

**DATED.....**

**(1) LONDON BOROUGH OF MERTON**

**And**

**(2) SOUTH WEST LONDON AND ST GEORGE'S MENTAL HEALTH NHS TRUST**

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**AGREEMENT**

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**S.75 NATIONAL HEALTH SERVICE ACT 2006  
PARTNERSHIP AGREEMENT**

**IN RESPECT OF INTEGRATED PROVISION  
FROM  
A POOLED FUND  
For Adult Mental Health Services**

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**THIS AGREEMENT** is made the

2014

**BETWEEN:**

- (1) **THE LONDON BOROUGH OF MERTON** (“the Council”) of The Civic Centre, London Rd, Morden SM4 5DX
- (2) **SOUTH WEST LONDON AND ST GEORGE'S MENTAL HEALTH NHS TRUST** of Springfield University Hospital, 61 Glenburnie Road, London SW17 7DJ.

**Herein referred to as the ‘Parties’**

**WHEREAS:**

- A This Agreement relates to the establishment of a pooled fund and integrated provision arrangement and a non-pooled fund for the purchase of Social Care services pursuant to Section 75 of the National Health Service Act 2006. For these arrangements, the Trust will take lead responsibility for the provision of the Service and will be the host of the Pooled Fund and will manage the non-pooled fund for the purposes of the Regulations. Consent has been given by the CCG for the Trust to enter into the Pooled Fund arrangements.
- B The purpose of this Agreement is to facilitate the provision of services to adults of a working age and older people with a mental illness in the manner and locations specified in this Agreement. The Service is within the powers of the Council and the Trust and is limited to eligible people for which the Council is responsible and for which the Trust is responsible. The revenue costs of the Service will be funded through the Pooled Fund.
- C The Service will be provided by the Trust, as lead provider, in exercise of both the Health Functions and Health Related Functions. The Service will be managed through the JMG to be established by the Parties comprising representatives from both organisations.
- D This Agreement follows consultation jointly by the Parties with such persons as appear to the Parties to be affected by these arrangements.

**IT IS AGREED AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 In this Agreement, except where the context otherwise requires, the following expressions shall have the meanings respectively ascribed to them:

“Act”	means the National Health Service Act 2006 (as amended);
“Agreement”	means this Agreement and any variation of it from time to time agreed between the Parties;
“Annual Summary”	means the list of policies of the Council insofar as it has a statutory duty to make such policy, that has an impact upon delivery of the Service;
“Annual Plan”	means the targets and objectives for the Service set out at Schedule 1 including a workforce plan, and the contributions of the Parties at Schedule 5 plus the Performance Framework at Schedule 6 of this Agreement which shall be reviewed and amended annually as part of the Annual Review set out at Clause 10 here;
“Arrangements”	means the arrangements described in this Agreement for the implementation by the Parties of pooled fund arrangements for integrated mental health service provision;
“Authorised Officers”	means the person notified by each of the Parties to the other from time to time as authorised to act on behalf of that Party for the purposes of this Agreement (which person shall until further notice be for the Council the Director for Adult Social Care of the Council from time to time and for the Trust the Chief Executive of the Trust from time to time);
“Cabinet Office Statement of Practice”	means the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector, published in January 2000;
“CCG”	means the Merton Clinical Commissioning Group or any other successor in title to those organisations' statutory functions;

“Client”	means any adult or older person with mental health requirements and for whom the Parties are responsible for the provision of services and who meet the agreed eligibility criteria set out at Schedule 3 and “Clients” shall be construed accordingly;
“Commencement Date”	means the 1st day of April 2014
“Commissioning Board”	means the NHS Commissioning Board, otherwise known as NHS England;
“Costs”	means salary costs and benefits costs forming the remuneration package but excluding any payments in connection with redundancy, reorganisation, termination of employment/secondment payments or any costs in relation to Employment Liabilities and TUPE liabilities;
“Council”	means the London Borough of Merton (and any successor to its statutory function);
“Employer”	means in respect of the Trust Staff and New Staff appointed by it, this is the Trust, and in respect of the Seconded Staff and New Staff appointed by it, this is the Council;
“Employment Liabilities”	means without limitation any and all costs, claims, fines, liabilities or expenses however arising from: <ul style="list-style-type: none"> <li>(a) The employment of any persons including any claim made by any third party arising out of or in connection with or in respect of the employment or engagement of any of the aforesaid persons,;</li> <li>(b) The termination of such employment;</li> <li>(c) The termination of any collective agreement;</li> </ul>

(d) Any dispute whether or not the subject of litigation in any court or tribunal which relates to such employment or collective agreement or their termination.

"Equality Legislation"

means the Equality Act 2010, Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000, Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and the Protection from Harassment Act 1997;

"Financial Year"

means the period from 1st April in any calendar year to 31<sup>st</sup> March in the following calendar year;

"FOIA"

means the Freedom of Information Act 2000 and all regulations made and guidance issued thereafter from time to time in force, including for the purpose of this definition the Environmental Information Regulations 2004;

"Health Functions"

means those of the Trust's statutory functions listed in Part 1 of Schedule 2 as are necessary to enable the Trust to provide the Service to the Clients and to manage the Pooled Fund in accordance with this Agreement. This definition is, however, subject to such limitations and exclusions as may be required by the Regulations or as may be agreed between the Parties from time to time;

"Health Related Functions"

means those of the Council's statutory functions listed in Part 2 of Schedule 2 as would, in the absence of this Agreement, be exercised by the Council for the purposes of providing the Service to the Clients. This definition is, however, subject to such limitations and exclusions as may be required by the Regulations or as may be agreed between the Parties from time to time;

“JMG”	means the joint management group to be constituted and responsible for the Service in accordance with the provisions of Schedule 6;
“Law”	<p>means:</p> <ul style="list-style-type: none"> <li>(a) any Act of Parliament or subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, and any exercise of the Royal Prerogative;</li> <li>(b) any enforceable community right within the meaning of Section 2 of the European Communities Act 1972;</li> <li>(c) any applicable guidance (including NHS Guidance and (where this is accepted by the Department of Health) BMA guidance), direction or determination with which the Trust or the Council is bound to comply to the extent that the same is published and publicly available or the existence or contents of them have been notified to the Trust by the Council;</li> <li>(d) any applicable judgment of a relevant court of law which is a binding precedent; in each case in the United Kingdom;</li> </ul>
“Lead Provider”	means the Trust, which has responsibility for undertaking the function of providing the Service to Clients in exercise of both Health Functions and Health Related Functions;
“New Staff”	means new or replacement staff to be appointed to fulfil the aims and objectives of this Agreement, as further set out in Clause 8;
“Non Pooled Fund ”	means the fund of monies provided by the Council for the Trust to manage and to be used for the purposes of purchasing Council health related care in connection with Health Related Functions;

“Parties”	means the Council and/or the Trust, and “Party” shall mean either one of them, as the case may be;
“Pool Manager”	means the person appointed by the Trust from time to time under Clause 7.2 to manage the Pooled Fund and the Non Pooled Fund;
“Pooled Fund”	means the joint fund of monies to be established and maintained by the Trust in accordance with the Regulations and this Agreement. This fund shall comprise contributions from both Parties and may be applied for the purpose of meeting the revenue costs of delivering the Service pursuant to this Agreement and in accordance with Pooled Fund arrangements as described in the Regulations;
“Quarter”	means the three month period beginning on each of 1 April, 1 July, 1 October and 1 January in each Financial Year and “Quarterly” shall be construed accordingly;
“Regulations”	means the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000, S.I. No. 617 as amended from time to time;
“Seconded Staff”	means the employees of the Council seconded to the Trust in accordance with Clause 8 and identified in Schedule 4 and subject to the Secondment Agreement which is contained in Schedule 4;
“Secondment Agreement”	means the agreement between the Council and the Trust as appended to Schedule 4 for the terms relating to the Seconded Staff;
“Service”	means the provision of services including assessment of needs using Single Assessment to Clients in the manner and locations specified in Schedule 3 and Schedule 5 and delivered through the management of the integrated staff teams as



identified in schedule 4. For the avoidance of doubt, the definition of "Service" does not include AMHP functions, responsibility for which will be retained by the Council;

"Single Assessment" means the formal process of single assessment operated by the Council and the Trust jointly of prospective Clients, integrating the principles and process of the Care Programme Approach with care management arrangements and in accordance with the National Service Framework for Mental Health and /or such alternative or additional guidance or directions relevant to the Service as may be issued to the Council or the Trust in the future;

"Staff" means the Trust Staff and the Seconded Staff who are responsible for assessing and/or providing care to Clients as part of the Service. This shall be limited to those employees of the Council and the Trust who are or were immediately before the Commencement Date employed by one of the Parties and assigned to the Service or any replacement or additional employees of the Council and the Trust so assigned.

"Trust" means South West London and St George's Mental Health NHS Trust (and any successor to its statutory function).

"Trust Staff" means the employees of the Trust that shall carry out the Health Functions element of the Service, as more particularly set out in Clause 8;

"TUPE" means the Transfer of Undertakings (Protection of Employment) Regulations 1981 and/or 2006 (and subsequent amendments to those Regulations).

"TUPE liabilities" means the obligations which may arise with respect to the transfer of such employment under TUPE and any other statute or statutory provision which may from time to time implement or purport to implement

the Acquired Rights Directive (2001/23/EC) as the same may be amended from time to time including without limitation those obligations under Regulation 10 of TUPE 2006 and Regulation 5 of TUPE 1981;

- 1.1.2 Save to the extent that the context or the express provisions of this Agreement otherwise require;
- 1.1.3 obligations undertaken or to be undertaken by more than a single person shall be made and undertaken jointly and severally;
- 1.1.4 words importing any gender include any other gender and words in the singular include the plural and words in the plural include the singular;
- 1.1.5 references to any statute, statutory provision or statutory guidance shall be deemed to refer to any modification or re-enactment thereof for the time being in force whether by statute or by directive or regulation which is intended to have direct application within the United Kingdom and has been adopted by the Council of European Communities;
- 1.1.6 headings and index are inserted for convenience only and shall be ignored in interpreting or in the construction of the terms and provisions of this Agreement;
- 1.1.7 references in this Agreement to any Clause or Sub-Clause or Schedule without further designation shall be construed as a reference to the clause or sub-clause of or schedule to this Agreement so numbered;
- 1.1.8 all obligations on the Parties shall be a direct obligation or an obligation to procure as the context requires;
- 1.1.9 any reference to "indemnity" or "indemnify" or other similar expressions shall mean that the relevant party indemnifies, shall indemnify and keep indemnified and hold harmless the other party; and
- 1.1.10 any reference to a person shall be deemed to include any permitted transferee or assignee of such person and any successor to that person or any person which has taken over the functions or responsibilities of that person but without derogation from any liability of any original party to this Agreement.

## **2. TERM**

2.1 This Agreement shall commence on the Commencement Date and shall continue from year to year subject to earlier termination in accordance with the terms of this Agreement and subject to a formal 5 yearly review in accordance with Clause 10.4 of this Agreement.

2.2 This Agreement may be terminated:

2.2.1 on not less than 6 months and not more than 12 months' written notice by either Party to the other or at a date mutually agreed by the Parties; or

2.2.2 in accordance with Clause 11 or Clause 15.2 below.

## **3. AIMS AND OBJECTIVES**

3.1 The aims and objectives of this Agreement are set out in Schedule 1.

## **4. CONTRIBUTIONS**

4.1 The Trust's contribution to the Pooled Fund for the period from 1 April 2014 to 31<sup>st</sup> March 2015 will be £ £2,765,000.

4.2 The Council's contribution to the Pooled Fund for the period from 1 April 2014 to 31<sup>st</sup> March 2015 will be £ £1,684,000.

4.3 The Council's contribution to the Non Pooled Fund for the period from 1 April 2014 to 31<sup>st</sup> March 2015 will be £ £1,220,000.

4.4 Invoicing between the Parties will happen monthly in arrears with invoices settled 30 days from the date of invoice.

4.5 The Parties will not make unilateral reductions to their investment levels in the Pooled Fund in any one Financial Year. All such proposals for change will be considered by the JMG and will be subject to the terms for Review and Variation at Clauses 10 and 13.

4.6 The Council may make variations to the contribution identified at Clause 4.3 subject to notice in writing to the Trust of one month.

4.7 In future Financial Years the Parties shall agree their contributions to the Pooled Fund and the Non Pooled Fund in accordance with Clauses 10.6 to 10.9. Following such

agreement, Schedule 5 will be revised annually by the Pool Manager and approved by the Parties for operation and reporting purposes.

4.8 The Trust shall be solely responsible for reimbursing the Pooled Fund and Non Pooled Fund in respect of expenditure from the Pooled Fund and Non pooled Fund arising from the fraudulent misappropriation of funds from within the Pooled Fund and Non Pooled Fund and the Trust shall indemnify the Council for any costs, liabilities and actions which may arise from the fraudulent misappropriation of funds from within the Pooled Fund and Non Pooled Fund, except in both cases where such misappropriation of funds arises from the acts or omissions of Council Staff. The Council shall immediately notify the Trust on becoming aware of such costs, liabilities and actions and shall use reasonable endeavours to mitigate the same.

4.9 The Council shall make available to the Trust the Seconded Staff to work in the form and manner set out at Schedules 3 and 4 to this Agreement, the Costs of such Seconded Staff being funded from the Pooled Fund.

4.10 The Council shall make available for use by the Trust in support of the Service but for the avoidance of doubt not to be a part of the Pooled Fund and Non pooled Fund, the goods, services and any premises set out at Schedule 5 to this Agreement.

4.11 The Trust shall make available in support of the Service the Trust Staff to work in the form and manner set out at Schedules 3 and 4 to this Agreement, the Costs of such Trust Staff being funded from the Pooled Fund.

4.12 The Trust shall make available in support of the Service but for the avoidance of doubt not to be a part of the Pooled Fund and Non Pooled Fund, the goods, services and any premises set out at Schedule 5 to this Agreement.

## **5. NHS FUNCTIONS AND HEALTH-RELATED FUNCTIONS**

5.1 For the purpose of these Arrangements, it is agreed that the Council will delegate its Health Related Functions to the Trust and that the Trust will exercise these functions in conjunction with its Health Functions for the purposes of fulfilling its obligations as Lead Provider and Pool Manager under this Agreement.

5.2 The Arrangements set out in this Agreement shall not affect (i) the liabilities of the Parties to any third parties for the exercise of their respective functions or (ii) the power or duty to recover charges in respect of services provided in the exercise of the Health Related Functions.

## **6. THE SERVICE AND ITS OPERATION**

- 6.1 The Service shall be provided to the Clients in accordance with the provisions of Schedules 3 and 4 and shall be funded from the Pooled Fund. The Non Pooled Fund will be used to support the Service through the purchase of additional Council health related care in connection with Health Related Functions;
- 6.2 The eligibility of Clients to receive the Service and any additional health related care shall be assessed in accordance with the provisions of Schedule 3.
- 6.3 The parties agree that for these purposes that any of the Staff making a protected disclosure (as defined in Sections 47B and 103A of the Employment Rights Act 1996) shall not be subjected to any detriment. The Parties declare that any provision in an agreement purporting to preclude the Staff from making a protected disclosure is void
- 6.4 The Trust shall comply with all statutes and statutory regulations and directions relating to the provision of the Service and in particular, but without limitation, shall ensure that the Service complies with any national minimum standards under the National Service Framework for Mental Health and any other relevant legislation from time to time in force and the terms of any agreements it already holds with the CCG and/or the Commissioning Board in so far as the Service referred to in this Agreement here are the same.
- 6.5 The Trust shall provide care for Clients in accordance with Schedule 3 and where unable to provide that care directly shall secure the care for Clients through a service contracted on behalf of Clients by itself, the Council, the CCG and/or the Commissioning Board in a form that complies with all necessary legislation and the agreed needs of the Clients according to the outcome of the Single Assessment.
- 6.6 The Trust shall ensure that in undertaking the duties at Clause 6.5, and in making any decision with respect to a Client, due consideration is given to the Client's gender, age, sexual orientation, religious persuasion, racial origin and cultural and linguistic background, with reference to Equality Legislation and the Human Rights Act 1998 , where appropriate.
- 6.7 The Council shall ensure the provision of the Council Staff necessary for the provision of the Council element of the Single Assessment process and the Trust shall ensure the provision of the Trust Staff and accommodation

necessary for the provision of the local NHS care element of the Single Assessment Process and the delivery of the Service.

- 6.8 The Council will provide to the Trust the Annual Summary on 1<sup>st</sup> April of each year.
- 6.9 The management of the Service and these Arrangements will be the responsibility of the JMG whose Terms of Reference are set out in Schedule 6.
- 6.10 The governance arrangements shall be as set out in Schedule 6 to this Agreement.
- 6.11 The Parties shall as of the Commencement Date have in place an information sharing protocol which both shall adhere to in relation to the sharing and processing of data.

## **7. POOLED FUND AND NON POOLED FUND MANAGEMENT**

- 7.1 In accordance with these Arrangements, the Parties have agreed to establish a Pooled Fund for revenue expenditure on the Service and a Non Pooled Fund in support of the Service. The Trust has been appointed as host of the Pooled Fund and the Non Pooled Fund for the purposes of the Regulations and shall be responsible for appointing a Pool Manager in accordance with Clause 7.2. Contributions to the Pooled Fund and the Non Pooled Fund shall be agreed and paid in accordance with Clause 4.
- 7.2 The Pool Manager shall be the Service Manager or such officer of the Trust as the Trust may from time to time nominate for this role and who has been approved by the Council (such approval not to be unreasonably withheld) and who has been affirmed in the role by the JMG within 30 days of the Council's approval or (in any other case, including where approval from the Council and/or affirmation from the JMG is not forthcoming) the Director of Finance of the Trust.
- 7.3 The Pool Manager shall be accountable directly to the Director of Operations of the Trust and who shall account to Chief Executive of the Trust who shall be the 'Authorised Officer'.
- 7.4 The Pool Manager shall be responsible for authorising payments from the Pooled Fund and the Non Pooled Fund and the Trust shall make such payments from the Pooled Fund and Non Pooled Fund in order to provide and support the Service, as set out in the Schedules.

