the relevant claim without the prior written consent of the Indemnifying Partner (such consent not to be unreasonably conditioned, withheld or delayed); and
- (c) give the Indemnifying Partner and its professional advisers reasonable access to its premises and personnel and to any relevant assets, accounts, documents and records within its power or control so as to enable the

Indemnifying Partner and its professional advisers to examine such premises, assets, accounts, documents and records and to take copies at their own expense for the purpose of assessing the merits of, and if necessary defending, the relevant claim.

29. LIABILITIES

- 29.1 Neither Partner shall be liable to the other Partner for claims by Third Parties arising from any acts or omissions of the other Partner in connection with the Services before the Commencement Date.
- 29.2 Each Partner shall, at all times, take all reasonable steps to minimise and mitigate any loss or damage for which the relevant Partner is entitled to bring a claim against the other Partner under this Agreement.
- 29.3 Neither Partner will be liable for any Indirect Losses suffered by the other Party whether such losses or the potential for such losses were made known to the Party or not and, other than in respect of death or personal injury or fraudulent misrepresentation.

30. COMPLAINTS AND INVESTIGATIONS

- 30.1 Subject to the requirements of the Law or any NHSLA schemes to which the Trust is a member, within twelve (12) months of the Commencement Date, the Partners will develop and operate a joint complaints system. The application of a joint complaints system will be without prejudice to a complainant's right to use either of the Partners' statutory complaints procedures where applicable.
- 30.2 Prior to the development of a joint complaints system or after the failure or suspension of any such joint complaints system the following will apply:
 - (a) all complaints received in connection with the Services or the exercise of the Functions by one Partner shall be reported to the other Partner. The Partner in receipt of the complaint shall provide the other Partners with such detail regarding the complaint as the other Partners may reasonably require (and insofar as it is lawfully able to do so);
 - (b) where a complaint wholly [or in part] relates to one or more of the NHS Functions, it shall be dealt with in accordance with the statutory complaints procedure of the Trust and the Trust will ensure that the Council is kept informed about the conduct of any complaint that it is managing, administering, investigating and defending pursuant to this Clause;
 - (c) where a complaint wholly relates to one or more of the Authority's Health Related Functions, it shall be dealt with in accordance with the statutory

complaints procedure of the Authority and the Authority will ensure that the Trust is kept informed about the conduct of any complaint that it is managing, administering, investigating and defending pursuant to this Clause;

- (d) where a complaint relates partly to one or more of the Authority's Health Related Functions and partly to one or more of the NHS Functions, then a joint response will be made to the complaint by the Authority and the Trust, in line with local joint protocol;
- (e) where a complaint cannot be handled in any way described above or relates to the operation of this Agreement, then the Partnership Management Group will set up a complaints group with equal representation from both Partners to examine the complaint and recommend remedies. All complaints shall be reported to the Authorised Officers.

30.3 The Partners shall each fully comply with any investigation by the Ombudsman, including providing access to Information and making staff available for interview.

30.4 During the Term:

- (a) the Trust shall remain accountable (including (without limitation) and at the Trust's own cost, responsibility for the management, administrative, investigation and defence) for any complaint arising out of or in connection with the provision of the Services prior the Commencement Date, and the joint protocol developed pursuant to clause 30.1 will include provision to deal with any such complaints that relate to the Services with which the Authority had involvement prior to the relevant Commencement Date; and
- (b) each Partner agrees not to act in a manner prejudicial to the reputation of the other Partner and the both Partners agree to co-operate with each other in the performance of their respective obligations under this clause 30 in accordance always with their statutory obligations and applicable government guidance.

31. HEALTHWATCH

31.1 The Partners shall promote and facilitate the involvement of Service Users, carers and members of the public in decision-making concerning the Partnership Arrangements.

31.2 The Trust shall ensure the effective discharge of its obligations to HealthWatch

32. DISPUTE RESOLUTION

- 32.1 In the event of a dispute between the Partners arising out of this Agreement, either Partner may serve written notice of the dispute on the Partnership Management Group, setting out full details of the dispute.
- 32.2 The members of the Partnership Management Group shall meet as soon as possible and in any event within seven (7) days of notice of the dispute being served pursuant to clause 32.1 at a meeting convened for the purpose of resolving the dispute and use its best endeavours to resolve dispute.
- 32.3 If any dispute referred to the Partnership Management Group is not resolved within 15 Working Days of the dispute being referred to it, either Partner, by notice in writing to the other, may refer the dispute to the chief executives of the Partners, who shall co-operate in good faith to resolve the dispute as amicably as possible within 20 Working Days of service of the notice.
- 32.4 If within the allotted time the processes set out in clauses 32.2 and 32.3 do not resolve such dispute to the satisfaction of both Partners either Partner may refer any dispute to an adjudicator.
- 32.5 If the Partners are unable to agree the appointment of such adjudicator within seven (7) Working Days of the request by either Partner for such an appointment then an appropriate expert (willing to act in that capacity hereunder) shall be appointed by the President of the Centre for Effective Dispute Resolution and the Partners agree to accept such appointment.
- 32.6 Disputes shall be decided by such adjudicator in accordance with the latest Rules of Adjudication of the Centre for Effective Dispute Resolution as in place at the time of the Dispute being referred to such adjudicator, and costs shall be borne in such proportions as the adjudicator may determine to be fair and reasonable in all the circumstances or, if the adjudicator makes no such determination, by the parties in equal proportions PROVIDED ALWAYS that the Partners agree that no decision or determination of an adjudicator under this clause 32.5 shall be final and binding upon them.
- 32.7 This clause 32 shall not prevent either Partner from seeking injunctive relief at any time during the Term (regardless of whether the Dispute Resolution Procedure set out in this clause 32 has been exhausted or not) in the case of any breach or threatened breach by the other Partner of any obligation under this Agreement.

33. TERMINATION

- 33.1 Without prejudice to other rights and remedies at law, and unless terminated under clause 33.2, 33.3 or 33.4, either Partner may terminate this Agreement at any time by giving 12 months' written notice to the other Partner

- 33.2 Subject to clause 33.3, either Partner may terminate this Agreement at any time by giving 6 months' written notice to the other Partner, if for budgetary reasons:
- (a) it is no longer able to meet its Financial Obligations or otherwise contribute sufficient resources to the Partnership Arrangements (or any part of them); or
 - (b) it is of the reasonable opinion that in light of the other's inability or failure to meet its Financial Obligations in whole or in part the Partnership Arrangements (or any part of them) are no longer viable.
 - (c)
- 33.3 Either Partner (for the purposes of this clause 33.3, the **First Partner**) may terminate this Agreement on one calendar month's written notice by the service of written notice on the other Partner (for the purposes of this clause 33.3, the **Second Partner**) in the following circumstances:
- (a) if the Second Partner is in breach of any material obligation under this Agreement, provided that, if the breach is capable of remedy, the First Partner may only terminate this Agreement under clause 34.3, if the Second Partner has failed to remedy the breach within 28 days of receipt of notice from the First Partner (**Remediation Notice**) to do so;
 - (b) there is a Change in Law that prevents either Partner from complying with its obligations under this Agreement; or
 - (c) following a failure to resolve a dispute under clauses 32.
- 33.4 Unless the Partners otherwise agree, this Agreement will automatically expire or, as the case may be, terminate on the date of expiry.
- 33.5 The provisions of clause 33 shall apply on termination of this Agreement.
- 33.6 For the avoidance of doubt, the termination of this Agreement and the Partnership Arrangements made under it shall not preclude the Partners from entering into alternative arrangements for the commissioning and provision of the NHS Functions relating to learning disability services.

34. CONSEQUENCES OF TERMINATION

- 34.1 On the expiry of the Term, or if this Agreement is terminated in whole or in part for any reason:
- (a) the Partners will comply with the exit strategy prepared by the Partnership Management Group;
 - (b) premises and assets shall be returned to the contributing Partner in accordance with the terms of their leases, licences or agreed schedule of condition;

- (c) assets purchased for use for the purposes of the Partnership Arrangements shall unless otherwise agreed by the Partners be returned to the Partner from whose financial contribution or other resource the purchase was made;
- (d) contracts entered into by the Trust concerning the Authority Health-related Functions shall be novated to the Authority and the Authority shall accept the novation; and
- (e) the Trust shall transfer to the Authority all records in its possession relating to the Authority Health-related Functions.

34.2 The expiry or termination of this Agreement shall be without prejudice to any of the rights or remedies that have accrued to whichever Partner under this Agreement and shall have no effect on the liability of either Partner to make payment of any sums due under this Agreement, prior to the date upon which such termination takes effect.

34.3 Upon the expiry or termination of this Agreement, the Partners shall:

- (a) work together to wind down and disaggregate all arrangements made pursuant to this Agreement, and shall in so doing ensure a minimal disruption and impact on Service Users and the Partners; and
- (b) work together to ensure an orderly handover in relation to all aspects of the Functions and shall at all times act in such a manner as not to adversely affect the delivery of the Services

34.4 The provisions of the following clauses shall survive termination or expiry of this Agreement:

- (a) Clause 22 "Freedom of Information"
- (b) Clause 23 "Data Protection and Information Sharing"
- (c) Clause 26; "Audit"
- (d) Clause 28; "Indemnities"
- (e) Clause 29; "Liabilities" and
- (f) Clause 34; "Consequences of Termination"

35. PUBLICITY

The Partners shall use reasonable endeavours to consult one another before making any press announcements concerning the Services or the discharge of either Partner's Functions under this Agreement.

36. NO PARTNERSHIP

- 36.1 Nothing in this Agreement shall be construed as constituting a legal partnership between the Partners or as constituting either Partner as the agent of the other for any purpose whatsoever, except as specified by the terms of this Agreement.
- 36.2 Neither Partner nor any of its employees or agents will have the power to make any representations or give any warranties to Third Parties on behalf or in respect of the other Partner, nor bind the other Partner in any way.

37. THIRD PARTY RIGHTS

- 37.1 It is agreed for the purposes of the Contracts (Rights of Third Parties) Act 1999 that this Agreement is not intended to, and does not, give to any person who is not a party to this Agreement any rights to enforce any provisions contained in this Agreement.

38. NOTICES

- 38.1 Notices shall be in writing and shall be sent to the other Partner marked for the attention of the chief executive or another person duly notified by the Partner for the purposes of serving notices on that Partner, at the address set out for the Partner in this Agreement.
- 38.2 Notices may be sent by first class mail or facsimile transmission, provided that facsimile transmissions are confirmed within 24 hours by first class mailed confirmation of a copy. Correctly addressed notices sent by first class mail shall be deemed to have been delivered 72 hours after posting and correctly directed facsimile transmissions shall be deemed to have been received instantaneously on transmission, provided that they are confirmed as set out above.

39. ASSIGNMENT AND SUBCONTRACTING

- 39.1 Subject to clause 39.2, this Agreement and any right and conditions contained in it may not be assigned, sub contracted or transferred by either Partner without the prior written consent of the other Partner, except to any statutory successor to the relevant function.
- 39.2 Pursuant to clause 2.2, the Partners recognise the changing landscape of the NHS and agree that the Trust shall be entitled to novate, assign or transfer in whole or in part the benefit and burden under this Agreement to any other NHS organisation, statutory successor in title of all or part of its functions, property, rights and liabilities, or any other entity replacing the Trust or who has become responsible for the exercise of any or all of the NHS Functions and that consent shall not be required from the Authority for any such transfer (including an

assignment or sub-contract). The Authority shall do all that is required to assist such transfer and/or enable it to come into effect.

40. SEVERABILITY

If any term, condition or provision contained in this Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality or enforceability of the remaining parts of this Agreement.

41. WAIVER

41.1 The failure of either Partner to enforce any of the provisions of this Agreement at any time or for any period of time shall not be construed to be a waiver of any such provision and shall in no matter affect the right of that Partner thereafter to enforce such provision.

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

42. ENTIRE AGREEMENT

This Agreement, the Schedules and the documents annexed to it or otherwise referred to in it contain the whole agreement between the parties relating to the subject matter of it and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

43. GOVERNING LAW AND JURISDICTION

Subject to clause 32, this Agreement any dispute or claim arising out of or in connection with it or its subject matter, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in accordance with the law of England and Wales, and the Partners irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement (including non-contractual disputes or claims).

44. FAIR DEALINGS

The Partners recognise that it is impracticable to make provision for every contingency which may arise during the life of this Agreement and they declare it to be their intention that this Agreement shall operate between them with fairness and without detriment to the interests of either of them and that if in the course of the performance of this Agreement, unfairness to either of them does or may result then the other shall use its reasonable endeavours to agree upon such action as may be necessary to remove the cause or causes of such unfairness.

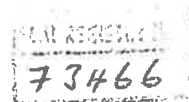
45. CONFLICTS OF INTEREST

45.1 Each Partner shall perform their obligations under this Agreement in the best interests of the other Partner, and shall notify the other Partner of any conflicts of interests as they arise during the Term.

46. COUNTERPARTS

This Agreement may be executed in one (1) or more counterparts. Any single counterpart or a set of counterparts executed, in either case, by both Parties shall constitute a full original of this Agreement for all purposes.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.



EXECUTED AS A DEED on behalf of the Authority

THE COMMON SEAL of PORTSMOUTH)
CITY COUNCIL was hereunto affixed in)
pursuance of a resolution of the Council)
passed at a meeting duly convened and held:-)

Authorised Signatory

EXECUTED AS A DEED on behalf of the Trust

THE COMMON SEAL of SOLENT NHS)
TRUST was affixed to this)
Deed in the presence of:-)



Schedule 6 Human Resources

1. STAFF DETAILS

- 1.1 A database exists which lists all of the seconded staff from the Authority to the Trust for it to manage and direct as a part of the arrangements. This database shall be held and updated by the HR Department of the Authority.
- 1.2 A database exists which lists all of the staff of the Trust for it to manage and direct as a part of the arrangements. This database shall be held and updated by the HR Department of the Trust.
- 1.3 The secondment agreement will be in place up to and including the 31st March 2016

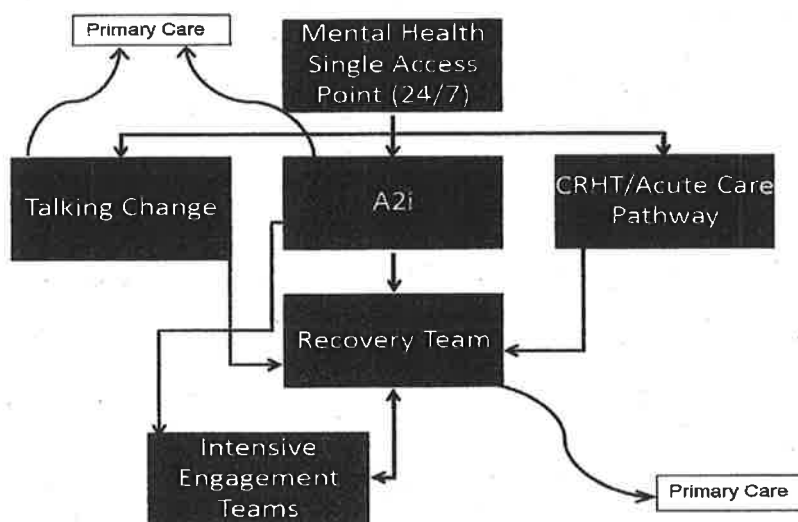
2. SECONDMENT ARRANGEMENTS

- 2.1 The seconded staff will have all seen and signed acceptance of the Secondment Agreement (Appendix 1).
- 2.2 The Trust will follow the employee organisation's policies and procedures for all seconded staff where those policies and procedures and any updates thereto have been notified to the Trust. Authority HR staff will provide support as necessary to execute these policies and the process of HR management.
- 2.3 The Trust will use its best endeavours to ensure that all managers of seconded staff attend management training and updates provided by the Authority especially in relation to the Authority's policies & procedures.
- 2.4 The Authority will ensure all seconded staff are kept informed and up-to-date with Authority policies and procedures applicable to them.