- 7.5 The Pool Manager shall be responsible for managing the budget of the Pooled Fund and the Non Pooled Fund and forecasting and reporting to the JMG upon the targets and information in accordance with Schedules 1, 5 and 6 and any further targets or performance measures that may be set by the JMG from time to time.
- 7.6 The Pool Manager shall arrange for the audit of the Pooled Fund and report to the Authorised Officers on behalf of the Council and the Trust in accordance with the requirements of the Regulations and clause 7.7 below. The Council's Authorised Officer shall in turn ensure reporting on the same to the officer of the Council responsible for the administration of its financial affairs under section 151 of the Local Government Act 1972.
- 7.7 The Pool Manager shall submit to the Parties Quarterly reports as soon as possible after the end of each Quarter but in any event within twenty (20) days of the end of each Quarter and an annual return following the end of each Financial Year in accordance with the Regulations, statutory and local deadlines and requirements regarding the income of and expenditure from the Pooled Fund and Non Pooled Fund, reports on performance against budget and targets and other information by which the Parties can monitor the effectiveness of the Pooled Fund and Non Pooled Fund arrangements.
- 7.8 The Pool Manager shall maintain and provide information in the form and manner set out in Schedules 5 and 6 for so long as any part of the Service is being provided to Clients including in accordance with Clause 12, notwithstanding any notice of termination in accordance with Clause 11.
- 7.9 Each Party shall pay its own costs and expenses incurred from time to time in the negotiation and management of this Agreement, save as expressly otherwise provided in this Agreement (including, without limitation the functions described at Schedule 6 to this Agreement).
- 7.10 The costs of audit associated with the certification of the annual return for operation of this Agreement and the costs of provision of information by the Pool Manager following a notice of termination shall be a charge to the Pooled Fund.
- 7.11 Overspend/Underspend
- 7.11.1 The Pool Manager shall notify the JMG within 10 working days of any projection of an overspend or an underspend in respect of the Pooled Fund or

Non Pooled Fund, during which time the Pool Manager shall take reasonable steps to verify such a projection of an overspend or an underspend.

- 7.11.2 Whenever an overspend is projected in the Pooled Fund or Non Pooled Fund and notified to the JMG in accordance with Clause 7.11.1 the JMG shall prepare a joint plan agreeing how to manage the overspend in order to achieve financial balance of the Pooled Fund, and the JMG shall keep the position under review. The JMG shall act in good faith and in a reasonable manner in agreeing the management of the overspend.
- 7.11.3 Whenever an underspend is projected in the Pooled Fund or Non Pooled Fund and notified to the JMG in accordance with Clause 7.11.1, the JMG may agree to the redeployment of that underspend against any plans and targets agreed by JMG or in the absence of Agreement that the money shall if a surplus in the Pooled Fund be retained as a contingency in the Pooled Fund. Where there is a forecast over spend during the year on the Pooled Fund or Non Pooled Fund which exceeds £100,000, the Pooled Fund manager will prepare an Over Spend control report to the JMG which sets out reasons for the over spend and actions being taken to reduce this.
- 7.11.4 If at the end of any Financial Year an overspend or underspend in respect of the Pooled Fund is outstanding, including following the actions taken by the JMG pursuant to clauses 7.11.2 and/or 7.11.3, the JMG shall identify the reasons for the overspend or underspend and the overspend or underspend shall be apportioned between the Parties in proportion to their contributions to the Pooled Fund in that Financial Year..
- 7.11.5 A deficit in the Non Pooled Fund will be the sole responsibility of the Council only insofar as it has authorised any such additional spend prior to its expenditure by the Trust.
- 7.11.6 The benefit of any surplus in the Non Pooled Fund at the end of any Financial Year shall be returned to the Council unless otherwise agreed in accordance with any plan approved by the JMG.
- 7.11.7 In the event that agreement cannot be reached in respect of any matters referred to in Clause 7.11 the Parties shall follow the dispute procedure as set out in Clause 15.

## **8. STAFFING**

- 8.1 The Parties have in the spirit of integrated service provision and good employee relations agreed to the Personnel, Management Structure and



Service Governance terms set out at Schedule 4 (the "Protocol") pursuant to which (in addition to the terms of this Clause 8 (Staff)) the Trust Staff and the Seconded Staff (herein after referred to as the Staff) shall be managed. Furthermore, any New Staff shall be similarly subject to the Protocol. The Protocol is a statement of intent and shall not be legally binding. The Parties shall use their best endeavours to comply with the provisions of the Protocol.

- 8.2 The Council shall second the Seconded Staff for the purposes of the Arrangements. A full list of the staff fulfilling these roles as at the Commencement Date and any other information as may be required by Law will be provided to the Trust by the Council and the full list shall be amended for notification to the Trust whenever new staff are appointed by the Council which are to be subject to any secondment to the Trust under the terms of this Agreement.
- 8.3 The Parties have agreed that, subject to having consulted and obtained their written consent to the terms of the secondment, the Council Staff will remain in the employment of the Council after the Commencement Date and be seconded to the Trust on their existing terms and conditions as varied to give effect to the secondment and as set out at Clause 8.9 (the "Seconded Staff").
- 8.4 The Seconded Staff will be seconded on the terms set out in the Secondment Agreement or such other terms as the Parties may agree from time to time.
- 8.5 The JMG may consider at any time the suitability of the Secondment Agreement to fulfilling the aims and objectives of the Agreement and which shall be subject to review as at 10.3 below, annually.
- 8.6 The Trust Staff and the Seconded Staff referred to in Clauses 8.1 and 8.2 shall continue to be:
  - 8.6.1 employed by the Party employing them at the date of this Agreement on their existing terms and conditions immediately prior to the commencement date, save as varied in accordance with Clause 8.9, and
  - 8.6.2 bound by all contractual policies that were applicable to their employment immediately before the Commencement Date and as varied from time to time.
- 8.7 Both Parties warrant to each other in respect of the Staff which each Party makes available for the Service, that they have carried out all employment and regulatory checks reasonably required of them as employers and, for the

Trust as an NHS body, such as registrations, police checks or applications for a Disclosure from the Disclosure and Barring Service as may be required.

- 8.8 Both Parties warrant to each other in respect of the Staff for which they are the Employer that the Staff have all relevant qualifications and professional registrations required to perform the Services.
- 8.9 The provision of Staff for the Arrangements shall be on the basis of the terms set out in this Clause 8, the Protocol and/or such other terms as the Trust and the Council may agree from time to time. The terms and conditions of employment of any such Staff who are made available may only be varied insofar as this is necessary to give effect to their being made available, or as may be required to honour changes in the Council pay, Agenda for Change, and other national agreements such as NHS pay awards or other obligations required by Law (including but not limited to variations to hours or work patterns in response to flexible working requests or staff returning from maternity leave).
- 8.10 The Policies, Code of Conduct, and Rules and Regulations which are operative in relation to Staff shall be agreed by the Parties (the "Agreed Policies").
- 8.11 If after the date of the Agreement any of the Staff gives or receives notice of termination of their employment, or the employment of any Staff otherwise terminates, the employer of the affected Staff shall advise the other Party forthwith.
- 8.12 The employer of the Staff shall be released from its obligations to make Staff available for the purposes of this Agreement whilst the Staff are absent:
- 8.12.1 by reason of industrial action taken in contemplation of a trade dispute; and/or,
- 8.12.2 by reason of an act or omission of the other Party; and/or;
- 8.12.3 as a result of the suspension or exclusion of employment or secondment of any Staff by their employer; and/or
- 8.12.4 in accordance with their respective terms and conditions of employment and policies, including, but not limited to, by reason of training, holidays, sickness, injury, trade union duties, paternity leave or maternity or where absence is permitted by Law; and/or

- 8.12.5 if making the Staff available would breach or contravene any Law;  
and/or
  - 8.12.6 as a result of the cessation of employment of any individual Staff;  
and/or
  - 8.12.7 the termination of an individual secondment.
- 8.13 During the Agreement Term, the Trust and the Council agree to:
- 8.13.1 promptly notify the other Party upon becoming aware of any act or omission by any Staff which may constitute a material breach of the contract of employment of the Staff and/or which may prejudice either Party, to allow the Employer to promptly take such lawful action as may be required.
  - 8.13.2 promptly notify the employing Party and provide a copy within one week of any notice of resignation of employment or written grievance received in respect of any Staff or any Staff whose employment has terminated, where such documents are received by the other Party;
  - 8.13.3 consult and co-operate with the other Party as often as may be necessary in relation to the management, training, appraisal and monitoring of the Staff including cooperating in relation to any grievance, disciplinary or capability matters which may arise with respect to Staff;
  - 8.13.4 supply to the other Party such information and documents as may be reasonably required to enable the Party to fulfil its obligations under the Agreement (subject to compliance with the Data Protection Act 1998);
  - 8.13.5 manage the Staff in accordance with the provisions of the Agreement including providing such supervision and training as may reasonably be required in order to ensure the proper performance of the Services required by the Arrangements;
  - 8.13.6 use the Staff only for the delivery of the Service required by this Agreement;
  - 8.13.7 comply with its common law and statutory obligations in relation to the provision of a safe workplace for the Staff including, but not

limited to, health and safety, occupier's liabilities and any codes of practice introduced pursuant to such legislation;

8.13.8 take no action with respect to Staff which would be contrary to the other Party's policies and procedures regarding prevention of discrimination and promotion of equal opportunities, including those related to bullying and harassment.

8.14 In this paragraph, "duties" means those duties which the Staff are made available to the Trust or the Council to perform. During the Agreement the Trust and the Council shall take all reasonable steps to ensure the Staff shall:

8.14.1 devote the whole of their time attention and skill to their duties for the Party to whom they are made available;

8.14.2 faithfully and diligently perform duties and exercise such powers as may from time to time be reasonably assigned to or vested in them by or under the authority of the Party to whom the Staff are made available;

8.14.3 perform all duties assigned to them by the Party to whom they are made available.

8.15 During the Agreement the Trust and the Council agree to the following arrangements regarding the management, appraisal and training of the Staff:

8.15.1 the Staff will be managed and directed by and be directly accountable to the person who is shown as their line manager in the relevant structure chart, regardless of whether that person is Seconded Staff or Trust Staff;

8.15.2 The Trust and the Council shall take all reasonable steps to ensure that Staff obey all reasonable and lawful directions given to them by or under authority of such manager and shall use their best endeavours to promote the interests of the employer and the non-employing Party. Such manager shall also direct working arrangements, rosters, agree annual leave, special leave etc. in a manner which is consistent with the terms and conditions of employment of the Staff.;

8.15.3 the Trust will be responsible for ensuring the appraisal and appropriate management, including professional supervision, of all Staff. Such appraisal will be conducted by the identified line

manager in accordance with the agreed appraisal policies and procedures and professional supervision will be offered according to arrangement to be agreed by the JMG and reviewed annually. In the case of the appraisals of Seconded Staff, information and copies of any documents relating to such appraisals shall be provided to the Council by the Trust following the appraisal, as required;

8.15.4 the Council will provide the Trust with details of existing mandatory training obligations relating to and to be undertaken by individual Council Staff (including cost). The Trust and the Council will agree to a programme of continued and future training to be provided by each of the Trust and the Council to Staff, and to be agreed by the JMG Annually as a part of Annual review including any transfer of costs and funding relating to such training;

8.15.5 the Trust will be responsible for all required training relating to policies applicable to Staff, which shall include, without limitation Health and Safety and Risk Management. The Trust shall indemnify the Council in respect of any failure or negligence with respect to the provision of the aforementioned training to the Seconded Staff and any claims, expenses and costs arising out of the same;

8.15.6 the Trust and Council will identify future requirements for training relating to continued professional development ("CPD Training") required by Staff, including any registration requirements. The Parties anticipate that the need for such training will be identified through the management and appraisal process which is to be conducted by the Trust in accordance with clauses 8.16.1 and 8.16.2 hereof;

8.15.7 the Parties agree that CPD Training provided through the Council will continue to be available to Seconded Staff. The Trust and the Council will agree a schedule of continued and future CPD and social care practice Training to be provided by each of the Trust and the Council, including any transfer of costs and funding relating to such training.

8.16 Where it is necessary for the purposes of either Party's personnel procedures for a member of Staff employed or contracted by the other Party to co-operate with the operation of any discipline or grievance procedures or any other employment procedure, the employing Party shall use all reasonable endeavours to ensure that such co-operation is forthcoming. For avoidance

of doubt such co-operation shall include any assistance which may reasonably be required by a Party in the event of any proceeding being brought by any Staff relating to matters which are the subject matter of this Agreement.

- 8.17 Each Party shall be paid from the Pooled Fund for all Employment Liabilities in respect of the Staff incurred or payable during the continuation of this Agreement save for in respect of Employment Liabilities where such Employment Liabilities arise from any act or omission of a Party in breach of: (i) this Agreement; (ii) any relevant contract of employment; and/or (iii) any Law (including without limitation any failure of a Party to meet any obligations to provide adequate training to its Staff or a failure to ensure its Staff comply with any supervision, management, direction or instruction of the other Party in accordance with this Agreement).
- 8.18 Each Party shall be responsible for all emoluments and outgoings in respect of the Staff employed by them (or who were so employed immediately prior to the Commencement Date) including without limitation all wages bonuses commissions holiday entitlements PAYE National Insurance contributions statutory or contractual redundancy payments and pension contributions including any early retirement benefits or entitlements incurred or payable prior to, during the continuation of, or following the termination of this Agreement and each Party shall indemnify the other in respect of any claim, finding or award made in respect of the same.
- 8.19 The JMG may consider that it is necessary for new or replacement staff ("New Staff") to be appointed in order to fulfil the aims and objectives of the Agreement. Where this is the case, the JMG shall agree the arrangements for recruitment and appointment of New Staff at that time. Any such recruitment will be coordinated by the Trust.
- 8.20 The parties agree to work co-operatively towards the greater integration of service provision by any means including considering the opportunities for Staff to transfer within and between the parties PROVIDED ALWAYS that this clause shall not bind the parties to enter into such arrangements nor shall it indicate that any such transfer has been deemed by the parties to have taken place. All appointments shall be recorded for use in connection with Clause 12.7.
- 8.21 The Parties do not intend that the arrangements envisaged by or coming into effect as a result of this Agreement constitute a relevant transfer for the purposes of TUPE.

- 8.24 In the event that TUPE or the Cabinet Office Statement of Practice is determined to apply to either the Council Staff or the Trust Staff who are made available for the Service at any time before or after the termination or expiry of this Agreement or upon the early termination or variation of this Agreement, the Trust and the Council agree to comply with their obligations under TUPE and co-operate in a manner consistent with the principles of this Agreement and the Regulations to determine the required financial contributions and other arrangements which are thereafter required by and from each Party in order to meet the obligations which arise under TUPE and otherwise.
- 8.25 The Trust shall indemnify and keep the Council (and its contractors or agents) indemnified in respect of any and all:
- 8.25.1 Employment Liabilities and TUPE liabilities incurred or payable in respect of Trust Staff and New Staff which arise or are payable prior to, during or after the termination of this Agreement save where the Employment Liability or TUPE Liability arises as a direct result of any act or omission by the Council (in contravention of statute or legislative requirements) or as set out at Clauses 12.1.3-12.1.6 (Effects of Termination); and
- 8.25.2 liability arising from any claim made by any third party arising out of or in respect of any act or omission of any Staff after the Commencement Date, save to the extent that such liability was due to:
- (a) any act or omission of the Council (including without limitation any failure of the Council to meet any obligations which it has to provide adequate training to Seconded Staff); or,
- (b) any act or omission by any Seconded Staff which is contrary to any supervision, management, direction or instruction which has been or was provided to Seconded Staff by the Trust under the terms of this Agreement.
- 8.26 The Council shall indemnify and keep the Trust (and its contractors or agents) indemnified in respect of any and all:
- 8.26.1 Employment Liabilities and TUPE liabilities incurred or payable in respect of Seconded Staff which arise or are payable prior to, during or after the termination of this Agreement save where the Employment Liability or TUPE Liability arises as a direct result of any act or omission by the Trust (in contravention of statute or legislative requirements) or as set out at Clause 12 on Effects of Termination; and,

8.26.2 liability arising from any claim made by any third party arising out of or in respect of any act or omission of any Seconded Staff after the Commencement Date, where such liability is due to:

- (a) any act or omission of the Council (including without limitation any failure of the Council to meet any obligations which it has to provide adequate training to Seconded Staff); or,
- (b) any act or omission by any Seconded Staff which is contrary to any supervision, management, direction or instruction which has been or was provided to Seconded Staff by the Trust under the terms of this Agreement.

8.27 The Trust and the Council agree to review the indemnity arrangements set out in clauses 8.18, 8.23 and 8.24 above from time to time in the light of in particular (but without limitation):

- (a) any material changes to the staffing arrangements occurring as a result of a material change to the provisions in respect of Contributions agreed under clause 4.1 and 4.2.
- (b) either Party considering that it is or is likely to become disproportionately responsible for employment liabilities in the provision of the Service.

any such review shall be undertaken by the JMG and subject to Dispute Resolution procedure in Clause 15 if agreement cannot be reached by the Parties within [1] month of the issue having been raised for review.