3. STAFF ROLES INCLUDED IN THE AGREEMENT

3.1 Table of posts currently included in the agreement (either currently employed or vacancies to be recruited to)

Access to services through Mental Health Single Point of Access



- Section 136 Place of Safety
- Care management of dual diagnosis (with substance misuse) clients

A full description of these services can be found in the Service Level Agreement which is subject to annual review.

2.5 The Services will be provided in a non-discriminatory manner, which is sensitive to the needs of, and accessible to, all sections of the local community, responsive to language and literacy difficulties and the cultural needs of the community.

2.6 The Services will be provided from a number of community bases as listed at paragraphs 7.1 and 7.2 of Schedule 5 and on an outreach basis

3. Access to Adult Mental Health Services

3.1 Access to Adult Mental Health Services (see Appendix 1)

Schedule 5 Service Specification

1. The Services will be provided for residents of Portsmouth City who are:-

- Ic
NL
- Adults (aged 18 – 65 years) who meet the eligibility criteria for any of the services described in Section 2.1
 - For the Early Intervention in Psychosis Service, the age eligibility criteria is 14 – 35 yrs
 - Existing service users over 65 years of age will receive services that are most appropriate for their health and social care needs irrespective of their age.

People living outside Portsmouth City but within Portsmouth Clinical Commissioning Group's registered GP population will continue to be provided with a service at no additional cost to the Authority.

2. The Services to be provided comprise of:

- Primary care screening assessment & short term interventions (provision of information, advice and signposting)
- Secondary care assessment and short-term interventions (up to 6 months)
- Management of those service users with complex needs, or high risk levels, via the Care Programme Approach
- Medication clinics and symptom & side effect monitoring
- Consultant led Outpatient Clinics
- 24 hour Crisis Resolution and home treatment, as an alternative to hospital admission.
- Housing related support: securing and sustaining accommodation
- Approaches to treatment delivery for people requiring "Assertive outreach"
- Evidenced based care delivery (up to 3 years duration) for those people at risk of developing psychosis who are between the ages of 14 and 35 and have had two or fewer episodes.
- Assessment, ongoing support and joint case holding with other secondary care services of Mentally Disordered Offenders i.e. anyone arrested for an offence and believed to be suffering from any form of mental disorder including mental illness, learning disability, acquired brain injury and personality disorder
- Personal and spiritual support to Service Users, carers / family and Staff, provided by facilitating links with community faith organisations.
- Community development focussing on improving mental health commissioning, access and outcomes for all ethnic communities
- Oakdene: rehabilitative inpatient unit
- The Orchards: intensive care and acute inpatient units
- Day treatment
- Mental Health Act Administration
- Psychological therapies in both individual and group settings
- Occupational therapy as part of integrated multidisciplinary teams
- Professional leadership in each key discipline (including Social Care Leadership)

Schedule 4 Excluded Functions

1. Excluded pursuant to the Regulations:
 - 1.1 The Trust Functions shall not include the following:
 - 1.1.1 surgery;
 - 1.1.2 radiotherapy;
 - 1.1.3 termination of pregnancies;
 - 1.1.4 endoscopy;
 - 1.1.5 the use of Class 4 laser treatments and other invasive treatments; and
 - 1.1.6 emergency ambulance services, and
 - 1.2 The Authority Functions shall not include any functions pursuant to the following:
 - 1.2.1 subject to Regulation 6(k) of the Regulations, sections 22, 23(3), 26(2) to (4), 43, 45 and 49 of the National Assistance Act 1948;
 - 1.2.2 section 6 of the Local Authority Social Services Act 1970;
 - 1.2.3 section 3 of the Adoption and Children Act 2002;
 - 1.2.4 sections 114 and 115 of the Mental Health Act 1983;
 - 1.2.5 section 17 of the 1983 Act; and
 - 1.2.6 Parts VII to IX and section 86 of the Children Act 1989,
- or any other functions that are specified in the Regulations as amended from time to time as being excluded from section 75 arrangements.
2. To avoid doubt, all functions that are not specified as either Trust Functions in Schedule 2 or as Authority Functions in Schedule 3 of this Agreement shall be Excluded Functions.
 3. For the purposes of this Schedule 4, reference to legislation and provisions within such legislation mirrors the references contained in the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 as at the Commencement Date, and shall be deemed to include any and all replacement and amending legislation and provisions as may come into force from time to time whether prior to or following the Commencement Date.

2.12 Where partners enter into arrangements under regulation 7(1) or 8(1) in respect of the provision of a service under any enactment mentioned in section 17(2)(a) to (c) of the 1983 Act, the function of charging for that service under that section;

2.13 the functions of local authorities under or by virtue of sections 2B or 6 (C) (1) of, or Schedule 1 to, the NHS Act 2006

2.14 Any such additional functions as may be:

2.14.1 specified in the Directions from the Secretary of State for Health and subject to the Secretary of State approving the transfer of the Functions described in this Schedule 3 to the Authority; or

2.14.2 agreed by the Parties from time to time to be Authority Functions for the purposes of this Agreement.

3 For the purposes of this Schedule 3, reference to legislation and provisions within such legislation mirrors the references contained in the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 as at the Commencement Date, and shall be deemed to include any and all replacement and amending legislation and provisions as may come into force from time to time whether prior to or following the Commencement Date.

Schedule 3 Authority Functions

1. The provisions of this Schedule 3 are subject to the provisions of Schedule 5 (Service Specification).
2. The Authority Functions comprise the making of arrangements for the provision of the Services, to the extent that such functions are relevant to and promote the welfare of the Service Users, and excepting the Excluded Functions listed in Schedule 4, specifically:
 - 2.1 The functions specified in Schedule 1 to the Local Authority Social Services Act 1970;
 - 2.2 The functions under sections 7 or 8 of the Disabled Persons (Services, Consultation and Representation) Act 1986 except in so far as they assign functions to a local authority in their capacity of a local education authority;
 - 2.3 The functions of providing, or securing the provision of recreational facilities under section 19 of the Local Government (Miscellaneous Provisions) Act 1976;
 - 2.4 The functions of local education authorities under the Education Acts as defined in section 578 of the Education Act 1996;
 - 2.5 The functions of local housing authorities under Part I of the Housing Grants, Construction and Regeneration Act 1996 and under Parts VI and VII of the Housing Act 1996;
 - 2.6 The functions of local authorities under section 126 of the Housing Grants, Construction and Regeneration Act 1996;
 - 2.7 The functions of waste collection or waste disposal under the Environmental Protection Act 1990;
 - 2.8 The functions of providing environmental health services under sections 180 and 181 of the Local Government Act 1972;
 - 2.9 The functions of local highway authorities under the Highways Act 1980 and section 39 of the Road Traffic Act 1988;
 - 2.10 The functions under section 63 (passenger transport) and section 93 (travel concession schemes) of the Transport Act 1985;
 - 2.11 Where partners enter into arrangements under regulation 7(1) or 8(1) in respect of the provision of accommodation under sections 21 or 26 of the 1948 Act, the function of charging for that accommodation under section 22, 23(2) or 26 of that Act;

Schedule 2 Trust Functions

1. The provisions of this Schedule 2 are subject to the provisions of Schedule 5 (Service Specification).
2. The **Trust Functions** comprise the making of arrangements for the provision of the Services, but only to the extent that such functions are relevant to and promote the welfare of the Service Users; and excepting the Excluded Functions listed in Schedule 4, specifically: -
 - 2.1 functions under sections 3, 3A and 3B of, and paragraphs 9 to 11 of Schedule 1, to the NHS Act 2006, including rehabilitation services and services intended to avoid admission to hospital;
 - 2.2 functions under sections 117 and 130A of the Mental Health Act 1983;
 - 2.3 functions under Schedule A1 of the Mental Capacity Act 2005;
 - 2.4 functions under section 12A(1) of the NHS Act 2006 (direct payments for health care) and;
 - 2.5 functions under regulation 2(7) of the NHS (Direct Payments) Regulations 2010 and
 - 2.6 any such additional functions as may be:
 - 2.6.1 specified in the Directions from the Secretary of State for Health and subject to the Secretary of State approving the transfer of the Functions described in this Schedule 2 to the Authority; or
 - 2.6.2 agreed by the Parties from time to time to be Trust Functions for the purposes of this Agreement.
3. For the purposes of this Schedule 2, reference to legislation and provisions within such legislation mirrors the references contained in the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 as at the Commencement Date, and shall be deemed to include any and all replacement and amending legislation and provisions that may come into force from time to time whether prior to or following the Commencement Date.

4.1 Key objectives for service improvement for Adult Mental Health shall include:

- Ensuring that service users with "lead professional" only involvement have a regular comprehensive assessment of their social care needs. (Audit sample size 50, bi-annually, compliance 90%)
- Care plans that include carers as partners in delivery should contain contingency plans that address the eventuality of carers being unable to provide this role. (Audit sample size 50, bi-annually, compliance 90%)
- Take up of direct payments and individual budgets to be raised to median ONS levels by April 2015.

5. Standards for Services

5.1 Standards for Services are as follows:-

- An agreed set of operational policies and procedures that will provide a robust framework for practice/service delivery
- All Staff will adhere to agreed clinical / practice policies. These will be agreed and implemented across both Partner organisations (where possible).
- Ensure the sustained delivery of "Essential Standards of Quality and Safety" (CQC 2010)
- To have a robust Clinical Governance framework to ensure the provision of high quality, safe Services.

6. Review

A strategic and financial annual review of these objectives will be coordinated by the s75 lead Manager in accordance with Clause 17 of this Agreement and incorporated in an Annual Report

3. Key Aims & Objectives

3.1 A service level agreement will be entered into between the Council and the Trust which will contain detailed service specifications of the range and type of Services to be provided and set out the key performance targets and outcome measures to be delivered (the 'Service Level Agreement'). These performance targets summarised below are the key aims and objectives of this Agreement:

- **Assertive Outreach:** To provide proactive, intensive and persistent contact and follow-up for Service Users who have a history of disengagement with Adult Mental Health services. (Target caseload of 76)
- **Crisis Resolution and Home Treatment:** To provide an assessment and intensive home treatment service for Service Users in mental health crisis to prevent acute admission. (Target of 379 home treatment episodes per year)
- **Early Intervention in Psychosis:** To provide treatment and interventions for people between the ages of 14 and 35 with a first episode of psychosis or those at risk of developing psychosis. (Target of 23 new cases per year)
- 95% of Service Users discharged from inpatient care receive face to face or telephone contact within 7 days of discharge
- 70% of service users have a care plan that demonstrates their choice and control over the service provided.
- 15% of service users have a carer recorded as having a carers assessment, where the outcome recorded is "service provided" or "advice given".
- 60% of adults on CPA have "settled accommodation" (MHMDS definition)
- 3% of adults on CPA will be recorded as being "in employment" (MHMDS definition).
- Delayed transfers of care for adults receiving inpatient services will remain below 7.5%.

4. Service Improvement Objectives

In addition to meeting all the requirements of the Service Level Agreement, the following service improvement objectives will be met. These will be reviewed and updated as part of the annual review process

- Ensure equality of access for all groups in the community, including socially excluded groups and black and minority ethnic communities
- To pro-actively encourage, facilitate and support the engagement and involvement of Service Users and carers in the planning, design and review of services
- To work in partnership with local agencies that provide:
 - ❖ Advocacy services
 - ❖ Employment, training and volunteering opportunities
- To work within a robust legal and governance framework to ensure the delivery of the key aims and objectives (listed in paragraph 3 of this schedule) and the service improvement objectives (listed in paragraph 4 of this schedule) of this Agreement

2. Principles and Approach to Delivery

2.1 The Principles and Approach to Delivery shall address the need for:-

- Developing a range of high quality services that meet the health and social care needs of the local population, as commissioned by NHS Portsmouth Clinical Commissioning Group and Portsmouth City Council.
- Providing the Services in a more co-ordinated way by enabling Staff to work within a single management structure for each Service, and by arranging provision from a single statutory provider
- The development of person centred care pathways for mental health and substance misuse based on models of recovery and the promotion of independence
- Care and treatment should be evidence based and monitored through robust clinical governance arrangements to ensure the effectiveness and quality of Service provision
- Clarity of provision and ease of access to specialist services for Service Users and carers
- Operating an appropriate single process to assess the needs of Service Users, to manage and deliver Services, and to eliminate duplication and anomalies in provision
- Ensuring the most efficient and effective use of resources

Schedule 1 Aims and Outcomes

1. Introduction: Description and Purpose of Agreement

1.1 The overarching strategic aim of this Agreement is:-

To ensure the integrated provision of high quality, cost effective mental health which meet local health and social care needs, through the establishment of a single line management structure whereby each party contributes staff and shared costs; under Section 75 of the National Health Service Act 2006 from 1st July 2013

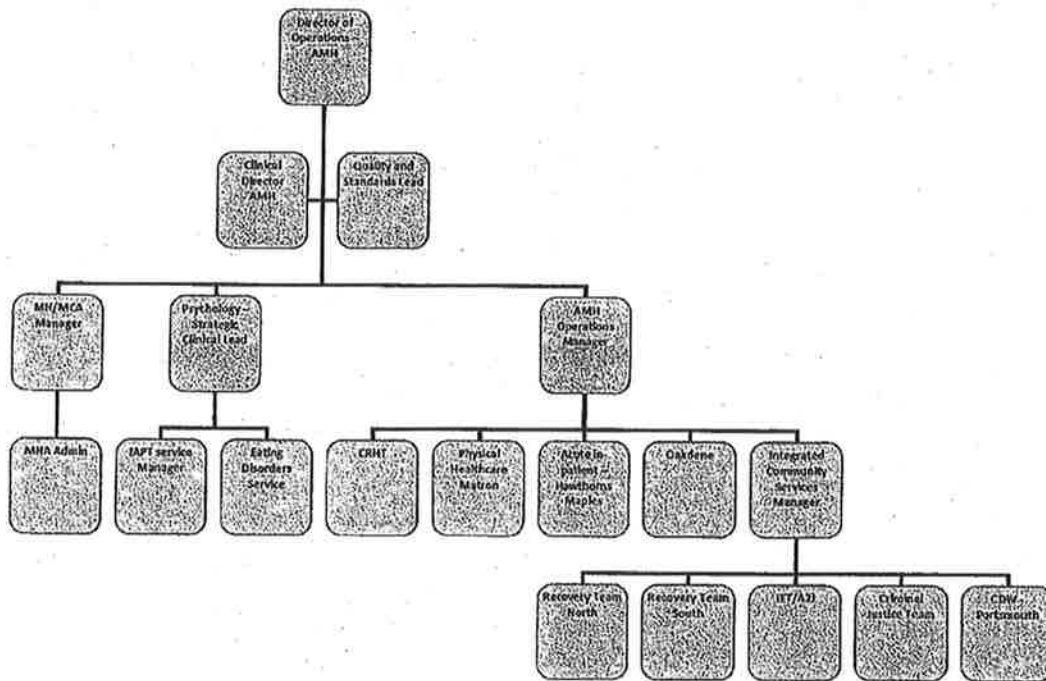
1.2 This will enable both parties of this Agreement to:

- Effectively assess, treat and support vulnerable adults with and mental health problems to improve their health, social and psychological functioning
- maximise the efficiency of mental health services for working age adults through integrated provision and the effective use of the resources committed by both parties under the terms of the Agreement
- To facilitate the delivery of "No Health without Mental Health" – Mental Health Outcomes Strategy, "Preventing Suicide in England", "The Adult Social Care Outcomes Framework", "Caring for our Future", "Think Local, Act Personal" and other national directives and policy as they emerge
- Improve the overall quality of Service provision in line with evidence based practice
- Ensure the provision of accessible Services, which are flexible and responsive to the needs of local Service Users
- Facilitate joint working and the seamless provision of Services through a single management structure
- Improve the strategic planning and delivery of Services in line with national and local policy, to meet commissioning priorities and deliver key performance targets
- Develop and deliver an integrated workforce strategy, and implement new ways of working in line with best practice
- To provide a comprehensive Staff training and development programme to ensure that Staff are appropriately trained and qualified to provide high quality, safe services, and have opportunities for continuous professional development and career progression.

ROLE	FTE	GRADE
TRUST EMPLOYED STAFF		
OPERATIONS DIRECTOR	1.0	8D
HEAD OF SERVICE	1.0	8C
PSYCHOLOGICAL THERAPIES STRATEGIC LEAD	1.0	8C
QUALITY AND STANDARDS LEAD	1.0	8B
IAPT CLINICAL AND SERVICE LEAD	1.0	8B
PHYSICAL HEALTHCARE MATRON	1.0	8A
MODERN MATRON	2.0	8A
CRHT MANAGER	1.0	8A
MHA/MCA LEAD	1.0	8A
TEAM/WARD MANAGERS	7.0	7
MEDICAL STAFF	13.75	
PSYCHOLOGISTS	20	7/8A
IAPT THERAPISTS	28.39	6/7
NURSES	80.5	5/6
OCCUPATIONAL THERAPISTS/ OT SUPPORT STAFF	20.54	3/4/5/ 6/7
HCSW/STR	56.95	2/3
ADMINISTRATIVE STAFF	32.81	2/3/4
TOTAL TRUST ESTABLISHMENT	269.94	

SOCIAL CARE SECONDED STAFF		
INTEGRATED TEAM MANAGER	1.0	
COMMUNITY DEVELOPMENT WORKERS	3.09	
QUALIFIED SOCIAL WORKERS	17.98	
SOCIAL CARE SUPPORT STAFF	2.22	
ADMINISTRATIVE	2.77	
TOTAL SOCIAL CARE ESTABLISHMENT	<u>27.06</u>	
TOTAL S75 STAFF	297	

3.2 Service Structure – s75



4. STAFF ROLES EXCLUDED FROM THE AGREEMENT

4.1 The delivery of the Approved Mental Health Practitioner (AMHP) role is specifically excluded from this agreement. Any practitioner employed or contracted by the council to undertake the AMHP role is not subject to secondment, nor included in the terms of this agreement for the periods of time that they are undertaking the AMHP function.

5. VARIATION TO THE STAFFING ESTABLISHMENT

5.1 The Partners may wish to vary the staffing establishment detailed in 4 from time to time.

5.2 Variations to the staffing establishment will be discussed and agreed by the Partnership Management Group and the Service Monitoring Group.

Appendix 1

DRAFT SECONDMENT AGREEMENT TO BE SIGNED BY STAFF MEMBER

Dear

CONFIRMATION OF SECONDMENT

I am pleased to confirm the details of your secondment to the post of {job title} based in the Integrated Adult Mental Health Service at the St Marys Community Campus / St James Hospital

This Secondment is entered as a consequence of an Agreement between the Portsmouth City Council ("the Council") and Solent NHS Trust dated 1 July 2013 under section 75 of the National Health Service Act 2006 ("the s75 Agreement") for the integration of adult mental health services. Portsmouth City Council has agreed to second their Employees to the Trust on the terms of this Agreement.

1. DETAILS OF SECONDMENT

1.1 With effect from 1st July 2013 Council shall second you to the Trust on the terms of this Agreement. Subject to earlier termination as provided for in this Agreement, the secondment will continue until the 30 June 2016 during the period of the s75 Agreement provided that you remain employed by the Council.

1.2 During the Secondment, you shall be located at (insert base) where you shall act and perform the duties as set out in your contract of employment with the Council. However it is recognised that in order to meet changes in service provision this location and role may change over time. You will be consulted in relation to any proposed changes to either location or role.

2. CONDITIONS OF SECONDMENT

2.1 Your Terms and Conditions of Employment with the Council shall remain in force during the Secondment period.

2.2 Your existing Job Description, a copy of which is attached, applies at present. Any changes will be subject to consultation with you and the Trade Unions.

2.3 Solent NHS Trust and the Council agree that you shall remain an employee of the Council at all times and shall not be deemed to be an employee of the Trust by virtue of the Secondment and shall not be entitled to any salary, pension, bonus or other fringe benefits of the Trust.

2.4 Your continuity of service with the Council will be preserved for both statutory and contractual purposes during the period of secondment

3 LEAVE

3.1 The Trust will inform the Council of any absence, including but not limited to sickness absence, industrial injury or other disability as soon as is reasonably practicable. It is your responsibility to follow the Council's sickness absence reporting procedures at all times.

3.2 You shall be entitled to holiday during the period of secondment in accordance with your terms and conditions of employment with the Council.

4 HEALTH AND SAFETY

Appendix 1

DRAFT SECONDMENT AGREEMENT TO BE SIGNED BY STAFF MEMBER

Dear

CONFIRMATION OF SECONDMENT

I am pleased to confirm the details of your secondment to the post of {job title} based in the Integrated Adult Mental Health Service at the St Marys Community Campus / St James Hospital

This Secondment is entered as a consequence of an Agreement between the Portsmouth City Council ("the Council") and Solent NHS Trust dated 1 July 2013 under section 75 of the National Health Service Act 2006 ("the s75 Agreement") for the integration of adult mental health services. Portsmouth City Council has agreed to second their Employees to the Trust on the terms of this Agreement.

1. DETAILS OF SECONDMENT

1.1 With effect from 1st July 2013 Council shall second you to the Trust on the terms of this Agreement. Subject to earlier termination as provided for in this Agreement, the secondment will continue until the 30 June 2016 during the period of the s75 Agreement provided that you remain employed by the Council.

1.2 During the Secondment, you shall be located at (insert base) where you shall act and perform the duties as set out in your contract of employment with the Council. However it is recognised that in order to meet changes in service provision this location and role may change over time. You will be consulted in relation to any proposed changes to either location or role.

2. CONDITIONS OF SECONDMENT

2.1 Your Terms and Conditions of Employment with the Council shall remain in force during the Secondment period.

2.2 Your existing Job Description, a copy of which is attached, applies at present. Any changes will be subject to consultation with you and the Trade Unions.

2.3 Solent NHS Trust and the Council agree that you shall remain an employee of the Council at all times and shall not be deemed to be an employee of the Trust by virtue of the Secondment and shall not be entitled to any salary, pension, bonus or other fringe benefits of the Trust.