8.28 Other than in the circumstances in which the terms of clause 8.22 apply, upon the termination of this Agreement for any reason, each Party shall resume direct management control and responsibility for all Employment Liabilities arising or payable in respect of any and all Staff engaged in the provision of the Service who were so employed by them immediately prior to the termination of the Agreement or who were employed as a result of provision under Clause 8.18 insofar as the terms of Clause 12.6 shall apply.

8.29 The Parties agree that in the event of any Staff being made redundant by either Party to this Agreement, either during the term of the Agreement or on termination or expiry of the Agreement for whatever reason, then the statutory and contractual redundancy costs resulting from the redundancy shall, in the case of the Seconded Staff be borne by the Council, or in the case of any other any Trust Staff and/or New Staff be borne by the Trust. In the event of any such redundancy that occurs either:



- 8.29.1 during the term of this Agreement, each Party's redundancy procedures shall apply; or
- 8.29.2 on termination or expiry of the Agreement, the redundancy procedures of the Council shall apply in respect of the Seconded Staff and those of the Trust shall apply in respect of any Trust Staff and New Staff.
- 8.30 Any dispute arising under the terms of this Clause 8 or Schedule 4 shall, in the event that it cannot be resolved through consultation between the Parties shall be subject to the Dispute Resolution procedure set out in Clause 15.
- 8.31 The Trust and the Council agree to review the payment arrangements set out in clause 8.17 and the indemnity arrangements set out in clauses 9.3.3 and 9.5.3 from time to time in the light of in particular (but without limitation):
- (a) any material changes to the staffing arrangements occurring as a result of a material change to the provisions in respect of the contributions agreed under clauses 4.1 to 4.2.
  - (b) either Party considering that it is or is likely to become disproportionately responsible for employment liabilities in the provision of the Services.
- any such review shall be undertaken by the JMG and subject to Dispute Resolution procedure in Clause 15 if agreement cannot be reached by the Parties within 1 month of the issue having been raised for review.
- 8.24 Any dispute arising under the terms of this Clause 8 or Schedule 4 shall, in the event that it cannot be resolved through consultation between the Parties shall be subject to the Dispute Resolution procedure set out in Clause 15.

## **9 INDEMNITY AND INSURANCE**

- 9.1 The Parties shall, so far as is possible at reasonable cost and allowable by Law, agree and effect appropriate insurance arrangements in respect of all potential liabilities arising from this Agreement. In the case of the Trust, it may arrange alternative cover in accordance with current NHS arrangements for property and third party liability (i.e. the Property Expenses Scheme and the Third Party Liabilities Scheme) administered by the NHS Litigation Authority in lieu of commercial insurance. Each Party shall provide to the other upon request such evidence as that Party may reasonably require to confirm that the insurance arrangements are satisfactory and are in force at all times.

- 9.2 The Trust shall indemnify the Council and its employees and agents against all claims and proceedings (to include any settlements or ex gratia payments made with the consent of the Parties and reasonable legal and expert costs and expenses) made or brought (whether successfully or otherwise) against the Council or any of its employees or agents:
- 9.2.1 by or on behalf of any Client (or his dependants) for personal injury (including death) or for loss of or damage to any property arising from actions or omissions by or on behalf of the Trust out of or in connection with the Service; or
  - 9.2.2 by the Trust, its employees or agents or by or on behalf of a Client (or his dependants) for a declaration concerning the treatment of a Client who has suffered such personal injury (including death) or for loss of or damage to any property arising out of or in connection with the Service; or
  - 9.2.3 for personal injury (including death) or for loss of or damage to any property caused to Seconded Staff as a result of a breach of statutory duty or health and safety obligations by the Trust; or
  - 9.2.4 in respect of any acts or omissions of the Trust, its employees or agents arising out of or in connection with the Service.
- 9.3 The above indemnity by the Trust shall not apply to any such claim or proceeding:
- 9.3.1 to the extent that such liability and/or personal injury (including death) (or loss of or damage to property) is caused by the negligent or wrongful act(s) or omission(s) or breach of statutory duty of the Council, its employees (save where those employees are Seconded Staff acting under the direction and control of the Trust and in compliance with the Trust's instructions) or agents; and/or
  - 9.3.2 to the extent that such liability and/or personal injury (including death) (or loss of or damage to property) is caused by the failure of the Council, its employees or agents to meet their obligations in accordance with this Agreement; and/or
  - 9.3.3 in respect of all Employment Liabilities arising from any act or omission of the Council in breach of: (i) this Agreement; (ii) any relevant contract of employment; and/or (iii) any Law (including without limitation any failure of the Council to meet any obligations to provide adequate training to the Seconded Staff or a failure to ensure the Seconded Staff comply with any supervision, management, direction or instruction of the Trust in accordance with this Agreement); and/or
  - 9.3.4 to the extent such liability and/or personal injury (including death) or loss of or damage to property pre-dates the Commencement Date.

9.4 The Council shall indemnify the Trust and its employees and agents against all claims and proceedings (to include any settlements or ex gratia payments made with the consent of the Parties and reasonable legal and expert costs and expenses) made or brought (whether successfully or otherwise) against the Trust or any of its employees or agents:

9.4.1 by or on behalf of any Client (or his dependants) for personal injury (including death) or for loss of or damage to property arising from actions or omissions by or on behalf of the Council out of or in connection with the Service; or

9.4.2 by the Council, its employees or agents or by or on behalf of a Client for a declaration concerning the treatment of a Client who has suffered such personal injury (including death) or for loss of or damage to any property arising out of or in connection with the Service; or.

9.4.3 for personal injury (including death) or for loss of or damage to any property caused to Trust Staff as a result of a breach of statutory duty or health and safety obligations by the Council (save where caused by Seconded Staff acting under the direction and control of the Trust and in compliance with the Trust's instructions); or

9.4.4 in respect of any acts or omissions of the Council, its employees or agents arising out of or in connection with the Service.

9.5 The above indemnity by the Council shall not apply to any such claim or proceeding:

9.5.1 to the extent that such liability and/or personal injury (including death) (or loss of or damage to property) is caused by the negligent or wrongful act(s) or omission(s) or breach of statutory duty of the Trust, its employees or agents; Furthermore the Trust acknowledges and agrees that the Council shall not be delegated functions by the Trust that would require the Council to obtain and hold medical malpractice cover and that the Trust shall be entirely responsible for all such claims and shall hold the appropriate insurance;

9.5.2 to the extent that such liability and/or personal injury (including death) (or loss of or damage to property) is caused by the failure of the Trust, its employees or agents to meet their obligations in accordance with this Agreement; and/or

9.5.3 in respect of all Employment Liabilities arising from any act or omission of the Trust in breach of: (i) this Agreement; (ii) any relevant contract of employment; and/or (iii) any Law (including without limitation any failure of the Trust to meet any obligations to provide adequate training to the Trust Staff and Seconded Staff or a failure to ensure the Trust Staff and Seconded Staff comply with any supervision, management, direction or instruction of the Council in accordance with this Agreement); and/or

9.5.4 to the extent that such liability and/or personal injury (including death) or loss of or damage to property pre-dates the Commencement Date.

- 9.6 The Parties will indemnify and keep indemnified each other against all liabilities arising directly or indirectly from any events, acts or omissions in relation to their respective functions owing prior to the Commencement Date.
- 9.7 The Council shall indemnify and keep indemnified the Trust against all liabilities costs claims damages and losses made or brought against the Trust or any of its employees or agents arising as a result of charging for the Services.
- 9.8 The Trust shall indemnify the Council against all claims and proceedings (to include but not be limited to any settlements or ex gratia payments made with the consent of the Parties compensation or damages for discrimination or constructive dismissal and reasonable legal and expert costs and expenses) made or brought (whether successfully or otherwise) by Seconded Staff in connection with their employment by the Council to the extent that such claims and proceedings arise from and are attributable solely to acts of the Trust in relation to the secondment to the Trust of Seconded Staff. This indemnity also extends to any liability arising from TUPE.
- 9.9 The Council shall indemnify the Trust against all claims and proceedings (to include but not be limited to any settlements or ex gratia payments made with the consent of the Parties as compensation or damages for discrimination or constructive dismissal and reasonable legal and expert costs and expenses) made or brought (whether successfully or otherwise) by Seconded Staff in connection with their employment by the Council to the extent that such claims and proceedings arise from and are directly attributable to the Council.
- 9.10 Neither the indemnities from the Trust nor that from the Council shall apply to any such claim or proceeding:
- 9.10.1 unless as soon as reasonably practicable following receipt of notice of such claim or proceeding, the Party in receipt of it shall have notified the other Party in writing of it;
- 9.10.2 if the Party in receipt of the claim or proceeding, its employees or agents shall have made any admission in respect of such claim or proceeding or taken any action related to such claim or proceeding prejudicial (in the reasonable opinion of the other Party) to the defence of it without the written consent of the other Party (such consent not to be unreasonably withheld or delayed),

provided that this condition shall not be treated as breached by any statement properly made by the former Party, its employees or agents in connection with the operation of its internal complaints procedures, accident reporting procedures or disciplinary procedures or where such statement is required by law.

- 9.11 Each Party shall keep the other Party and its legal advisers fully informed of the progress of any claims or proceedings, and will consult fully with the other Party on the nature of any defence to be advanced and will not settle any such claim or proceeding without the written approval of the other Party (such approval not to be unreasonably withheld). The provisions of this Clause 9.11 shall only apply to the extent that the Party subject to the claim is able to liaise with the other in the manner set out and there exists no conflict of interest.
- 9.12 Without prejudice to the provisions of Clause 9.10.1, both Parties will use their reasonable endeavours to inform each other promptly of any circumstances reasonably thought likely to give rise to any such claim or proceedings of which they are directly aware and shall keep each other reasonably informed of developments in relation to any such claim or proceeding even where they decide not to make a claim under this indemnity.
- 9.13 The Parties will each give to the other such help as may reasonably be required for the efficient conduct and prompt handling of any claim or proceeding by or on behalf of Clients (or their dependants) or concerning such a declaration as is referred to in Clause 9.2.2 and 9.4.2. It is agreed and acknowledged that the provisions of Clauses 9.10 – 9.13 apply in so far as each Party is able to undertake the actions set out in the aforementioned clauses. Both Parties accept that the conduct of any liability claim rests entirely with each Parties respective insurers and appointed solicitors and as such they have sole and principal authority in relation to the administration and settlement claims.
- 9.14 The Trust will give such help to the Council as the Council may reasonably require and cooperate fully with the Council (to the extent that such help and cooperation relate to matters arising from the secondment of Council employees to the Trust) in preparation and handling of any claim against the Council brought by employees of the Seconded Staff as is referred to in Clause 9.6 including attendance by any of the employees of the Trust at any hearing of any court or tribunal if required. The Council will give such help to the Trust as the Trust may reasonably require and cooperate fully with the Trust (to the extent that such help and cooperation relate to matters arising

from the secondment of Trust employees to the Council) in the preparation and handling of any claim against the Trust brought by Trust Staff and New Staff as is referred to in Clause 9.6 including attendance by any of the employees of the Council at any hearing of any court or tribunal if required. Both Parties agree and acknowledge that the provisions of this Clause shall in no way give rise to an expectation or obligation upon either Party to warrant or guarantee the attendance by an employee at the hearing of any court or tribunal.

- 9.15 For the purposes of this indemnity the expression “agents” shall be deemed to include without limitation any nurse or health professional, social worker or social care worker or manager providing services to the Trust under contract for services or otherwise and any person carrying out work for the Trust under such a contract.

## **10 REVIEW**

- 10.1 The Parties shall review the provision of the Service and this Agreement for the purposes of confirming the operation of the Pooled Fund and their respective contributions hereto and the Non Pooled Fund for the financial year 2014/15 after 1<sup>st</sup> July 2014 but no later than 1<sup>st</sup> October 2014.
- 10.2 The Parties, through the JMG, shall review the operation of the Service every 2 months in the first year and thereafter on a quarterly basis (at least) in each year for the duration of the Agreement..
- 10.3 All reviews of, and in relation to, this Agreement shall be conducted in good faith and in accordance with the governance arrangements set out in Schedule 6; and shall be based upon information to be provided as set out in Schedule 6.
- 10.4 This terms of this Agreement shall be subject to a formal review by the Parties 5 years from the Commencement Date and thereafter at such intervals and on such dates as are agreed by the Parties during the term of this Agreement. Any variations to the terms of the Agreement agreed by the Parties shall be made in accordance with Clause 13.
- 10.5 The Parties may review the operation of this Agreement on the coming into force (or anticipation of the coming into force) of any relevant statutory or other legislation or guidance affecting the terms of this Agreement so as to ensure that the terms of this Agreement comply with such legislation or

guidance. Any variations to the terms of the Agreement agreed by the Parties shall be made in accordance with Clause 13.

- 10.6 The reviews undertaken in accordance with Clause 10.2, 10.4 and 10.5 of this Agreement shall include review of the Secondment Agreement and review of professional supervision arrangements.
- 10.7 The Parties shall confirm no later than 1<sup>st</sup> April in each future Financial Year their respective contributions to the Pooled Fund and for the Council to the Non Pooled Fund for that current Financial Year and following which the Pool Manager shall prepare for the JMG a revised Schedule 1 and 5 to this agreement plus a revised Performance Framework for Schedule 6 to this Agreement, an annual workforce plan and a programme of continued and future training to be provided by each of the Trust and the Council to Staff, which, when approved by the JMG and the Parties, shall replace the previous versions of Schedules 1 and 5 and the Performance Framework for Schedule 6, the workforce plan and any current training plan. These together shall form the Annual Plan for the next year of the Agreement. If either of the Parties are unable to confirm in writing their respective contributions by 1<sup>st</sup> April in the relevant Financial Year then the provisions of Clause 11.1 shall apply.
- 10.8 The Parties shall also use reasonable endeavours in each Financial Year to agree by 31<sup>st</sup> December a draft budget for the following Financial Year. Such budget will be finalised once the Parties have agreed their contributions for the relevant financial year in accordance with Clause 10.7 above.
- 10.9 Financial Planning for Clause 10.8 above shall be conducted in good faith and shall take account of:
- 10.8.1 general inflation;
  - 10.8.2 pay, pay costs and pay inflation
  - 10.8.3 any agreed addition or reduction of funds
  - 10.8.4 efficiency targets
- 10.10 No provision of this Agreement shall preclude the Parties by mutual agreement making additional contributions of non-recurring monies to the Pooled Fund from time to time but no such additional contributions shall be taken into account in the calculation of the Parties' respective contributions for the purpose of Clause 11. Any such additional contributions of non-

recurring monies shall be explicitly recorded in JMG minutes and recorded in the budget statement as a separate item.

## **11. TERMINATION**

- 11.1 This Agreement may be terminated by not less than 6 months written notice in writing from either Party to the other, if either of the Parties has failed to finalise and agree the budget and Annual Plan in any Financial Year in writing by 1<sup>st</sup> April in the relevant year in accordance with Clause 10.7. During such notice period the Parties shall continue to contribute to the Pooled Fund on a pro rata basis in accordance with the contributions agreed for the previous Financial Year. During such notice period the Council shall continue its contribution to the Non Pooled Fund in accordance with the contributions agreed for the previous Financial Year.
- 11.2 In the case of a material breach by one Party of its respective obligations under the Agreement which in the opinion of the other Party is not capable of remedy, and which has an adverse impact on the other Party, the other Party may terminate the Agreement on immediate written notice and is not required to allow the first Party time to attempt to remedy that breach.
- 11.3 In the event of a change in legislation or a direction by a Secretary of State or Minister of the Crown or any decision by a competent court such as would make the Arrangements under this Agreement no longer appropriate or unlawful to continue for the Parties, the Agreement may be terminated by agreement between the Parties on such notice as they shall agree if the Parties (acting reasonably) are unable to agree a modification or variation of this Agreement so as to bring the specific matter within their respective powers.
- 11.4 If either Party has failed to confirm in writing its contribution to the Pooled Fund and Non pooled Fund in accordance with clauses 4.1, 4.2 and 4.3 of the Agreement, either Party may terminate this Agreement on giving immediate written notice to the other, and this Agreement may terminate forthwith.
- 11.5 In circumstances other than the above, either Party may terminate this Agreement in accordance with clause 2.2.
- 11.6 Any purported termination of this Agreement under this Clause shall be without prejudice to any continuing obligations of the Parties under Clauses



6, 7 and 12 and the continued operation of the JMG in accordance with Schedule 6.