2.4 Your continuity of service with the Council will be preserved for both statutory and contractual purposes during the period of secondment

3 LEAVE

3.1 The Trust will inform the Council of any absence, including but not limited to sickness absence, industrial injury or other disability as soon as is reasonably practicable. It is your responsibility to follow the Council's sickness absence reporting procedures at all times.

3.2 You shall be entitled to holiday during the period of secondment in accordance with your terms and conditions of employment with the Council

4 HEALTH AND SAFETY

4.1 The Trust shall ensure that you observe its health and safety policies and procedures and maintain a safe method of working. 4.2 As an employee, you are required under Section 7 of the Health and Safety at Work Act 1974, to take reasonable care for your own Health and Safety and that of others who may be affected by your acts or omissions at work.

CONFLICTS OF INTEREST

5.1 You must declare and seek agreement from the Council and your line manager regarding any interests, financial or otherwise, which may give rise to a conflict of interest during the course of the secondment. Such interests include other employment, business interests and positions of authority in a charity or voluntary body in the field of health and social care and in connection with a voluntary or other body contracting for NHS or Council services.

RESPONSIBILITY FOR RESOURCES

6.1 Where applicable: Where you are responsible for the management of Trust's budgets and/or the procurement of equipment and services you should follow the Trust's Financial Rules and associated procedures. You will need to ensure that you read and understand these fully prior to the secondment arrangements being implemented.

6.2 In undertaking such duties you should be mindful to ensure efficient and transparent financial management. This will include financial probity, the management of financial risk and achievement of value for money.

7 PAYMENT OF SALARIES AND EXPENSES

7.1 You will continue to be paid by the Council in accordance with your terms and conditions of employment for the duration of the secondment.

7.2 It is agreed that the Council shall be solely responsible for all income tax liability and National Insurance contributions or other statutory charges in respect of any payment to you for the provision of services to the Council under this Agreement.

7.3 Any salary increments applicable to your substantive post with the Council will continue to apply.

8 HUMAN RESOURCES SERVICES

8.1 After 1st July 2013 the Council will continue to provide advice to you on Council policies including but not limited to disciplinary, grievance, ill health, maternity leave and general terms and conditions of service.

8.2 The Council will be responsible for ensuring you are kept updated with all changes to Council policies and procedures, although this may be communicated to you through Trust staff.

8.3 During the Secondment Period, the Trust, in consultation with the Council's Human Resources Department shall implement the Council's policies and procedures in respect of you as an employee, so far as they comply with current employment legislation.

8.4 The Council authorises the Trust to take action in respect of you as an employee pursuant to the Council's Disciplinary Policy save for any action, which could result in your dismissal. In such circumstances the Council shall take appropriate steps in accordance with its Disciplinary Policy and Procedure.

8.5 The Trust may, should it consider necessary to do so, place you on special precautionary leave in accordance with the Council's Disciplinary Policy and in consultation

ACCEPTANCE

Please confirm your acceptance of the terms of the secondment set out above by completing and returning the acceptance form enclosed with this letter.

Yours sincerely

Appendix 2

SECONDMENT AGREEMENT

THIS SECONDMENT AGREEMENT is made on between: -

(1) Portsmouth City Council of Civic Offices, Guildhall Square, Portsmouth PO1 2EP ("The Employer")

(2) Solent NHS Trust Central Office, Adelaide Health Centre, William Macleod Way, Southampton SO16 4XE ("the Trust")

1. INTRODUCTION

1.1 This Secondment Agreement is entered into under section 113 of the Local Government Act 1972 as a consequence of an Agreement between the Employer and the Trust dated 1 July 2013 under section 75 of the National Health Service Act 2006 ("the s75 Agreement") for the integration of adult mental health services.

1.2 The Employer has agreed to second their Employees (as detailed in Appendix 1) to the Trust on the terms of this Secondment Agreement.

2 SECONDMENT

2.1 With effect from 1st July 2013 the Employer shall second the Employees to the Trust on the terms of this Secondment Agreement. Subject to earlier termination as provided for in this Secondment Agreement, the secondment will continue up to and including the 30 June 2016 ("the Secondment Period").

2.2 During the Secondment, the Employees shall be located at St James Hospital, Locksway Rd, or St Marys Community Campus, Portsmouth where he/she shall act and perform the duties as set out in the Employee's contract of employment with the Employer. However it is recognised that in order to meet changes in service provision this location and role may change over time. The Employees will be consulted in relation to any proposed changes to either location or role.

3 CONDITIONS OF SECONDMENT

3.1 The Employee's Terms and Conditions of Employment with the Employer shall remain in force during the Secondment Period.

3.2 The Employees' existing Job Description applies at present. Any changes will be subject to consultation with the Employee and Trade Unions.

3.3 The Employees shall remain an employee of the Employer at all times and shall not be deemed to be an employee of the Trust by virtue of the Secondment and shall not be entitled to any salary, pension, bonus or other fringe benefits of the Trust.

3.4 The Employees' continuity of service with the Employer will be preserved for both statutory and contractual purposes during the period of secondment.

4 LIABILITY AND INDEMNITIES

4.1 The Employer shall indemnify and keep indemnified, the Trust in relation to any claims, charges or liabilities for (including but not limited to) any income tax, Employee National Insurance or similar contributions (including costs interests and penalties), or other statutory charges or remuneration or other compensation arising from or in relation to the services by

the Employee under this Secondment Agreement or the Employee being found to be an Employee of the Trust or otherwise. The Trust agrees to notify the Employer of any such claims charges or liabilities received by the Trust.

4.2 The Trust shall not be liable for any act or omission on the part of the Employee during the Secondment and shall incur no liability for loss, damage or injury of whatever nature sustained by the Employee during the Secondment.

4.3 The Employer hereby indemnifies the Trust against any and all claims, liabilities, actions, proceedings, costs (including legal fees), losses, damages and demands arising out of or resulting from breach of this Secondment Agreement or any act or omission or default of the Employee including without limitation:

4.3.1 Any loss of or any damage to any property;

4.3.2 All financial loss;

4.3.3 Those resulting from any breach by the Employee of any intellectual property rights owned by the Employer or a third party;

4.3.4 Injury to or death of any person caused by any negligent act or omission or wilful misconduct of the Employee, whether resulting in material or financial loss or damages or death or injury to persons or any other loss or damage whatsoever;

4.3.5 Any and all liability arising from any breach of the provisions of the Data Protection Act 1998 by the Employee.

4.4 The Employer hereby indemnifies the Trust against any and all claims, liabilities, actions, proceedings, costs (including legal fees), losses, damages, demands, penalties, fines or expenses suffered or incurred by the Employer which are attributable to any act or omission by the Employer any other person for whom the Employer are liable arising out of:-

4.4.1 The employment or termination of employment of the Employee during the Secondment; or

4.4.2 The engagement or termination of engagement of the Employee under the terms of this Secondment Agreement during the Secondment; or

4.4.3 Any breach by the Employer of any collective agreement with a trade union, staff association or employee representatives in respect of the Employee including for the avoidance of doubt without limitation liability for personal injury, accident or illness suffered or incurred in whole or in part during the Secondment, breach of contract or in tort, unfair dismissal, redundancy, statutory redundancy, equal pay, discrimination of any kind or under any legislation applicable in the United Kingdom.

4.5 The Trust shall indemnify the Employer against any and all claims, liabilities, actions, proceedings, costs (including legal fees), losses, damages, demands, penalties, fines or expenses suffered or incurred by the Employer which are attributable to any act or omission by the Council or any other person for whom the Trust are liable arising out of:-

4.5.1 Any breach by the Trust of any collective agreement with a trade union, staff association or employee representatives in respect of the Employee

4.5.2 Any breach by the Trust of any disciplinary, grievance or other employee related rules and procedures during the Secondment including for the avoidance of doubt without limitation liability for personal injury, accident or illness suffered or incurred in whole or in part during the Secondment, breach of contract or in tort, unfair dismissal, redundancy redeployment costs, statutory redundancy, equal pay, discrimination of any kind or under any legislation applicable in the United Kingdom.