## **12. EFFECTS OF TERMINATION OR REDUCTION OF CONTRIBUTION**

12.1 Notwithstanding any notice of termination in accordance with Clause 11, or reduction of contribution in accordance with Clause 4

12.1.1 The Parties shall co-operate to ensure that, where possible, existing Clients are assigned to the Party with statutory responsibility for those Clients. Where this is not possible, the Council and the Trust shall continue to be liable to provide the Service in accordance with this Agreement for all current Clients at the date of service of the notice of termination

12.1.2 the Parties shall remain liable to operate the Pooled Fund and Non pooled Fund in accordance with this Agreement so far as is necessary to ensure fulfilment of the obligations in sub-clause 12.1.1 and

12.1.3 the Parties shall consult each other with respect to agreeing the apportionment of Employment Liabilities arising as a consequence of the reduction or loss of Services following any such reduction in contributions to the Pooled Fund or expiry or termination of this Agreement and shall in good faith endeavour to reach agreement having regard to each Party's financial contributions to the Pooled Fund and the Health Functions and Health Related Functions of the relevant members of Staff;

12.1.4 subject to sub-clauses 12.1.1 and 12.1.2 each Party shall use reasonable endeavours to mitigate any Employment Liabilities including without limitation the redeployment of Staff within their respective organisations;

12.1.5 if no agreement pursuant to clause 12.1.3 is reached within 6 months of the date of such reduction in contributions or expiry or termination of this Agreement then the Employment Liabilities specified in clause 12.1.3 shall be allocated to each Party in proportion to their respective contributions to the Pooled Fund for the immediately preceding Financial Year save for where any such Employment Liabilities arise from any act or omission of a Party in breach of: (i) this Agreement; (ii) any relevant contract of employment; and/or (iii) any Law (including without limitation any failure of a Party to meet

any obligations to provide adequate training to its Staff or a failure to ensure its Staff comply with any supervision, management, direction or instruction of the other Party in accordance with this Agreement) in which case the Party in breach shall have responsibility for the Employment Liabilities so arising. The Parties shall make such payments to each other as shall be required to reflect this allocation; and

12.1.6 prior to any agreement pursuant to clause 12.1.3 or the end of the 6 month period referred to in clause 12.1.5 (whichever is earlier) and other than in the circumstances in which the terms of clause 8.23 apply, each Party shall resume direct management control and responsibility for all Employment Liabilities arising or payable in respect of any and all Staff engaged in the provision of the Services who were so employed by them immediately prior to the termination or expiry of the Agreement or who were employed as a result of provision under Clause 8.20 unless such Employee Liabilities arise from any act or omission of a Party in breach of: (i) this Agreement; (ii) any relevant contract of employment; and/or (iii) any Law (including without limitation any failure of a Party to meet any obligations to provide adequate training to its Staff or a failure to ensure its Staff comply with any supervision, management, direction or instruction of the other Party in accordance with this Agreement) in which case the Party in breach shall have responsibility for the Employment Liabilities so arising.

12.2 Where any under spend or overspend in relation to the Pooled Fund or Non Pooled Fund shall exist upon termination then Clauses 7.11.4, 7.11.5 and 7.11.6 shall apply in determining the apportionment of that overspend or underspend.

12.3 When determining whether there has been an under spend or overspend as at the date of termination any unquantified liabilities shall not be taken into account.

12.4 Subject to the foregoing commitments of the Parties, following termination of the Agreement, the Trust shall return to the Council within three months any of the Council's contribution to the Pooled Fund which has not been spent on the Service and any of the Council's contribution to the Non Pooled Fund which has not been spent in support of the Service according to the terms of this Agreement. The Trust shall use reasonable endeavours to provide as soon as possible and in a format acceptable to the Council any information

required by the Council, including copies of relevant Trust's books and records held with regard to the Trust's obligations pursuant to this Clause, relating to the exercise of the Council's functions and subject to Clause 22.

12.5 The Parties shall continue to be responsible for any liabilities that arise following distribution of the Pooled Fund and the Non Pooled Fund pursuant to Clause 12.2 and/or Clause 12.3. Any liabilities that are subsequently quantified shall be apportioned between the Parties in accordance with the provisions of clauses 7.11.4, 7.11.5 and 7.11.6 and the Parties shall make such payments to each other as shall be required to reflect this.

12.6 Non-capital assets purchased from the Pooled Fund will be distributed between the Parties on the basis of statutory responsibility for the relevant Clients or where this is not practicable such goods will be shared proportionately between the Council and the Trust according to the level of past contributions to the Pooled Fund.

12.7 In the event that this Agreement is terminated in whole or in part (howsoever terminated) there shall be a review undertaken by the Parties of staff that have been appointed by the Trust in accordance with Clause 8.20 ("New Staff") in order to fulfil the objectives of the Service and to meet the Health Related Functions of the Council. The Parties will conduct that review jointly and shall consider whether any New Staff will transfer to the Council under TUPE. The Trust shall be responsible for the Employment Liabilities in relation to those New Staff that incurred or have accrued prior to the date of transfer to the Council, and shall indemnify the Council in respect of the same. The Council shall be responsible for the Employment Liabilities in relation to the New Staff from the date of transfer and shall indemnify the Trust in respect of the same.

12.8 In the event that this Agreement is terminated in whole or in part (howsoever terminated) the Parties agree to co-operate to ensure an orderly wind down of their joint activities as set out in this Agreement so as to minimise disruption to all Clients, carers and staff.

### **13. VARIATION**

13.1 No variation to this Agreement, including for the avoidance of doubt the Schedules, shall be effective unless it is in writing and signed by both the Parties.

### **14. CONFIDENTIALITY & INFORMATION**

14.1 The Parties have in place an information sharing protocol between them and shall:

14.1.1 keep confidential any information obtained in connection with this Agreement and control or process any personal data of Clients in accordance with the Data Protection Act 1998; and

14.1.2 take appropriate technical and organisational measures against unauthorised or unlawful processing of such personal data and against accidental loss or destruction of or damage to such personal data.

14.2 Unless agreed otherwise in writing, the Council and the Trust shall keep confidential any information acquired through their conduct of this Agreement and will take all reasonable steps to ensure that their employees do not divulge such information to a third party, without the express consent of both Parties and the Client, except in accordance with the requirements for external audit, as may be required by law, where such information is already in the public domain or in accordance with the information sharing protocol agreed between the Parties.

14.3 Each Party notes the other's obligations as a Public Authority under the Freedom of Information Act 2000. The Parties will facilitate each other's compliance with their obligations under that Act and comply with any reasonable request from the other for that purpose. The Parties also note and agree that the other may after using reasonable endeavours to consult with them provide information to any person relating to this Agreement or for the purposes of complying with a request made under the Act.

## **15. DISPUTE RESOLUTION**

15.1 In the event of a dispute over the application or interpretation of this Agreement, the dispute may be referred by the Parties in writing as follows:

15.1.1 in the first instance to the Authorised Officers to resolve within 4 weeks;

15.1.2 in the second instance if the dispute has not been resolved within 4 weeks of such referral to the Authorised Officers, either Party may refer the matter to the Chief Executive of the Council and the Director of the Commissioning Board area team with responsibility for Merton NHS services;

15.1.3 in the third instance if the dispute has not been resolved within 4 weeks of such referral to the Chief Executive of the Council and the Director of the Commissioning Board area team with responsibility for Merton NHS services either Party may refer the matter to an individual nominated by or on behalf of the Secretary of State for Health to act as mediator. Any settlement reached by the Parties with the assistance of the mediator shall only be binding on the Parties with their agreement in writing.

15.2 If a dispute has not been resolved within 3 months of reference to the individual appointed in accordance with Clause 15.1.3 above, either Party may terminate this Agreement on immediate written notice to the other and the provisions of Clause 12 shall apply.

## **16. EXCLUSION OF PARTNERSHIP AND AGENCY**

16.1 The Parties expressly agree that nothing in this Agreement in any way creates a legal partnership between them. 16.2 Neither Party nor any of its employees or agents will in any circumstances hold itself out to be the servant or agent of the other Party, except where expressly permitted by this Agreement.

## **17. ASSIGNMENT AND SUB AGREEMENTS**

17.1 The Parties shall not assign or transfer the whole or any part of this Agreement, without the prior written consent of the other Party.

## **18 THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

18.1 A person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

## **19. PREVENTION OF CORRUPTION / QUALITY CONTROL**

19.1 The Parties shall have mutual policies and procedures to ensure that relevant controls assurance, probity and professional standards are met.

## **20 COMPLAINTS**

20.1 Complaints regarding the Service shall in the first instance be directed to the Trust and if they cannot be dealt with under NHS Complaints Procedure they will be investigated jointly by the Parties (with the Trust taking the lead) and a decision will be made regarding which complaints procedure should be followed. The complaint will then be managed according to the Council's

Complaints Procedure or the NHS Complaints Procedures Act 1985 as appropriate. The nominated officer responsible for handling of complaints will ensure that all Clients and their carers or established representatives are advised and provided with information on how to complain, which will be made known at the point of commencement of assessment and after referral to the Service for any potential service or support.

20.2 The Trust will report the data regarding complaints to the Council by means of a quarterly report or more frequently if requested by the Council. The data must be sent in accordance with the Council's policy and procedures in place and as updated

20.3 All complaints from Service Users should be dealt with and resolved appropriately by the Trust and any serious complaint that cannot be resolved shall be notified to the Council as soon as reasonably practicable so that the parties can co-operate and endeavour to satisfy the complainant

## **21. NOTICES**

21.1 All notices under this Agreement shall only be validly given if given in writing, addressed as follows:

21.1.1 If to the Council, addressed to the Director for Adult Social Care Services at the Civic Centre as above;

21.1.2 If to the Trust, addressed to the Chief Executive at Springfield University Hospital as above.

## **22. STATUTORY OBLIGATIONS**

22.1 The Parties shall in the performance of their obligations under this Agreement comply with all relevant Law including (without limitation) all statutes directives regulations orders codes of practice and best practice guidelines (as amended from time to time) and all provisions relating to such matters elsewhere in this Agreement.

22.2 Each Party will note the other Party's current and future obligations under the Data Protection Act 1998, the FOIA 2000, the Human Rights Act 1998, Equality Legislation and Part 1 of the Local Government Act 1999 (all as amended from time to time) and any codes of practice and best practice guidance issued by the European Commission Government and the appropriate enforcement agencies ("the Specified Legislation") and shall:

- 22.2.1 comply with the Specified Legislation in so far as it places obligations upon that Party in the performance of its obligations under this Agreement;
- 22.2.2 facilitate the other Party's compliance with its obligations under these provisions and comply with any reasonable requests for that purpose;
- 22.2.3 act in respect of any person who receives or requests services under this Agreement as if that Party were a public authority for the purpose of the Human Rights Act 1998;
- 22.3 Each Party ("the First Party") acknowledges that in responding to a request received by any Party ("the Other Party") under the FOIA the Other Party will be entitled to provide information held by it relating to this Agreement or which otherwise relates to the First Party.
- 22.4 The First Party shall co-operate with the Other Party in connection with any request received by the Other Party under the FOIA and such co-operation shall be at no cost to the Other Party.
- 22.5 The Parties shall at all times comply with the requirements of the Health and Safety at Work Act 1974 and of any other Acts pertaining to the health and safety of employees and shall ensure that any contractors carrying out work for any purpose relating to the Agreement on the other Party's premises likewise comply.
- 22.6 The Parties shall in connection with the provision of the Services comply with their obligations under the Data Protection Act 1998 (including where appropriate obtaining registration there under) and avoid offending against the Computer Misuse Act 1990.
- 22.7 Each Party shall provide the other Party with such information as that Party may reasonably require to satisfy itself that the first Party is complying with the obligations referred to in this Clause.
- 22.8 Each Party shall take such steps as may be practical to afford the other Party access to information which is reasonably required by the first Party in connection with any of its statutory functions and for any purpose connected with its rights and obligations under this Agreement.

- 22.9 Each Party must exercise its best endeavours to ensure the accuracy of any data entered into the computer system used in carrying out the Parties' obligations under the Agreement.
- 22.10 All data held in respect of a Client on any computer system operated under this Agreement must immediately on termination of the Agreement be made available on request by an appropriately authorised officer to the Party with statutory responsibility for the relevant Clients.
- 22.11 The Parties under the Race Relations (Amendment) Act 2000 have a duty to promote racial equality. The Parties shall have due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity in the provision and use of the Service, as defined within the meaning and scope of the Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000) and to assist each other in the implementation of any Race Equality Scheme or equivalent scheme in order to monitor its policies for any adverse impact on the promotion of race equality in accordance with the Race Relations Act 1976 (Statutory Duties) Order 2001.
- 22.12 The Parties shall not in relation to the employment of persons for the purposes of providing the Service or in relation to the provision of the Service to any person discriminate against a person contrary to Statute including but not limited to the Equal Pay Act 1970 the Sex Discrimination Acts 1975 the Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000), the Disability Discrimination Act 1995 and the Equality Act 2010 and shall be deemed to include any amendments, replacements or re-enactments thereof from time being in force.

## **23. GOVERNING LAW**

- 23.1 This Agreement shall be governed by and construed in all respects in accordance with the laws of England and shall be subject to the exclusive jurisdiction of the English courts.

## **24. SURVIVAL**

- 24.1 The following clauses shall survive termination of this Agreement: Clauses 1, 8.26, 9, 14, 22, 23 and this Clause 24.



**25. SEVERANCE**

25.1 If any provision of this Agreement shall become or be declared by a court of competent jurisdiction to be illegal invalid or unenforceable such illegality or unenforceability shall in no way impair or affect any other provision of this Agreement all of which shall remain in full force and effect.

**26. FORCE MAJEURE**

26.1 The Parties shall not be in breach of the Agreement if there is a failure of performance by any Party of its duties and obligations under the Agreement occasioned by any act of God, fire, act of government or state, civil commotion, insurrection, embargo, prevention from or hindrance in obtaining raw materials, energy or other supplies and/or any other reason beyond its control.

26.2 The Parties obligations under this Agreement shall be suspended for the period (and only during the period) during which the cause described in Clause 26.1 continues. As soon as it is reasonably practicable after the cause ceases to exist the Party prevented from performing its obligations shall give written advice to other Parties. If the period for which the Agreement is required to be suspended extends beyond 4 months then this Agreement shall be terminated and the provisions of Clause 12 shall apply.

**IN WITNESS** whereof the parties have executed this Agreement as a Deed the day and year first before written

**THE COMMON SEAL of THE LONDON BOROUGH OF MERTON**

Was affixed to this Deed in the presence of:

.....Authorised Signatory

**THE COMMON SEAL of SOUTH WEST LONDON AND ST GEORGE'S MENTAL HEALTH NHS TRUST**

Was hereunto affixed in the presence of:

.....Chief Executive

.....Director of Finance

## **SCHEDULE 1**

### **AIMS AND OBJECTIVES**

#### **1. INTRODUCTION:**

The primary aim of the Parties in establishing the Arrangements is to:

- Maximise the effectiveness and efficiency of mental health provision through the implementation of Section 75 Health Act 2006 flexibilities (Pooled budget and integrated provision) for adults with mental health needs

#### **2. STRATEGIC AIMS**

These provide the overall context for integration and support the delivery of the social care agenda on behalf of the Council.

The core aims of the Parties are to:

- Improve the mental health and well-being of the people we serve
- Employ and manage staff to ensure they meet their potential at work to achieve the best possible outcomes for people with we serve.

We will achieve these aspirations by continually;

- Improving the quality and robust governance of our services
- Increasing efficiency, value for money and financial decision making
- Innovating and seeking new service delivery models
- Generating income to improve benefit for patients
- Developing our staff to offer the full potential
- Providing evidence of the agreed performance outcomes
- Providing evidence of need and best practice to inform integrated commissioning in the future and the development of the wider market of support offers
- Engaging service users and carers in the development of policies, strategies, plans and evaluations of services

**For the people we serve this will involve**

- Ensuring that adults of working age within the Borough of Merton who have eligible health and social care needs can access and use personalised, specialist mental health services and resources.
- Ensuring that adults with mental health problems are safeguarded from harm.
- Ensuring that Carers (family and friends) of the eligible adults are identified and offered a carers assessment, information and advice and support services.
- Contributing to the safety and wellbeing of families and the wider community in Merton through effectively managing risks arising from mental health problems.
- Using Health and Social care performance data in timely manner to inform priorities for action and continuous improvement and development
- Working with Merton health commissioners to ensure the on-going development of an integrated, preventive, and personalised led recovery-focused mental health system.
- Working effectively within a system of multiple NHS providers of mental health care
- Working with relevant private voluntary and independent sector providers.

The main focus of this is to achieve an integrated approach to enabling person-centred services through a range of developments including:

- Working together to improve physical and mental health for people with long term mental health conditions
- Increasing the numbers of people who are able to live independently including people living in supported living services, and reducing the numbers of people living in registered (residential/nursing) care
- To enable more people when they become acutely unwell to stay in their own homes as opposed to being admitted to hospital
- To increase choice and control by enabling personalised services and increasing the number of people with eligible social care needs to have a personal budget or a Direct Payment for their care and support.
- To increase the identification of carers, carers assessments, advice and information and subsequent support offered to carers

**This will involve**

- Delivering high quality care and support for both those with mental health problems and their carers throughout an integrated, seamless and robust care pathway.
- Developing a whole system approach for incorporating Health, Social Care, third sector and service users and their carers.

- Increasing the Choice and Control that People with Mental Health issues have over their lives, through Self Directed Support and Personal Budgets

### 3. SERVICE & IMPROVEMENT OBJECTIVES

The Parties will have the following objectives that are aimed at delivering improvements.

This is not a list of all task headings and outputs that may be expected of the partnership from time to time.

These are the matters the Partnership will focus on specifically to gain improvement and add value in the first 18 months:

1. To develop new, joint operating procedures for the integration of social care and health assessment and support planning within the teams managed in the Partnership, in order to deliver the duties of both organisations.
  - a. Both Parties to be fully involved in Trust led community services development plans, to agree specific, shared outcomes, quality, efficiency and cost benefits
  - b. Define and identify roles, tasks and responsibilities for professional and non qualified staff including, as agreed, generic tasks/functions, professionally reserved tasks and implications for multidisciplinary best practice  

By 30th September 2014 . Lead – Service Director
  
2. To agree and implement practice supervision protocols for all disciplines within the Service.  

By 30<sup>th</sup> September 2014 Lead – Trust HR Director
  
3. To agree and implement processes and performance targets for the improved implementation of self-directed support and increase in uptake of personal budgets and direct payments in mental health.  

By 31<sup>st</sup> July 2014 Lead – Service Director
  
4. Agree process and governance structures to reduce use of - and total spend on - residential and nursing placements and increase use of less institutional support.  

By September 2014 Lead – Service Director
  
5. Ensure sustained improvement and further embedding of responsive and preventive adult and child safeguarding practice through regular audit and end of year review.

Ongoing with quarterly reviews –  
Merton Mental Health Social Work  
Lead

6. To provide development opportunities to managers (team, general, senior) within Partnership services to have assurance they have skills to develop and deliver integrated social care and health management outcomes

Review September 30<sup>th</sup> 2014 Lead –  
Director of Operations

7. To agree and implement a professional leadership and professional development structure for social work within the integrated services, engaging Council and Trust resources, in line with the social work reforms, capabilities framework and Employers' Standards.

By September 30<sup>th</sup> 2014 Lead - Director of  
Social  
Work

8. To review and implement improvements in the availability and use of both organisations' relevant information systems within the Partnership services, including equal access to both intranet services and working together to manage the implications of changes to existing systems.
  - a. Ensure protocols are in place to ensure all relevant information is captured in a time efficient way on the Care First Local Authority system

By September 30<sup>th</sup> 2014. Lead –  
Service Director

9. To ensure managers for the Service take a full, appropriate part in interagency liaison and representation of mental health issues e.g. within diverse departments of the Council and community interagency forums.

On-going –quarterly review Lead –  
Service Director

10. To promote and embed sound budget management within the integrated services with decision making devolved to team managers..

On-going – review through JMG  
Lead – Service Director

## SCHEDULE 2

### THE TRUST'S NHS HEALTH CARE FUNCTIONS AND THE COUNCIL'S HEALTH RELATED CARE FUNCTIONS

#### 1. THE TRUST'S NHS HEALTH CARE FUNCTIONS

- (a) The functions of providing services pursuant to arrangements made by a clinical commissioning group or the NHS Commissioning Board under sections 3, 3A and 3B of, and paragraphs 9 to 11 of Schedule 1 to, the National Health Service Act 2006, including rehabilitation services and services intended to avoid admission to hospital but excluding surgery, radiotherapy, termination of pregnancies, endoscopy, the use of Class 4 laser treatments and other invasive treatments and emergency ambulance services;
- (b) the functions of providing services pursuant to arrangements made by a clinical commissioning group or the NHS Commissioning Board under Section 117 of the Mental Health Act 1983; and
- (c) the functions under Schedule A1 of the Mental Capacity Act 2005

#### 2. THE COUNCIL'S HEALTH RELATED FUNCTIONS

The Council's Health Related Functions are:-

- (a) the functions specified in Schedule 1 to the Local Authorities Social Services Act 1970 except for the functions under:
  - (i) sections 22, 23(3), 26(2) to (4), 43, 45 and 49 of the National Assistance Act 1948
  - (ii) section 6 of the Local Authorities Social Services Act 1970
  - (iii) section 3 of the Adoption and Children Act 2002
  - (iv) sections 114 and 115 of the Mental Health Act 1983 and
  - (vi) Parts VII to IX and section 86 of the Children Act 1989
- (b) The functions under sections 7 or 8 of the Disabled Persons (Services, Consultation and Representation) Act 1986.

For the avoidance of doubt notwithstanding the terms of this Agreement Approved Mental Health Professionals shall continue to carry out functions under Section 115 of the Mental Health Act 1983 as amended. The provision of such functions does not form part of the Arrangements and will be regulated by the Council directly and outside of the Arrangements.

The Trust will support the Council in carrying out its duties and functions under Section 115 but will not be accountable for the quality of that service.

## **SCHEDULE 3**

### **SERVICE: CLIENTS, MANNER, LOCATION AND ACCESS**

#### **INTRODUCTION**

Schedule 3 illustrates the services to be provided and will be reviewed annually to reflect changes to the pattern of, referral routes to or eligibility for services.

#### **SCOPE OF SERVICE**

The Service will provide integrated Specialist Mental Health and Social Care Services to adults of working age and older people who have one or more of the following:

- Serious mental health problems where not served by primary care
- Critical or substantial social care needs

#### **Additionally:**

- Social care or health services may be provided exclusively by social care or health professionals where eligible for one set of services and not the other and where that service is deemed most appropriate in the wider context of the health or social care systems.

#### **SERVICE ELIGIBILITY**

The refocused Care Programme Approach and Fairer Access to Care Services (FACS) criteria have been combined to create an integrated approach to the assessment, care planning and review process applicable to these services.

Service eligibility is based on assessed need for these specialist mental health services. Social care services are provided or enabled for any person for whom the FACS assessment indicates the need for appropriate social care services.

#### **COMMUNITY MENTAL HEALTH SERVICES**

The details of the staffing levels and funding for each post in these services is provided in Schedules 4 and 5 of this Agreement.

The Managers of these services are required to deliver integrated health and social care services.

Social Care and Trust performance measures will be reported on regularly to the relevant Party alongside an integrated performance framework for the partnership between the Parties as described in Schedule 6 of the Agreement.



<b>Merton Assessment Team</b> <b>Location: Wilson Hospital</b>	
<b>Summary</b>	<p>The Merton Assessment Team provides the main assessment gateway to adult mental health services to residents of London Borough of Merton, who are experiencing mental health problems that are not responding to Primary Care intervention.</p> <p>The service provides a one point of access assessment, advice and signposting function for all referrals. The assessment function will begin on receipt of referral, and dependent on the outcome, provides the gateway for accessing the range of adult mental health services.</p> <p>The team will refer and signpost to other agencies, both statutory and non-statutory where required.</p>
<b>Access Criteria</b>	The service is for people aged 18-75 who are experiencing a mental disorder and reach a health assessment criteria and fair access to services criteria of critical and substantial need.
<b>Referrals</b>	Merton residents aged 18-75 can be directly referred from the GP's liaison psychiatry and Home treatment teams. If there is a history of involvement, a self-referral is appropriate.
<b>Operational Policy</b>	Available on request from the Operational Manager

<b>The Recovery and Support Teams:</b> (i) Mitcham (ii) Wimbledon (iii) Morden <b>Location: Wilson Hospital</b>	
<b>Summary</b>	<p>The Recovery and Support Teams (RSTs) CMHT provide the main treatment, recovery and support functions within adult mental health services to residents of London Borough of Merton, who are experiencing mental health problems that are not responding to Primary Care intervention or require more specialist interventions where there is no clear diagnosis of a psychosis or mood disorder.</p> <p>The RSTs are aligned to GP practices and this is overseen through regular GP link meeting. Treatment will be provided on an outpatient or domiciliary basis by the most appropriate member of the team and offer short term focused interventions to those with severe mental illness on an individual or group basis and long term care co-ordination.</p> <p>The teams will also provide specific education and employment advice/support to enable service users to re-integrate within wider society.</p> <p>The teams will work with other agencies, both statutory and non-statutory where required.</p>

<b>Access Criteria</b>	The service is for people aged 18-75 who are experiencing a mental disorder and reach a health assessment criteria or fair access to services criteria of critical and substantial need.
<b>Referrals</b>	Referrals will come through the Merton Assessment Team and same criteria will apply.
<b>Operational Policy</b>	Available on request from the Operational Manager

<b>Merton Early Intervention Service (apportioned from Sutton &amp; Merton Early Intervention Service)</b> <b>Location: Wilson Hospital</b>	
<b>Summary</b>	<p>The Sutton and Merton EIS works for young people living in Sutton and Merton aged between 18 and 35 with first episode of suspected psychosis – the Merton apportionment of this service will be subject to partnership arrangements.</p> <p>The service aims to engage clients at the earliest possible opportunity and provides:</p> <ul style="list-style-type: none"> <li>• Specialist help for young people and their carers for the first 3 years of contact with mental health services.</li> <li>• Education to increase public awareness, detection and referral of people with early signs of psychosis.</li> <li>• Employment advice and support.</li> <li>• Support and education to Primary Care and agencies to help recognise early signs and encourage young people to access help early.</li> </ul>
<b>Access Criteria</b>	The service is for people aged 18-35 who are experiencing or have experienced their first episode of psychosis, who are resident in the London Borough of Merton. For young people aged 16-17 acceptance by EIS would only follow discussion with CAMHS.
<b>Referrals</b>	Referrals will come through the Merton Assessment Team and same criteria will apply.
<b>Operational Policy</b>	<p><a href="http://insite.xswlstg-tr.nhs.uk/KnowledgeBase/Lists/Policies/EIS%20Operational%20Policy.pdf">http://insite.xswlstg-tr.nhs.uk/KnowledgeBase/Lists/Policies/EIS%20Operational%20Policy.pdf</a></p> <p>Available on request from the Operational Manager</p>

<b>Merton Drug &amp; Alcohol Recovery Team (DART)</b> <b>Location: Wilson Hospital</b>	
<b>Summary</b>	Merton Drug and Alcohol Recovery Team (DART) works in a formal partnership with Community Drug Services South London (CDSSL) to provide a Tier 3 service offering structured community based treatment for drug and alcohol service users presenting with moderate to severe substance misuse problems. There may also be some elements of Tier 2 services as part of the assessment process for a limited/negotiated period which includes assessment, harm reduction measures, advice and information.

	<p>The DART provides the assessment, and clinical treatment aspect of the care pathway and this will be subject to the partnership arrangements.</p> <p>CDSSL provide the psycho-social aspects of the care pathway, and this will sit outside of the partnership arrangements.</p>
<p><b>Access Criteria</b></p>	<ul style="list-style-type: none"> <li>➤ Clients who are &gt;18 years old.</li> <li>➤ Clients who have moderate to severe substance misuse problems (Typically alcohol and opioid dependent).</li> <li>➤ Clients who have multiple drug dependence</li> <li>➤ Working with clients who have complex substance misuse dependence</li> <li>➤ Dual diagnosis, i.e. substance misuse and severe/enduring mental illness.</li> <li>➤ High-risk patterns of substance misuse and/or method of administration.</li> <li>➤ Polysubstance misuse with increased risk and/or requiring complex prescribing for stabilisation or inpatient admission for stabilisation or detox.</li> <li>➤ Complex (moderate to severe) benzodiazepine dependence.</li> <li>➤ Complex (moderate to severe) hypnotic drug dependence).</li> <li>➤ There is a diagnosis of a blood borne virus or severe physical illness where a Tier 3 alcohol or drug service intervention may reduce or prevent further physical or mental health harm.</li> <li>➤ Pregnant clients with alcohol and or opioid dependence, or who have other complex substance misuse dependence/problems. This includes patients who are 6 months post-partum.</li> <li>➤ Clients under Drug Rehabilitation Requirements (DRR).</li> <li>➤ Clients discharged from prison requiring opioid substitute prescribing.</li> <li>➤ Clients with substance misuse dependence where there are Child Protection issues</li> <li>➤ The child is currently involved or at high risk of imminent involvement with Children and Families teams due to Child Protection issues,</li> <li>➤ Children that are currently being “looked after” where there is a plan for them to return to drug-using parent(s).</li> <li>➤ Assessing and referring clients for inpatient detoxes from alcohol and opioid detox or stabilisation</li> <li>➤ Assessing and referring clients for residential rehabilitation</li> <li>➤ Clients who are harmful alcohol users or who use other illicit drugs (i.e. cannabis or crack cocaine) are signposted to other agencies:</li> <li>➤ REACH (Richmond Enhancing Access to Community Healthcare).</li> <li>➤ KCA (Kent Counselling Association).</li> <li>➤ DAIS (Drug Alcohol, Intervention and Support).</li> <li>➤ Young people’s drug and alcohol team.</li> <li>➤ ASCA (Addiction Support and Care Agency).</li> <li>➤ The Criminal Justice System (if necessary).</li> <li>➤ Referring to mental health services if there is evidence of mental illness, and there is no evidence of a substance misuse dependence or problem</li> <li>➤ Joint working with mental health teams when there is diagnosis of mental illness and drug dependence (typically these are clients with alcohol and/or opioid dependence or who have complex substance misuse dependence/problems).</li> <li>➤ Clients who are &gt;65 years will continue to receive RCDAT services until such a time as their needs are assessed as having changed due to their age and adult services are less able to meet their needs. Transition of care to services for older people will</li> </ul>

	then be planned.
<b>Referrals</b>	<ul style="list-style-type: none"> <li>➤ GPs.</li> <li>➤ Mental Health Services.</li> <li>➤ Hospitals</li> <li>➤ Non statutory services</li> <li>➤ Social Services, including Child and Family Social Services.</li> <li>➤ The Criminal Justice System.</li> <li>➤ Clients can self-refer.</li> </ul>
<b>Operational Policy</b>	<ul style="list-style-type: none"> <li>➤ The Models of Care National Service framework Department of Health guidance (NTA 2006).</li> <li>➤ The Drug Misuse and Dependence UK Guidelines on Clinical Management 2007.</li> <li>➤ Relevant NICE guidance</li> <li>➤ <a href="http://insite.xswlstg-tr.nhs.uk/KnowledgeBase/Lists/Policies/EIS%20Operational%20Policy.pdf">http://insite.xswlstg-tr.nhs.uk/KnowledgeBase/Lists/Policies/EIS%20Operational%20Policy.pdf</a></li> </ul>

<b>Merton Crisis &amp; Home Treatment Team (C&amp;HTT) 24 hrs service Location: Springfield Hospital</b>	
<b>Summary</b>	<b>Interventions:</b> <ul style="list-style-type: none"> <li>➤ Rapid assessment of needs, mental state, mood and risks both at A &amp; E department and community and determine suitability for home treatment intervention or inpatient acute admission. Response time to A &amp; E usually within one hour.</li> <li>➤ Provide crisis intervention based on clinical and safety need of patient via daily or twice daily visit at home environment. Crisis intervention includes administration of medication, monitoring efficacy and or side effect and risk as well as psychosocial intervention as necessary 24 hours daily.</li> <li>➤ Undertake face to face assessment for all requests for admission to acute inpatient bed from all sources e.g. Merton Assessment Team, Recovery &amp; Support Teams, St. Helier Hospital, Kingston Hospital, St Georges Hospital, police and other emergency services.</li> <li>➤ Where hospitalisation is required, established the purpose of admission and facilitates admission by allocating a bed, thereby ensuring face to face gate keeping to all admissions.</li> <li>➤ Facilitate early discharge, particularly through discharge coordinator working closely with inpatient services to ensure patients are discharged within the earliest possible time.</li> <li>➤ Initiate Clozapine in the community thereby reducing the pressure on inpatient bed acute bed.</li> <li>➤ Ensure joint discharge meeting with RSTs thereby ensuring clarity of role.</li> <li>➤ To work in an integrated manner with Merton AMHP service to offer least restrictive option where feasible.</li> </ul>
<b>Access Criteria</b>	C&HTT works with Adults (18 and above) with severe mental illness

	(e.g. Schizophrenia, Manic Depressive Disorder, Severe Depressive Disorder) in acute psychiatric crisis with such severity that without the involvement of the CR/HTT, hospitalisation would be necessary ( <b>Department of Health CR&amp;HTT Implementation Guideline, NIMHE 2004</b> ).
<b>Referrals</b>	Merton C&HTT receives referrals made by the Merton assessment Team; R&STs; Complex Needs Service: Early Intervention Service; A & E Liaison Services, GP Surgery (Out of office hours); EDT, Sec.136 suite; London Ambulance Services, Self-referral via the Crisis Line, and from other home treatment teams.
<b>Operational Policy</b>	Available on request from the Operational Manager

<b>Merton Older Person's Community Mental Health Team</b> <b>Location: Springfield Hospital</b>	
<b>Summary</b>	<p>Merton Older Person's Community Mental Health Team (CMHT), provides assessment, treatment, recovery and support for Merton residents over 75 who are experiencing mental health needs, including dementia. The over 75 is an 'indicative' threshold, and the service will also treat people with an early onset of dementia below the age of 75.</p> <p>The service will be provided on an outpatient or domiciliary basis by the most appropriate member of the team and offer short term focused interventions to those with severe mental illness on an individual or group basis and long term care co-ordination. The service will also gate keep admissions into inpatient services, and work closely with the inpatient service with regard to discharge planning.</p> <p>The teams will work with other agencies, both statutory and non-statutory where required.</p>
<b>Access Criteria</b>	People over 75 with mental health conditions including dementia, or people with early onset dementia, that cannot be managed in primary care or mainstream services.
<b>Referrals</b>	Referrals from a wide range of services including GPs, social services, nursing/care homes, Acute Hospitals, non-statutory agencies and emergency services.
<b>Operational Policy</b>	Available on request from the Operational Manager

<b>Merton Placement Review Team</b> <b>Location: Springfield Hospital</b>	
<b>Summary</b>	<p>The Merton Placement Review Team works to manage the commissioning budget and will thus work closely with RSTs in order to best meet identified and eligible need in a manner that best promotes choice and recovery, and within available resources.</p> <p>In addition to this, an identified Placement Officer will manage a caseload of complex and high cost placements</p>
<b>Access Criteria</b>	All people with FACS eligible needs from a mental health condition.
<b>Referrals</b>	Referrals are potentially from all mental health services following

	assessment/review of social care needs.
<b>Operational Policy</b>	Available on request from the Operational Manager

### **APPROVED MENTAL HEALTH PROFESSIONALS (AMHP)**

The Council is responsible for ensuring that sufficient Approved Mental Health Professionals (AMHPs) are available in the Borough to carry out their roles under the Mental Health Act 1983. The Council is responsible for approving individual AMHPs. This responsibility cannot be delegated to an NHS organisation through section 75 Partnership arrangements.