5 CONDUCT OF CLAIMS

5.1 If the Trust becomes aware of any matter that may give rise to a claim against the Employee and/or the Employer, notice of that fact shall be given as soon as possible to the Employer.

5.2 Without prejudice to the validity of the claim or alleged claim in question, the Trust shall allow the Employer and its professional advisors to investigate the matter or circumstance alleged to give rise to such claim and whether and to what extent any amount is payable in respect of such claim, and for such purpose, the Trust shall give subject to being paid all reasonable costs and expenses, all such information and assistance, including access to premises and personnel, and the right to examine and copy or photograph any assets, accounts, documents and records, as the Employer or its professional advisors may reasonably request provided that nothing in this clause shall be construed as requiring the Trust to disclose any document or thing the subject of any privilege. The Employer agrees to keep all such information confidential and only to use it for such purpose.

5.3 No admission of liability shall be made by or on behalf of the Trust and any such claim shall not be compromised, disposed of or settled without the consent of the Employer.

5.4 The Employer shall be entitled in its absolute discretion to take such action as it shall deem necessary to avoid, dispute, deny, defend, resist, appeal, compromise or contest any such claim or liability (including, without limitation, making counterclaims or other claims against third parties) in the name of and on behalf of the Trust and to have the conduct of any related proceedings, negotiations or appeals.

6 LEAVE

6.1 The Trust will inform the Employer of any Employee absence, including but not limited to sickness absence, industrial injury or other disability as soon as is reasonably practicable. It is the Employee's responsibility to follow the Employer's sickness absence reporting procedures at all times.

6.2 The Employee shall be entitled to holiday during the Secondment Period in accordance with the Employee's terms and conditions of employment with the Employer.

7 HEALTH AND SAFETY

7.1 The Trust shall ensure that the Employee observes its health and safety policies and procedures and maintains a safe method of working.

7.2 The Employee is required under Section 7 of the Health and Safety at Work Act 1974, to take reasonable care for his/her own Health and Safety and that of others who may be affected by his/her acts or omissions at work.

8 CONFLICTS OF INTEREST

8.1 The Employee must declare and seek agreement from the Employer and his/her line manager regarding any interests, financial or otherwise, which may give rise to a conflict of interest during the course of the secondment. Such interests include other employment, business interests and positions of authority in a charity or voluntary body in the field of health and social care and in connection with a voluntary or other body contracting for NHS or Council services.

9 RESPONSIBILITY FOR RESOURCES

9.1 **Where applicable:** Where the Employee is responsible for the management of Trust budgets and/or the procurement of equipment and services the Employee should follow the Trust's Financial Rules and associated procedures.

9.2 In undertaking such duties the Employee should be mindful to ensure efficient and transparent financial management. This will include financial probity, the management of financial risk and achievement of value for money

10. PAYMENT OF SALARIES AND EXPENSES

10.1 The Employee will continue to be paid by the Employer in accordance with the Employee's terms and conditions of employment for the duration of the secondment.

10.2 It is agreed that the Employer shall be solely responsible for all income tax liability and National Insurance contributions or other statutory charges in respect of any payment to the Employee for the provision of services by the Employee to the Trust under this Secondment Agreement.

10.3 Any salary increments applicable to the Employee's substantive post with the Employer will continue to be awarded by the Employer.

11 HUMAN RESOURCES SERVICES

11.1 Replacement of seconded staff

After 1 April 2013 the administrative services to support the recruitment and selection of seconded staff will continue to be undertaken by the Employer, supported by the Trust as appropriate.

11.2 Employee Relations

11.2.1 The Employer will continue to provide advice to the Employee on the Employer's policies including but not limited to disciplinary, grievance, ill health, maternity leave and general terms and conditions of service.

11.2.2 The Employer will be responsible for ensuring the Employee is kept updated with all changes in the Employer's policies and procedures, although this may be communicated to the Employee through Trust staff.

11.3 Policies and Procedure

11.3.1 During the Secondment Period, the Trust, in consultation with the Employer's Human Resources Department shall implement the Employer's policies and procedures in respect of the Employees, so far as they comply with current employment legislation.

11.3.2 The Employer authorises the Trust to take action in respect of the Employees pursuant to the Employer's Disciplinary Policy save for any action, which could result in the dismissal of an Employee. In such circumstances the Employer shall take appropriate steps in accordance with its Disciplinary Policy and Procedure.

11.3.3 The Trust may, should it consider necessary to do so, suspend Employees from duty in accordance with the Employer's Disciplinary Policy and in consultation with the Employer's Human Resources Department provided that such a suspension shall be notified to the Employer no later than the following working day.

11.3.4 The Employer authorises the Trust to deal with any grievances raised by the Employee against the Trust in accordance with the Employer's grievance policy. The Trust will notify the Employer of any grievances received by the Trust including those against the Employer within 3 working days or as soon as reasonably possible

11.3.5 For the avoidance of doubt, nothing in clause 11 shall be construed or have effect as construing any relationship of Employer or Employee between the Trust and the Employee.

11.4 Workforce Information

Workforce information regarding Employees will continue to be collected and retained by the Employer. However, it is recognised that the Trust will require data concerning the Employees in order to support the planning and delivery of services. The Employer in accordance with the format and deadlines identified by the Trust will provide this information as required.

12 MANAGEMENT DURING THE SECONDMENT

12.1 The Employee shall be supervised by and directly accountable to a designated line manager in the Trust's organisational structure during the secondment and where needed the Employer will provide access to professional supervision for qualified social workers.

13 PROFESSIONAL DEVELOPMENT

13.1 The Employer will work with the Trust to ensure the Employee's professional and developmental needs are identified and met. Performance Development Reviews, Performance Management processes, and training of the Employee will be undertaken by the Trust.

14 MANAGEMENT OF CHANGE

14.1 It is recognised that the Trust and the Employer in delivering and developing integrated continuing healthcare will face organisational restructuring and changes in employment levels. In the event that the Employees are affected by organisational change, the Trust and the Employer will ensure that changes happen following full consultation with his/her union representative and that changes comply with the Employer's employment policies.

15 DATA PROTECTION

15.1 The Employee and the Employer consent to the Trust holding, disclosing, using or otherwise processing any information about them which they provide to the Trust or which the Trust may acquire as a result of the Secondment.

15.2 The Employer and the Trust agree to protect any personal data held in relation to the Employee in accordance with the Data Protection Act 1998.

16 CONFIDENTIALITY

16.1 In addition to the provisions regarding confidentiality in the Employee's Contract of Employment, the Employee will not disclose during or after the secondment any confidential information to which the Employee became privy during the course of the secondment, including but not limited to all trade secrets, lists or details of customers, suppliers or patients, information relating to the working of any process or invention carried on or used by any subsidiary or associate, research projects, prices, discounts, mark-ups, future

business strategy, marketing, tenders, any price sensitive information, and any proprietary Council information.

17 TERMINATION

17.1 In the event of termination of the s75 Agreement howsoever arising, this Secondment Agreement will automatically terminate

17.2 The Employee may terminate the Secondment by giving not less than (one) months' notice in writing (or the Employee's contractual notice period if this is greater) to the Trust and the Employer. This will be taken as the Employee's intention to tender their resignation of their substantive post.

18 REVIEW AND VARIATION

18.1 This Secondment Agreement will remain the subject of periodic review and amendment as necessary in light of changing service needs and legislative developments.