Although AMHPs carry out statutory functions under the Act on behalf of the Council, this does not mean that the AMHP has to be employed by the Council who approved them or on whose behalf they are acting. Under this agreement, the Council is entering into an arrangement with the Trust, whereby the Trust may employ an AMHP in their substantive role, but the Council will retain the ultimate legal responsibility for the service. The Trust will release staff for their AMHP duties and for initial and refresher AMHP training. The Trust will work in Partnership with the Council to enable sufficient AMHPs to be available from the integrated health and social care services managed under this agreement.

AMHPs are professional staff with a registered qualification (either Social Workers, Community Mental Health Nurses, Occupational Therapists or Chartered Psychologists) specifically approved and appointed under Section 114 of the Mental Health Act 1983 by a local Social Services authority '*for the purpose of discharging the functions conferred upon them by this Act*'. Among these, one of the most important is to carry out assessments under the Act and to function as applicant in cases where compulsory admission is deemed necessary. Before being appointed, AMHPs must undertake post-qualifying training accredited by the Health and Care Professions Council.

There is a rota arrangement for the deployment of AMHPs between weekday working hours.

AMHPs are released from their substantive community team roles while they undertake AMHP duties.

There are currently 8 Warranted AMHPs in Merton.

As recommended by the advice note issued by the Association of Directors of Adult Social Services (ADASS) in July 2008, the Council will enter into contractual arrangements with all trust employed AMHPs setting out the Councils responsibility for their practice. The Council will remain responsible for:

- Ensuring that all AMHPs have access to professional supervision and support in their role as AMHPs
- Providing a minimum of 18 hours of refresher training, relevant to the AMHP role each year – as determined by the local authority

- the health and safety of AMHPs whilst they are undertaking assessments on their behalf
- professional competence of those working in their role as AMHP, and for removing or suspending their warrant as necessary
- Legal indemnity whilst undertaking the AMHP role
- Access to legal advice whilst carrying out AMHP duties

#### AMHP Legal Support

Legal advice will be provided by the Merton and Richmond Shared Legal Services. Under this agreement, the Trust will work in Partnership with the Council to ensure a sufficient quantity of AMHPs by enabling its staff to be released for AMHP training and deployment on the AMHP rota, maintained by the Council.

#### AMHP Supervision

The following supervision and support arrangements will be in place, including access to senior support from within the Council, where issues related to conflicts of interest arise:

1. The Council's Director, Community and Housing Services, will ensure that AMHPs have access to independent advice and support and to act as the senior responsible officer for the AMHP service within the Council.
2. The Associate Director of Social Work in Mental Health, employed by the Borough, will act as 'champion' to highlight any problems identified by AMHPs, and to protect the role's independence where the source of the problem may be within the substantive employer's control.

Information on AMHP activity will be reported to the JMG regularly as a part of its Performance Reporting Framework as attached at Schedule 6.

### **WIDER SERVICES ACCESSED BY THE INTEGRATED TEAMS**

#### **Services not subject to the Integration Arrangements, but which can be accessed by the Integrated Teams include:**

- Adult Inpatient Service – inpatient services for working age adults, based on Jupiter Ward but other wards accessed as required.
- Older Adult Inpatient Service – inpatient services for older adults, based on Crocus Ward but other wards accessed as required.
- Psychiatric Intensive Care Unit – short term intensive care for those patients who are very acutely ill.

- Challenging Behaviour Team – provide treatment support and advice to care homes in managing older people with dementia manifesting in challenging behaviour.
- Liaison Psychiatry Services – A&E assessment and input into acute wards at St. George's, St. Helier and Kingston Hospitals.
- Complex Needs Team – providing structured treatments for people with complex personality disorder.
- Service User Network – open access group based support and treatment for people with personality disorder.
- Sutton and Merton Improving Access to Psychological Therapies – psychological treatments for people with anxiety and depression.
- SWLSTG Specialist Services e.g. Forensic, Eating Disorders, OCD, Deaf
- Housing/accommodation – General Needs Housing, Housing Needs Team, including Floating Support, Homeless Persons Unit, Registered Providers for Supported Living, Shared Lives, Health Continuing Care
- Safeguarding adults – Safeguarding adults team, Complex Needs team ( virtual)
- Financial assessments – Financial assessments team, Finances services
- Commissioning/contracts – Brokerage
- Children's Services – Child protection CIN. LAC, Supporting Families

### **COMMISSIONED SOCIAL CARE SERVICES**

The Trust will be responsible for putting in place access to social care services in order to meet the assessed eligible needs of service users assessed by the integrated staff teams described in this agreement.

**Additionally the Council will commission a range of social care services directly and make these contracts available for access by the Trust managed integrated staff teams.**

At Commencement these services are as follows:

- A range of services commissioned from the voluntary sector including Carer Support, Home Maintenance, Advocacy and Community Advice Services
- Services available to all customers in Access and Assessment for example Community OT, MILES, services to support self-directed support, Safeguarding, Housing Needs and Supporting People,



The Council will retain responsibility for strategic commissioning which will include population needs analysis, service development, contracting, procurement, brokerage and quality assurance.

#### **TRUST ARRANGED SERVICES FROM THE NON POOLED FUND**

The Trust will be responsible for micro-commissioning, namely, making arrangements for service users to meet their assessed eligible care and support needs from those services contracted directly by the Council from time to time and from additional Health Related social care services to be arranged by the Trust through its use of the Non Pooled Budget as delegated by the Council to the Trust.

Access to all of the Health Related Social Care services is to be determined by the Council's eligibility criteria, currently set at Critical and Substantial Needs.

Arrangements for management of the Non Pooled Budget for commissioning of Health Related social care services by the Trust are set out in more detail in Schedule 5.

**SCHEDULE 4**

**PERSONNEL, MANAGEMENT, STRUCTURE AND SERVICE GOVERNANCE**  
**DRAFT**

1.1 Table 1 shows the total numbers of staff of the Council to be managed by the Trust as at 31 December 2013.

Table 1

<b>Current Employer</b>	<b>Permanent Establishment (incl. vacancies)</b>	<b>Vacancies</b>	<b>Headcount (excl. vacancies)</b>
<b>The Council</b>	41.15	7.40FTE	33.75

1.2 Table 2 shows staff in post by job group of the Council to be managed by the Trust as at 31 December 2013.

Table 2

<b>Job Group</b>	<b>Establishment (incl. vacancies)</b>	<b>Vacancies</b>	<b>Headcount (excl. vacancies) at 31 October 2013)</b>
Associate Director of Social Work (MGB)	1	0	1
Manager (PO5)	3.25	1	2.25
Senior Practitioner (PO3)	5	2	3
Social Worker (main grade SO2-PO3)	13	3	10
Assistant Care Manager	1	0	1
Administrator (Scale 5)	5.40	1.40	4
Placement Review Officer	1	0	1
S and R Worker	7.50	0	7.50
Vocational Specialist	4	0	4
<b>TOTALS</b>	<b>41.15</b>	<b>7.40</b>	<b>33.75</b>

1.3 Table 3 shows the total numbers of Trust staff to be a part of the integrated service managed by the Trust as at 31 December 2013.

Table 3

<b>Current Employer</b>	<b>Establishment (incl. vacancies)</b>	<b>Recharge to LBM</b>	<b>Trust Establishment minus recharges</b>	<b>Vacancies</b>	<b>Headcount (excl. vacancies)</b>
<b>The Trust</b>	78.96	16.15	62.81	7.95	80

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- 1.4 Table 4 shows the Trust staff in post by job group to be a part of the integrated service to be managed by the Trust as at 31 December 2013. Medical staff are not part of the integrated service agreement but will contribute to the function of teams.

Table 4

Job Group	(A) Establishment (incl. vacancies)	(B) Recharge to LBM	(C) Vacancies (Based on Column A)	(D) Headcount (excl. vacancies) at 31 December 2013. (Based on Column A)
Occupational Therapist (AHP) (Band 6/7)	5.50	0	2	5
Manager (Band 7/8b)	8.25	3.25	1	8
Psychologist (Band 7/8a)	4.50	0	0	6
Administrator (Band 4)	9.19	1.40	1.45	8
Employment Specialist (Band 5/7)	4.00	4.00	0	4
Recovery & Support Worker (Band 4)	16.50	7.50	0	16
Nursing (Band 6)	31.02	0	3.5	33
<b>TOTAL</b>	<b>78.96</b>	<b>16.15</b>	<b>7.95</b>	<b>80</b>
<b>TOTAL (Excluding Medical &amp; Recharges to LBM)</b>	<b>62.81</b>			

- 1.5 Table 5 shows the total integrated service establishment by Team to be managed by the Trust as the integrated service.

Table 5

Team	The Trust (Establishment FTE)	Trust's Recharge to LBM	The Council (Permanent Establishment FTE)
Placement Review Team	1.25	1.25	1.25
Mitcham Recovery and Support Team	10.0	3.00	7.00
Wimbledon Recovery and Support Team	7.50	1.50	5.00
Merton EIS	7.00	2.00	3.00
Merton HTT	19.00	4.50	6.50
Merton OP CMHT	11.69	0.65	4.65
Merton Adult Assessment Team	3.0	0	2.00
Morden Recovery and Support Team	8.52	2.00	4.00
S&M Management Overheads	1.0	0.25	4.25
Wilson Admin Team	4.50	1.00	0.00

Drug and Alcohol Team	5.50	0	2.00
Hospital Discharge Team	0.00	0.00	1.00
Bradshaw Close	0.00	0.00	0.50
<b>TOTAL</b>	<b>78.96</b>	<b>16.15</b>	<b>41.15</b>
<b>TOTAL FTE (excluding Medical &amp; Recharges to LBM)</b>	<b>62.81</b>		<b>41.15</b>

- 1.6 Table 6 shows the total integrated service establishment to be managed by the Trust as the integrated service.

Table 6 - Summary FTE

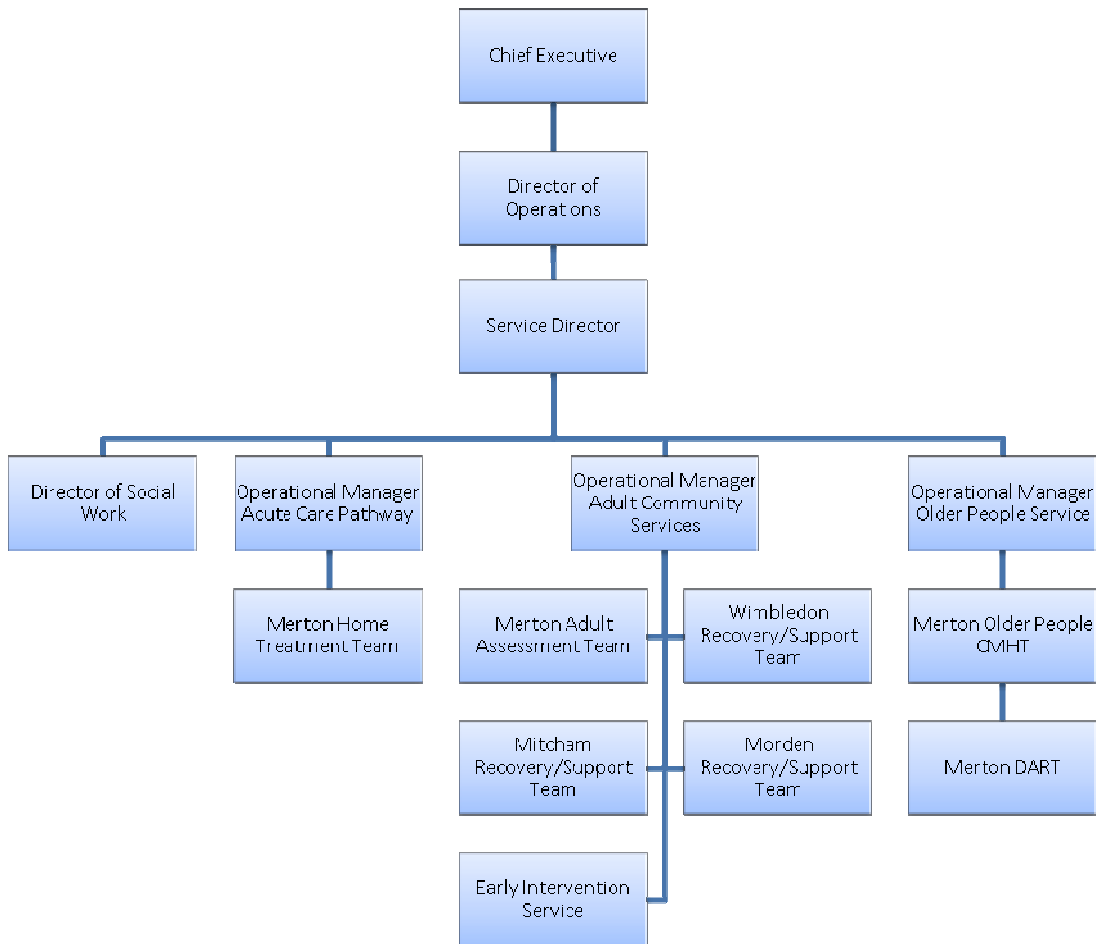
<b>Service Area</b>	<b>The Trust (Establishment FTE) excluding Medical &amp; LBM recharges</b>	<b>Recharges to LBM</b>	<b>The Council (Permanent Establishment FTE)</b>
Adult Mental Health	78.96	16.15	41.15FTE
<b>Total</b>	<b>62.81</b>	<b>16.15</b>	<b>41.15FTE</b>

## 2. Staff Details

- 2.1 A database exists which lists all of the Council staff for the Trust to manage and direct as a part of the Pooled Fund, this database is agreed to be a full listing of the Council Staff and is held and updated by the HR Department of the Council
- 2.2 A database exists which lists all of the Trust staff for it to manage and direct as a part of the integrated service, this database is held and updated by the HR Department of the Trust

Both the Council and the Trust agree to protect any personal data held on seconded staff in accordance with the Data Protection Act 1998.

### 3. Structure of the Integrated Service within the Trust Structure and Management



### 4. Staff Arrangement

The arrangement between the partners involving staff is outlined in the Agreement. This schedule clarifies what posts are involved, the structure of the services, how staff are employed/seconded and managed, how they are professionally supported, and how service governance operates. Arrangements for supervision will have clearly defined individual partner accountability frameworks which support transparent, accountable and timely decision-making.

All staff within the integrated services will be managed on a day-to-day basis in accordance with the line management structure. Within a service, an employee of either organisation may provide formal line management.

Line managers within the service may act for either organisation in administering HR policies and procedures, including the formal stages of any procedure, in consultation with the relevant HR staff.

Managers will undertake supervision of staff and hold them accountable for their actions.

All staff will be expected to comply with all reasonable instructions and directions given to them by managers of either organisation within the integrated provider scheme. There will be agreed arrangements for professional accountability and supervision. Staff from both organisations must ensure that they undertake appropriate training in relevant policies and procedures around people management.

Managers from both organisations will be involved in a joint process of assessing performance for progression between grades in relation to link graded posts where this applies.

Managers need to be aware of and familiar with the people management policies and procedures of both organisations, including acting upon advice from HR Advisors, Occupational Health and other specialist advisers from the employing organisation. Managers must make sure that all management actions, including management of absence, disciplinary action or terminations, are carried out in line with the employing organisation's policies and procedures and in accordance with this protocol.

The identification of training needs will be the responsibility of the line managers within the integrated services, working with colleagues in the two Training and Development departments where appropriate. Training programmes are available to all staff from any partner.

All staff within the integrated services will be expected to have personal development plans. The processes for agreeing personal development plans will be considered alongside consideration of the supervision processes and the appropriate appraisal scheme which fits in with the business plan of the service.

Where there is an identified need within an integrated team the two organisations will jointly decide how best to meet the need.

## 5. Service Governance

There will be a robust system of governance and delegation in order to ensure effective and accountable management of the available resources and for future planning of services. This includes reviewing and monitoring the Agreement by the JMG, ensuring strategic planning and risk management and that the aims and objectives of the Partnership arrangements are being met.

## 6. Framework of Policies & Procedures for Council Staff Covered by the Secondment Agreement with the Trust

<b>Contracts</b>	<ul style="list-style-type: none"> <li>All Council employees remain on their substantive contracts with the Council but will sign a secondment agreement outlining arrangements during the period of the secondment.</li> </ul>
<b>Personal Files</b>	<ul style="list-style-type: none"> <li>Will be retained by the Council's HR Team although data will be provided to the Trust as agreed.</li> </ul>
<b>Pension Arrangements</b>	<ul style="list-style-type: none"> <li>Staff will remain within their current pension scheme.</li> </ul>
<b>Consultation</b>	<ul style="list-style-type: none"> <li>Undertaken through existing processes in the partner organisations. Joint consultation will be undertaken where appropriate.</li> </ul>
<b>Pay &amp; Allowances</b>	<ul style="list-style-type: none"> <li>Paid through systems and policies currently in place in the</li> </ul>

	Council.
<b>Job Evaluation</b>	<ul style="list-style-type: none"> <li>• Undertaken by the Council.</li> </ul>
<b>Recruitment &amp; Selection</b>	<ul style="list-style-type: none"> <li>• The responsibility for recruitment to vacancies within the staff seconded to the Trust will remain with the Trust including ensuring the appropriate authorisations are obtained (ie council member approval where required)</li> </ul>
<b>Health &amp; Safety</b>	<ul style="list-style-type: none"> <li>• Staff are required to work within the Trust's Health and Safety policies, procedures and codes of practice.</li> <li>• A duty of care is owed by employers and the partner organisations wherever staff are working.</li> </ul>
<b>Communication</b>	<ul style="list-style-type: none"> <li>• The Trust is responsible for communicating with staff and for ensuring joint communication when necessary. The Council is responsible for keeping its staff and the Trust up to date with relevant information.</li> </ul>
<b>Performance Management</b>	<ul style="list-style-type: none"> <li>• Day to day supervision will continue to be undertaken in accordance with the line management structure. Staff from both organisations must ensure they undertake appropriate training in relevant policies and procedures around people management.</li> <li>• Managers from both organisations will be involved in a joint process of assessing performance for annual performance related pay. No PRP – but need to think about assessment for grade progression where link grades exist – ie SW</li> </ul>
<b>Induction</b>	<ul style="list-style-type: none"> <li>• Joint induction programme. The Trust is responsible for induction taking place. All staff will have to attend induction programmes held by the Trust and Council staff must also undertake the Council's corporate induction programme.</li> </ul>
<b>Code of Conduct for employees</b>	<ul style="list-style-type: none"> <li>• All staff will follow the Council's Code of Conduct.</li> </ul>
<b>Employees Disciplinary Code</b>	<ul style="list-style-type: none"> <li>• The Council's policies and procedures will apply.</li> </ul>
<b>Harassment at Work Policy</b>	<ul style="list-style-type: none"> <li>• The Council's policies and procedures will apply.</li> </ul>
<b>Grievance Procedure</b>	<ul style="list-style-type: none"> <li>• The Council's policies and procedures will apply.</li> </ul>
<b>Whistle blowing policy and Procedure</b>	<ul style="list-style-type: none"> <li>• The Council's policies and procedures will apply.</li> </ul>
<b>Sickness Absence</b>	<ul style="list-style-type: none"> <li>• The Council's policies and procedures will apply.</li> </ul>
<b>Procedure for dealing with cases of unsatisfactory performance</b>	<ul style="list-style-type: none"> <li>• The Council's policies and procedures will apply.</li> </ul>
<b>Probationary procedure</b>	<ul style="list-style-type: none"> <li>• The Council's policies and procedures will apply.</li> </ul>
<b>Leave (Annual and Special Leave)</b>	<ul style="list-style-type: none"> <li>• The Council's policies and procedures will apply</li> </ul>

<b>Job Descriptions</b>	<ul style="list-style-type: none"> <li>• All employees can expect to have an up to date job description issued by the Council.</li> <li>• Any significant changes to the job description will be consulted on under the Councils procedures and in liaison with the Trust</li> </ul>
<b>Equal Opportunities</b>	<ul style="list-style-type: none"> <li>• Staff will be required to work under the terms of the Trust's equality policy (with reference to that of the Council).</li> <li>• In cases of non-compliance assessment and consideration will be given to appropriate application of the disciplinary procedure.</li> </ul>
<b>Training &amp; Development</b>	<ul style="list-style-type: none"> <li>• Continuing professional development needs will be identified through supervision and appraisal processes. Council staff will continue to have access to any relevant training provided by the Council.</li> </ul>
<b>Standards Policies and Procedures</b>	<ul style="list-style-type: none"> <li>• Social Care Services will be delivered in conformity with the standards, policies and procedures of the Council and any requirements of the Health Care and Professions Council. Other aspects of service to be delivered in conformity with Trust standards, procedures and policy.</li> </ul>
<b>Statutory functions under the Mental Health Act, 1983.</b>	<ul style="list-style-type: none"> <li>• AMHP duties will continue to be undertaken as employees of the Council, acting in the independent role of the AMHP. Operational management of this work will not be delegated to the Trust but will remain the direct responsibility of the Council.</li> </ul>
<b>Health &amp; Care Professions Council</b>	<ul style="list-style-type: none"> <li>• All practicing qualified social workers must be register with the HCPC and are required to adhere to the HCPC's standards of conduct, performance and ethics.</li> </ul>

### **6.1 Protocol for Applying Council Policies during the Secondment Period**

In relation to a non-contractual policy, at any point where reference is made to "the Manager", this may equally apply to a Trust manager or the Council manager of similar seniority.

Where it is likely that a health manager will be involved in a contractual policy, then this must be discussed with and approved by the Councils Professional Social Work Lead and/or the relevant Assistant Director who will decide if it is appropriate. Advice on the application of Council contractual policies will be provided by the Council's HR service.

If the application of the Council's contractual policy may result in the termination of employment of the seconded member of staff, this decision will be the responsibility of the Council.

### **7. Secondment Agreement between the Partners and Secondment Letter (attached)**



## SECONDMENT AGREEMENT

### Definitions:

**Management Issues:** all those matters under a contract of employment requiring action, investigation and/or decisions by the Council including in particular (by way of illustration only and without limitation) appraisals and performance issues; pay reviews and the award of other payments and benefits under the contract of employment; periods of annual, sick or other leave; absence of a secondee for any other reason; any complaint about a secondee (whether or not that would be dealt with under the Council's disciplinary procedure) and any complaint or grievance raised by a secondee (whether or not that would be dealt with under the Council's grievance procedure).

**Confidential Information:** information relating to the business, products, affairs and finances of the relevant party for the time being confidential to the relevant party and trade secrets including, without limitation, technical data and know-how relating to the business of the relevant party or any of its suppliers, clients, customers, agents, distributors, shareholders or management, including in particular (by way of illustration only and without limitation)

All other definitions herein detailed shall be as defined in the Section 75 Agreement.

### Introduction

- 1.1 This Secondment Agreement forms part of the overall Section 75 Partnership Agreement between South West London and St George's Mental Health NHS Trust, "the Trust" and The London Borough of Merton "the Council".
- 1.2 This Secondment Agreement provides guidance to enable the effective secondment of staff from the Council to the Trust, in order to fully implement the single management arrangements within Merton and will be subject to annual review.
- 1.3 The arrangements here are intended to apply to all Adult Social Services staff affected by the single management partnership arrangements, including administrative and support staff and others where it is agreed as appropriate.
- 1.4 All seconded staff will receive an individual letter setting out the terms of the secondment agreement as attached.
- 1.5 The Council shall second the secondees to the Trust on an exclusive and full-time basis for the Secondment Period to provide the Services in accordance with the terms of this agreement and the provisions of the Section 75 Agreement.
- 1.6 The period of the secondment with the Trust, under this agreement, will commence on April 1<sup>st</sup> 2014 and will terminate with the ending of the Section 75 Agreement or the termination of the individual's contract, whichever is sooner ('Secondment Period').

## 2. **Accountability**

- 2.1 All seconded staff will work within the Trust teams to which they have been allocated. They will be accountable on a day to day basis to the appropriate line manager within the Trust. This will be for the purposes of:
- Performance management
  - Caseload/work allocation
  - Day to day management, e.g. supervision, annual leave arrangements, return to work interviews following sickness etc.
- 2.2 Professional accountability for qualified social workers will be to the Associate Director for Social Work for Mental Health Services, holding a social work qualification. They will act as professional supervisor and will support and advise on professional issues, and will support the Trust's line manager and member of staff in the performance management process.
- 2.3 The Council shall continue to deal with any Management Issues concerning a secondee during the Secondment Period, where relevant following consultation with the Trust.
- 2.4 The Trust shall use its reasonable endeavours to provide any information, documentation, access to its premises and employees and assistance (including but not limited to giving witness evidence) to the Council to deal with any Management Issues concerning a secondee whether under the Council's internal procedures or before any court of tribunal.
- 2.5 The Trust shall have day-to-day control of a secondee's activities but as soon as reasonably practicable shall refer any Management Issues concerning the Secondee that come to its attention to the Council.
- 2.6 Both parties shall inform the other as soon as reasonably practicable of any other significant matter that may arise during the Secondment Period relating to the Secondee or their employment.

## 3. **Progression, Development and Training**

- 3.1 Performance appraisals will be carried out by the line manager in the Trust following the Council's format and policies but in the case of those secondees holding a professional qualification, there will be input from the professional supervisor (see paragraph 2.2). The Trust will be expected to operate the Council's Social work progression arrangements within the framework of the Council's performance appraisal system. .
- 3.2 The responsibility for identifying training needs will be with the line manager in the Trust. The training needs of seconded staff will be identified and assessed through the Trust and a joint training plan will be drawn up accordingly and shared with the Council's Adults Workforce Development team to ensure identified training needs are met.
- 3.3 Seconded staff will be able to access any internal training activities run within the Council's Adult Social Services Department and attend all mandatory training including FACS and AMHPs training. Over time, all training and development needs will be co-ordinated through a multi-agency mental health workforce training and development plan.

#### 4. **Terms and Conditions**

- 4.1 The secondee's contract of employment continues with the Council. If the secondment comes to an end because the Agreement comes to an end then seconded staff will return to a post managed by the Council.
- 4.2 The employee's terms and conditions of service, together with pension provision, remain intact, subject to any subsequent agreement by the employee to vary any existing terms and conditions.
- 4.3 The Trust shall not, and shall not require a secondee to do anything that shall, breach the secondee's contract of employment and shall have no authority to vary the terms of such a contract or make any representations to a secondee in relation to the terms of the same.
- 4.4 The Trust shall provide the Council with such information and assistance as it may reasonably require to carry out its obligations as the secondee's employer.
- 4.5 Any change in the contract of employment of a secondee during the Secondment Period shall be notified to the Trust.
- 4.6 All documents, manuals, hardware and software provided for the secondee's use by the Trust, and any data or documents (including copies) produced, maintained or stored on the Trust's computer systems or other electronic equipment (including mobile phones), remain the property of the Trust.
- 4.3 Payroll for seconded staff will remain the responsibility of the Council. Individual queries from secondees regarding their terms and conditions should be directed to the Council Payroll or HR Service.

#### 5. **Workforce Information**

- 5.1 The Trust will collect and keep information concerning vacancies, retention and absence for seconded staff. It is recognised that the Trust will require data concerning seconded staff in order to support the planning and delivery of services, and this will be provided by the Council as required.
- 5.2 Both the Council and the Trust agree to protect any personal data held on seconded staff in accordance with the Data Protection Act 1998.

#### 6. **Replacement of seconded staff**

- 6.1 Replacement of individual secondees after 1 April 2014 will be a joint process coordinated by the Trust with representatives from both the Trust and the Council on the appointment panel. The Council's recruitment procedures will be followed by the Trust.
- 6.2 Secondment arrangements for the new appointee will be as set out in this document and the contracts of employment will be with the Council.

#### 7. **Health and Safety**

The Trust's Health and Safety policies and procedures will apply to all seconded staff and the Trust shall ensure that all seconded employees receive a full induction into these policies

## **8. Data Protection & Confidentiality**

8.1 The Council confirms that the secondees have consented to the Trust processing data relating to the secondees for legal, personnel, administrative and management purposes and in particular to the processing of any "sensitive personal data" (as defined in the Data Protection Act 1998) relating to them.

8.2 The Council shall:

8.2.1 keep any Confidential Information relating to the Trust that it obtains as a result of a secondment;

8.2.2 not use or directly or indirectly disclose any such Confidential Information (or allow it to be used or disclosed), in whole or in part, to any person without the prior written consent of the Trust;

8.2.3 ensure that no person gets access to the Confidential Information from it, its officers, employees or agents unless authorised to do so; and

8.2.4 inform the Trust immediately on becoming aware, or suspecting, that an unauthorised person has become aware of such Confidential Information.

8.3 The Trust shall:

8.3.1 keep any Confidential Information relating to the Council that it obtains as a result of a secondment;

8.3.2 not use or directly or indirectly disclose any such Confidential Information (or allow it to be used or disclosed), in whole or in part, to any person without the prior written consent of the Council;

8.3.3 use its best endeavours to ensure that no person gets access to such Confidential Information from it, its officers, employees or agents unless authorised to do so; and

8.3.4 inform the Council immediately on becoming aware, or suspecting, that an unauthorised person has become aware of such Confidential Information.

## **9. Variation and Waiver**

No modification, variation or amendment to this agreement shall be effective unless such modification, variation or amendment is in writing and has been signed by or on behalf of both parties.

## **10. Third Party Rights**

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement. No person other than the Council and the Trust shall have any rights under it and it shall not be enforceable by any person other than the Council and the Trust.

**11. Governing Law and Jurisdiction**

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

LOGO.

*Adult and Community Services*

Service / contact details ?  
HR shared service

Date

Employee name  
Employee address  
Address  
Address  
Postcode

Dear .....

**SECONDMENT TO SOUTH WEST LONDON AND ST GEORGES MENTAL HEALTH TRUST**

We are writing to confirm the arrangements that have been agreed between us in connection with your secondment to South West London and St Georges Mental Health Trust (the Trust).

The London Borough of Merton and South West London and St Georges Mental Health Trust (the Trust) have entered into a partnership arrangement to maximise the effectiveness and efficiency of mental health service provision and ultimately to provide integrated health and social care. The arrangement is set out in a formal section 75 Agreement, in which it is confirmed that staff working in Mental Health related services for the Council will be seconded to the Trust to create a single management of Health and Social Care Staff.

This letter sets out the formal arrangements for your secondment from The London Borough of Merton (LBM), Adult and Community Services Department to South West London and St Georges Mental Health NHS Trust (the Trust). Please also refer to the attached Appendix 1 which is the Secondment Agreement between the Parties.

## **1. Post Details**

You are seconded to the post of Social Worker in the [..... Team] based at [ .....] and your duties will be as described in your job description/job profile. You shall remain employed by the LBM during the secondment and your current terms of employment shall remain unchanged, except as set out in this letter. In particular, your period of continuous service shall remain unbroken. At the end of the secondment, the LBM currently intends that you will return to your current position on the terms applying before the secondment, or a suitable alternative if that role no longer exists. However, this may change according to the needs of the business at that time.

## **2. Duration of the Secondment**

The secondment arrangements for your post have been reviewed and will take effect from 1 April; 2014 and will remain in force for the duration of the Section 75 Partnership Agreement or as long as you have a contract of employment with LBM (the termination provisions within your current contract of employment shall apply). If the secondment comes to an end because the Partnership Agreement comes to an end then you will return to a post managed by LBM, as stated above. These arrangements between LBM and the Trust will be subject to periodic review.

## **3. Employment Status /management arrangements**

3.1 As detailed above you will remain as an employee of the LBM and will be subject your current terms and conditions of employment, and the LBM's Codes of Practice, rules and regulations and any legislation applicable to LBM as a local authority. For the avoidance of any doubt nothing in this letter will be construed to have effect as forming or recording any relationship of employer and employee between you and the Trust.

3.2 You will be accountable on a day to day basis to your line manager (who may be either a Council or a Trust employee) who will also manage and direct your working arrangements, allocate work, agree annual leave, identify training needs, take any action required under the Council's staffing policies and procedures.

3.3 Notification of sickness absence should be made to your line manager in the first instance, who will ensure that any sickness absence is correctly reported and relevant forms completed and forwarded to the LBM HR Service for recording and sick pay purposes.

3.4 If you are absent from work at any time, notify both the Trust and LBM as soon as possible on the first day of absence.

3.5 In the event of an issue being raised under the Council's disciplinary, performance, absence management or grievance procedures, the matter will be handled through the line management of the Trust and, where appropriate and/or as required, in consultation with the LBM professional lead, with support and advice from LBM's HR Section. In most cases, the appointed Investigating Officer will be a Trust line manager however the LBM will have responsibility for decisions potentially resulting in a dismissal. Therefore, in these circumstances the Senior Manager hearing the case will be an employee of LBM, who has been authorised with the required delegated authority to dismiss from an LBM Director. The relevant Trust manager(s) and the Trust's HR Managers will be regularly informed of progress and the outcome of the hearing as appropriate.

3.6 While working under the terms of your secondment, you shall devote the whole of your time attention and skill to your duties and faithfully and diligently perform duties and exercise such powers as may from time to time be reasonably assigned to or vested in you by the Trust. You shall obey all lawful directions given to you by your line manager and the Trust.

3.7 If you are a recognised Trade Union steward your time off arrangements will be in accordance with the LBM agreement with the Unions.

3.8 You will be required to work at any of the Trust's premises as directed.

#### **4. Pay Arrangements**

4.1 Your salary will be paid by the LBM. The LBM's Payroll Section will make appropriate deductions in respect of PAYE, National Insurance contributions and superannuation contributions as appropriate.

4.2 You will receive the NJC annual pay award (when applicable) for the duration of the secondment.

4.3 Progression through the social work grade (applicable to social worker posts only) will be subject to the LBM's progression arrangements and criteria set out in the job profile. Assessment will be made by your line manager with input from your professional supervisor/ the professional lead of social work as appropriate, linking with the professional competencies framework and the LBM's performance appraisal scheme.

#### **5. Appraisal and Training**

5.1 Performance appraisals will be carried out following the LBM's format and policies.

5.2 You will have access to relevant training courses arranged by the LBM and will additionally be able to access any internal training activities run within the Trust. Nomination for courses will be by agreement with your line manager. Advice on professional development will be provided by the professional supervisor or the professional head of social work as appropriate.

#### **6. Health and Safety / other policies**

6.1 During your secondment the Trust's health and safety policies and procedures will apply to you. Arrangements will be made by the Trust to issue you with guidance and induct you into their procedures. In the event of an accident, assault, occupational disease or near miss you should report the incident to your line manager immediately and complete the Trust's Accident/Incident Report Form (WNS 002) which you should submit to your manager. However, a copy of the form (WNS 002) must be sent to Merton Council's Lead Health & Safety Adviser.