18.2 The parties agree that any amendments or variations to this Secondment Agreement must be in writing and signed by authorised representatives of the parties

19 GENERAL

19.1 If any provision or term of this Secondment Agreement shall become or be declared illegal invalid or unenforceable for any reason whatsoever, including without limitation, by reason of provisions of any legislation or by reason of any decision of any court or other body having jurisdiction over the parties, such terms or provisions shall be divisible from this Secondment Agreement and shall be deemed to be deleted in the jurisdiction in question provided always that if any such deletion substantially affects or alters the commercial basis of this Secondment Agreement, the parties shall negotiate in good faith to amend and modify the provisions or terms of this Secondment Agreement as may be necessary or desirable in the circumstances.

19.2 This Secondment Agreement does not create any partnership or agency relationship between the Employer and the Trust.

19.3 This Secondment Agreement shall be in substitution for any previous letters of appointment, agreements or arrangements, whether written, oral or implied, relating to the Secondment of the Employee.

19.4 This Secondment Agreement shall be governed by and construed in accordance with English law. The Employer and the Trust agree that any dispute arising under this Secondment Agreement or in connection with it shall be decided in the English Courts, which shall have the sole jurisdiction in any such matter.

Schedule 7 - Information Sharing

1. The Partners shall comply with the latest version of the Pan Hampshire Information Sharing Protocol at all times.
2. The Partners have developed an Operational Agreement based on the template found within the Pan Hampshire Information Sharing Protocol which details the day to day processes for information sharing and the control of new information. The Operational Agreement is signed off by the Caldicott Guardian from each Partner, and any variations to it shall be agreed in writing. This Operational Agreement will be subject to local approval and reviewed on an annual basis or sooner if appropriate by the Authority's and the Trust's Information Governance Leads.
3. The Partners have developed a Privacy Impact Assessment based on the template found within the Pan Hampshire Information Sharing Protocol in relation to the sharing of the information relating to the Service.
4. It is agreed that:
 - The Trust will be the Data Controller for existing NHS data prior to the Commencement Date.
 - The Authority will be the Data Controller for existing social care data prior to the Commencement Date.
 - The Trust will be the Data Controller for new information collected by the new integrated team from the Commencement Date.
5. In the event of a breach of Data Protection Legislation by either of the Partners the relevant Partner responsible for the breach shall be liable for any fines imposed by the Information Commissioner's Office.

SCHEDULE 8 - GOVERNANCE ARRANGEMENTS

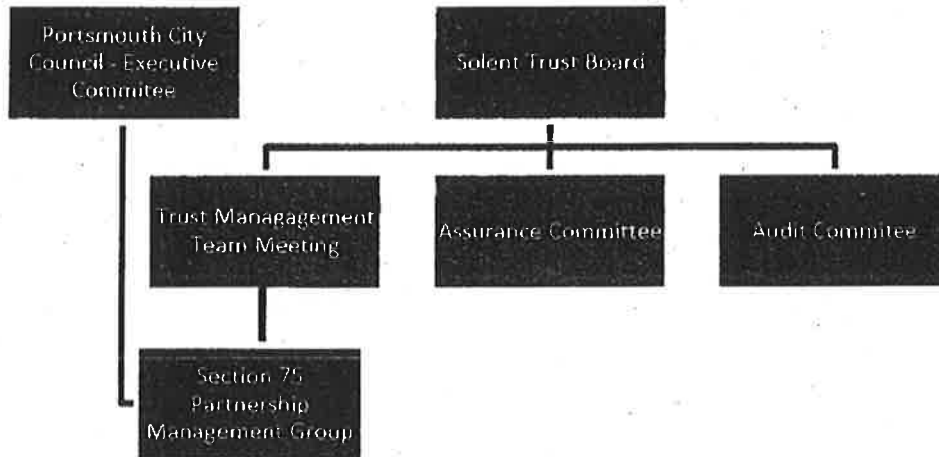
1. ACCOUNTABILITIES

- 1.1 Both Partners are equally accountable for the delivery of the Aims and Objectives (schedule 1) and the service specification and Key Performance Indicators (schedule 5)

2. PARTNERSHIP MANAGEMENT GROUP

- 2.1 The Agreement will be actively monitored by a Partnership Management Group (PMG).
- 2.2 The Partners will agree Terms of Reference for the PMG which will be reviewed annually.
- 2.3 The PMG will meet 4 times a year with senior representation from both partners.
- 2.4 The PMG will oversee the Partnership arrangements to ensure that the Aims and Objectives (schedule 1) set out in this agreement are met.
- 2.5 The delivery of the service specification and key performance indicators (schedule 5) will be actively monitored by the PMG
- 2.6 In the event that either Partner has concerns about the partnership arrangements, these concerns shall be escalated, in the first instance, for the Council to the Head of Adult Social Care and for the Trust to their Divisional Governance Meeting.
- 2.7 In the event that these concerns cannot be resolved through these escalation routes in 2.5, clause 31 will apply.

Section 75 Partnership Agreement Governance Arrangements



SCHEDULE 9 – FINANCIAL ARRANGEMENTS

The Trust's Financial Obligations

- 1.1 The Trust will pay within 30 days of receipt; all acceptable invoices issued by the Authority, with respect to costs incurred under section 2.1, 2.2 and 2.3 Schedule 9 of this agreement.

2. The Authority's Financial Obligations

- 2.1 The Authority will in accordance with the terms of the Secondment Agreement pay all salaries, expenses and other employment costs to and in respect of the Post Holders and any other and/or additional staff seconded to the Trust by the Authority from time to time for the purposes of the Partnership Arrangements in this Agreement (the "Seconded Staff Costs").
- 2.2 The Authority will pay to the Trust such sum as represents 50% of all expenditure incurred by the Trust in respect of the employment by the Trust of a Service Manager for the purposes of the Partnership Arrangements (the "Service Manager Costs")
- 2.3 The Authority will pay the Trust an additional sum to cover the costs incurred by the Trust in respect of the employment by the Trust of staff for the purposes of the Partnership Arrangements. This sum will be reviewed annually by the Partnership Management Group
- 2.4 The Trust shall send to the Authority an invoice at quarterly intervals specifying the Service Manager costs recharged in respect of the preceding quarter and such invoices will be payable by the Authority within 30 days of receipt by the Authority of an acceptable invoice.

3. Variation of the Trust's Financial Obligations and the Authority's Financial Obligations

- 3.1 Variations to the Trust's Financial Obligations and the Authority's Financial Obligations will be discussed and agreed by the Partnership Management Group and the Service Monitoring Group
- 3.2 Where the Partners are unable to reach agreement as in paragraph 3.1 of this schedule 9 the matter will be dealt with under clause 31



Portsmouth
CITY COUNCIL

Integrated Commissioning

Sarah Austin
Solent NHS Trust
Adelaide Health Centre
William Macleod Way
Southampton
SO16 4XE

Civic Offices
Great Western House
Guildhall Square
Portsmouth
PO1 2EP

Phone: 023 9268 8315
Fax: 023 9284 1185

3 June 2013

Dear Sarah

S75 Pooled Fund: 13/14 Contribution

As discussed the S75 pooled fund arrangements will end with effect from 1 July 2013. The integrated provision will continue with Solent as the lead provider (supported by the revised S75 agreement). PCC's contribution will be the agreed establishment of seconded staff plus a contribution to other key posts to be agreed.

For quarter 1, 2013/14 the pooled fund arrangements continue and I confirm that PCC's contribution for 13/14 full year effect is as follows.

	£
12/13	1,588,886.50
Less 6 Months AMHP	(226,986.00)
Less 13/14 Savings	(70,000.00) Full Year agreed between Rob & Matthew
Less Sub-Misuse Staff	(120,300.00) To be paid via PCC public health contract
13/14 Full Year	1,171,600.50

Yours sincerely

Suzannah Rosenberg
Head of Integrated Commissioning

c.c. Matthew Hall, Kim Wratten, Rob Watt, Neil Carstairs, Angela Dwyer