6.2 Other policies will be applied as appropriate see attached appendix [X] .

#### **7. Confidentiality**

7.1 Your contract currently requires you to keep the LBM's confidential information confidential. This is particularly important while you are on secondment to the Trust. All confidential records, documents and other papers together with any copies or extracts thereof, made or acquired by you in the course of your secondment shall be the property of the Trust, and must be returned to the Trust on the termination of your secondment.

7.2 During your secondment you may come across confidential information about the Trust. Accordingly, you agree not to disclose to a third party or make use of confidential information about matters connected with the Trust, (or related to a subsidiary, supplier, customer or client of the Trust), including without limitation information about patients, medical, scientific or technical processes, inventions, research activities, designs, business affairs, finances, employees or officers. Any breach of confidentiality will render you liable to disciplinary action and/ or to civil proceedings.

#### **8. Data Protection**

8.1 You consent to the LBM providing relevant information about you to the Trust in connection with the secondment [and, in particular, to it providing [DETAILS OF ANY SENSITIVE PERSONAL DATA] to the Trust to enable it to [DETAILS]].

#### **9. Summary of Policies and Procedures**

See attached Appendix

If you have any questions about any of the above or enclosed documentation, please contact the HR Shared Service for Merton Council;

Yours sincerely

SIGNATURE

FORM OF ACCEPTANCE

Two copies of this letter are enclosed. Please read the letter and the attachments included, and then sign both copies. **One copy is for your retention and the other should be returned to** Human Resources at the London Borough of Merton.

I have read and understood the above and confirm my agreement to secondment to the South West London and St Georges NHS Trust on the terms set out. I understand that I will remain employed by the London Borough of Merton during my secondment.

Signed .....Name:.....Date:.....

Yours sincerely

SIGNATURE

FORM OF ACCEPTANCE

Two copies of this letter are enclosed. Please read the letter and the attachments included, and then sign both copies. **One copy is for your retention and the other should be returned to** Human Resources at Merton Borough Council.

I have read and understood the above and confirm my agreement to secondment to the South West London and St Georges NHS Trust on the terms set out. I understand that I will remain employed by Merton Borough Council during my secondment.

Signed .....Name:.....Date:.....

**Appendix**



**POLICIES AND PROCEDURES AS THEY WILL BE APPLIED TO YOUR SECONDMENT**

<b>Contracts</b>	All Council employees remain on their substantive contracts with the Council but will sign a secondment agreement outlining arrangements during the period of the secondment.
<b>Personal Files</b>	Will be retained by the Council's HR Team although data will be provided to the Trust where appropriate in accordance with any data protection principles that they may reasonably require in connection with your secondment
<b>Pension Arrangements</b>	Staff will remain within their current pension scheme.
<b>Consultation</b>	Undertaken through existing processes in the partner organisations. Joint consultation will be undertaken where appropriate.
<b>Pay &amp; Allowances</b>	Paid through systems and policies currently in place in the Council.
<b>Job Evaluation</b>	Undertaken by the Council.
<b>Recruitment &amp; Selection</b>	The responsibility for recruitment to vacancies of Council funded posts will remain with the Trust, however relevant authorisation must be obtained in accordance with the agreed recruitment protocol
<b>Health &amp; Safety</b>	Staff are required to work within the Trust's health and safety policies, procedures and codes of practice. A duty of care is owed by employers and the partner organisations wherever staff are working.
<b>Communication</b>	The Trust is responsible for communicating with staff and for ensuring joint communication when necessary. The Council is responsible for keeping its staff and the Trust up to date with relevant information.
<b>Performance Management</b>	Day to day supervision will continue to be undertaken in accordance with the line management structure. Staff from both organisations must ensure they undertake appropriate training in relevant policies and procedures around people management.
<b>Induction</b>	Joint induction programme. The Trust is responsible for induction taking place. All staff will have to attend induction programmes held by the Trust and Council staff will also undertake the Council's corporate induction programme.
<b>Code of Conduct for employees</b>	All staff will follow the Council's Code of Conduct.
<b>Employees Disciplinary Code</b>	The Council's policies and procedures will apply.
<b>Harassment at Work Policy</b>	The Council's policies and procedures will apply.
<b>Grievance Procedure</b>	The Council's policies and procedures will apply.
<b>Whistle blowing policy and Procedure</b>	The Council's policies and procedures will apply.

<b>Sickness Absence</b>	The Council's policies and procedures will apply.
<b>Procedure for dealing with cases of unsatisfactory performance</b>	The Council's policies and procedures will apply.
<b>Probationary procedure</b>	The Council's policies and procedures will apply.
<b>Leave (Annual and Special Leave)</b>	The Council's policies and procedures will apply
<b>Job Descriptions</b>	All employees can expect to have an up to date job description/job profile issued by the Council. Any significant changes to the job description will be consulted on under the Councils procedures and in liaison with the Trust
<b>Equal Opportunities</b>	Staff will be required to work under the terms of the Trust's equality policy (with reference to that of the Council).  In cases of non-compliance assessment and consideration will be given to appropriate application of the disciplinary procedure.
<b>Training &amp; Development</b>	Continuing professional development needs will be identified through supervision and appraisal processes. Staff will continue to have access to relevant training provided by the Council.
<b>Standards Policies and Procedures</b>	Social Care Services will be delivered in conformity with the standards, policies and procedures of the Council and any requirements of the Health Care and Professions Council. Other aspects of service to be delivered in conformity with Trust standards, procedures and policy.
<b>Statutory functions under the Mental Health Act, 1983.</b>	AMHP duties will continue to be undertaken as employees of the Council, acting in the independent role of the AMHP.
<b>Health &amp; Care Professions Council</b>	All practicing qualified social workers must be registered with the HCPC and are required to adhere to the HCPC's standards of conduct, performance and ethics.

**SCHEDULE 5:**  
**RESOURCES**

**INTRODUCTION**

This Schedule provides details of the budgets, goods and services to be made available by the Parties and also outlines the principles governing budget setting and accounting for the use of resources.

**FINANCIAL PROCEDURES FOR THE OPERATION OF THE AGREEMENT**

The JMG will agree by 28<sup>th</sup> February each year financial procedures and arrangements for the operation of this agreement for the following financial year (1<sup>st</sup> April to following 31<sup>st</sup> March). This will act as a Revised Annual Finance Agreement, which sets out the budget. This is in accordance with clause 10 of the Agreement.

The proposed budget for the following financial year will be presented to the JMG no later than 31<sup>st</sup> January and the budget will be agreed by the JMG no later than 28<sup>th</sup> February. The budget as agreed by the JMG will take into account effects on other budgets and other financial flows of the Parties.

All figures shown in this schedule are full year effect.

**POOLED BUDGET SOURCES OF FUNDING**

The funding comes from:

- The Council
- The Trust

**THE DETAILED BUDGETS ARE AS FOLLOWS:**

- The Council contribution to Pooled Fund - detail: Annex A
- The Trust contribution to Pooled Fund - detail: Annex B
- Financial Governance Framework for the Non-Pooled Delegated Budget – Annex C
- Staff Recharges Between the Parties as at 31/12/13 – Annex D

**FINANCIAL PLANNING AND BUDGET SETTING PROCESS**

The Parties will prepare planning assumptions of inflation allowances for pay expenditure together with proposed budget variations in respect of:

- growth and demographic change;

- service enhancements or reductions;
- required efficiency / quality improvements;
- cost pressure funding; and
- National initiatives.

These will be considered in the context of the overall budgets of the Trust or the overall Council budget, as applicable, and shall be presented to the JMG no later than 31<sup>st</sup> January for the following financial year's budget.

## **POOLED FUNDS**

The Pooled Fund Manager shall ensure that any matters relating to the Pooled funds that might have a material effect on expenditure are identified and reported to the JMG no later than 31<sup>st</sup> January for the following financial year's budget.

These matters, together with the planning assumptions and proposed budget variations referred to in above, are to be considered by the JMG in its approval by 28<sup>th</sup> February of the budget for the following financial year.

As part of the annual budget setting process, the Parties shall ensure that their managers provide advice as necessary.

## **FINANCIAL PERFORMANCE / RISK MANAGEMENT ARRANGEMENTS**

The Trust is the host for the operation of this agreement and will appoint a Pooled Fund Manager with responsibility for the integrated management of the Pooled Fund and Non Pooled Fund subject to the governance arrangements set out in Schedule 6 to this Agreement.

The Pooled Fund is comprised of contributions from both of the Parties and forms a single fund. The Pooled Fund is to be used solely to achieve the aims and objectives set out in Schedule 1 to this agreement and the Annual Plan referred to at Clause 10 of the Agreement.

The Pooled Fund Manager shall report monthly to the JMG on the information specified at Appendix to Schedule 6.

The Parties agree to provide all necessary information to the Pooled Fund Manager in time for the reporting requirements to be met.

The Pooled Fund Manager shall ensure that action is taken to manage any projected under or over spends from the budgets relating to the Pooled Fund or Non Pooled Fund reporting on the variances and the actions taken or proposed to the JMG.

If at any time during the financial year there is forecast a projected under or over spend within the Pooled Fund or Non pooled Fund , the Pooled Fund Manager will prepare an action plan to manage the under or over spend, for presentation to the JMG as quickly as possible. The JMG will consider the action plan, amend if appropriate and agree the actions to be taken.

The Pooled Budget Manager will provide monthly progress reports to the JMG on implementation of the action plan, until such time that the under or over spend has been dealt with to the satisfaction of the JMG.

## PAYMENT MECHANISM

Invoicing between the Parties will happen monthly in arrears in accordance with invoices settled 30 days from the date of invoice.

## RISK SHARING

Risk Sharing will be managed in accordance with Clauses 7 and 12 of the Agreement .

Any Performance Related Pay (PRP) or Recruitment and Retention payments will be borne by the Party that funds the post.

## CONSTRUCTION OF BUDGET AND BASIS OF CONTRIBUTIONS

For the avoidance of doubt, any personal contributions payable by service users towards any Council services will continue to be collected by Council.

Each organisation will follow appropriate VAT rules that apply to their sector.

The Trust budgets do not take into account any changes needed for Payment by Results (PbR).

## CONTRIBUTIONS

The budget amounts to be contributed by the Parties to the Pooled Fund and Non pooled Fund are as follows:

	<b>Budget £000s</b>
	(at 2013/14 price base)
Trust – Annex A	2,765
Council – Annex B	1,684
<b>Total Pooled Fund</b>	<b>4,449</b>

**Council Contribution to Non Pooled Fund: £1,220,000 (at 2013/14 price base)**

## RESOURCES AVAILABLE OUTSIDE THE POOLED FUND

The Parties shall ensure access to the following resources outside the Pooled Fund as necessary for the purposes of this agreement:-

- Operations functions
  - Pooled Fund Manager

- Management function
- Reporting of KPIs via Performance Team
- IT functions
  - Access to IT and telephony
- Finance functions
  - Reporting
  - Forecasting
  - Invoicing
- Property functions
  - Maintenance of the property mentioned below in Accommodation Arrangements for Service
- Staff & HR Functions
  - Continuous employer support
  - Support for training and development

The Parties shall ensure access to the following systems as necessary for the purposes of this agreement:

- RiO - which will be the main system for maintaining patient/service users records
- Pulse
- My Dashboard
- Intranet (Council and Trust)
- Ulysses
- Care First
- Secure email systems

## **Accommodation Arrangements for Services**

### Premises

The Parties shall continue to provide or make available the premises that they provided or made available before the Commencement Date, with the same support services and facilities management.

The addresses of these premises are set out below:

For the Trust which provides the joint team bases:

- Springfield Hospital, 61 Glenburnie Road, SW17 7DJ
- The Wilson Hospital , 6 Cranmer Terrace, Mitcham London CR4 EIS”

Accommodation for the Approved Mental Health Professional (AMHP) service is the responsibility of the Trust. Administrative support associated with the operation of the AMHP service will be the responsibility of the Council.

DRAFT

Annex A: Trust Budget 2013/14

Budget FTEs	Merton Assessment Team	Wimbledon R&S Team	Mitcham R&S Team	Morden R&S Team	Merton OP CMHT	Merton Adult HTT	Merton EIS	Merton DART (Exc CDS&SL)	Wilson Admin Group	Placement Review Team	Me M
Admin					2.29	2.00			3.50		
AHP	1.00		1.00	1.00	1.00		1.50				
Assistant Care Manager											
Employment Specialists											
Lead Social Worker											
Managers	1.00			1.00	0.75	0.50	0.50	0.50			
Nursing	1.00	2.50	3.00	2.52	5.00	10.00	2.00	5.00			
Psychology		1.00	1.00	1.00	1.00		0.50				
Snr Practitioners											
Social Worker AMHP											
Social Workers											
Support Workers		2.50	2.00	1.00	1.00	2.00	0.50				
<b>Total FTE (exc Medical &amp; Recharges to LBM)</b>	<b>3.00</b>	<b>6.00</b>	<b>7.00</b>	<b>6.52</b>	<b>11.04</b>	<b>14.50</b>	<b>5.00</b>	<b>5.50</b>	<b>3.50</b>	<b>0.00</b>	
HR Schedule 4 - Total	3.00	7.50	10.00	8.52	11.69	19.00	7.00	5.50	4.50	1.25	
Less Recharges	0.00	-1.50	-3.00	-2.00	-0.65	-4.50	-2.00	0.00	-1.00	-1.25	
Revised Total	3.00	6.00	7.00	6.52	11.04	14.50	5.00	5.50	3.50	0.00	
Difference	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

Budget £k	Merton Assessment Team	Wimbledon R&S Team	Mitcham R&S Team	Morden R&S Team	Merton OP CMHT	Merton Adult HTT	Merton EIS	Merton DART (Exc CDS&SL)	Wilson Admin Group	Placement Review Team	Me M
Admin					71	57			108		
AHP	39		40	49	57		65				
Assistant Care Manager											
Employment Specialists											
Lead Social Worker											
Managers	54			54	42	28	27	28			
Nursing	38	121	141	117	245	499	93	199			
Psychology		62	63	51	63		28				
Snr Practitioners											
Social Worker AMHP											
Social Workers											
Support Workers		73	59	27	27	64	15				
<b>Total Pay (exc Medical &amp; Recharges to LBM)</b>	<b>132</b>	<b>256</b>	<b>304</b>	<b>299</b>	<b>506</b>	<b>648</b>	<b>229</b>	<b>227</b>	<b>108</b>	<b>0</b>	
<b>Trust Contribution</b>	<b>132</b>	<b>256</b>	<b>304</b>	<b>299</b>	<b>506</b>	<b>648</b>	<b>229</b>	<b>227</b>	<b>108</b>	<b>0</b>	

Notes

Excludes Medical staff supporting the teams & team's non pay budgets.

Excludes 2013/14 in-year savings programmes still in progress and budget setting changes for 2014/15 which will reduce the Trust contribution.

All staffing budgets to be revised for 2014/15 pay awards, changes to pay allowances and point of scale reviews.

Posts commissioned by LBM from the Trust in the Merton DART service are included under the Trust Budget Schedule rather than the Local Authority Budget Schedule. Although these posts are commissioned by LBM through the DART contract, these are not being treated as recharge posts.

Queries

(1) Posts in the Wilson Admin Group to be reviewed and transferred to teams as appropriate.





Annex B: Council Budget 2013/14

Budget FTEs	Merton Assessment Team	Wimbledon R&S Team	Mitcham R&S Team	Morden R&S Team	Merton OP CMHT	Merton Adult HTT	Merton EIS	Merton DART (Exc CDS&SL)	Wilson Admin Group	Placement Review Team
Admin	1.00		1.00		0.40				1.00	
AHP										
Assistant Care Manager					1.00					
Employment Specialists		1.00	1.00	1.00			1.00			
Lead Social Worker										
Managers		1.00	1.00		0.25	0.50				1.25
Nursing										
Psychology										
Snr Practitioners		1.00					1.00	2.00		
Social Worker AMHP							1.00			
Social Workers	1.00	2.00	3.00	1.00	3.00	1.00	1.00			
Support Workers		0.50	1.00	1.00		4.00	1.00			
Waldemar Road										
<b>Total FTE</b>	<b>2.00</b>	<b>5.50</b>	<b>7.00</b>	<b>3.00</b>	<b>4.65</b>	<b>7.50</b>	<b>3.00</b>	<b>2.00</b>	<b>1.00</b>	<b>1.25</b>

Budget £k	Merton Assessment Team	Wimbledon R&S Team	Mitcham R&S Team	Morden R&S Team	Merton OP CMHT	Merton Adult HTT	Merton EIS	Merton DART (Exc CDS&SL)	Wilson Admin Group	Placement Review Team
Admin	28		28		11				32	
AHP										
Assistant Care Manager					32					
Employment Specialists		53	39	35			39			
Lead Social Worker										
Managers		53	64		15	33				80
Nursing										
Psychology										
Snr Practitioners		49				48		88		
Social Worker AMHP						50				
Social Workers	42	76	113	32	130	44	36			
Support Workers		18	25	32		131	32			
Waldemar Road						12				
<b>Total Pay</b>	<b>70</b>	<b>249</b>	<b>269</b>	<b>99</b>	<b>188</b>	<b>317</b>	<b>107</b>	<b>88</b>	<b>32</b>	<b>80</b>
<b>Local Authority Contribution</b>	<b>70</b>	<b>249</b>	<b>269</b>	<b>99</b>	<b>188</b>	<b>317</b>	<b>107</b>	<b>88</b>	<b>32</b>	<b>80</b>

Notes

Excludes team's non pay budgets.

Excludes budget setting changes for 2014/15 which will change the Local Authority contribution.

All staffing budgets to be revised for 2014/15 pay awards, changes to pay allowances, point of scale review, etc.

Management: Agreed that the 0.50 fte Service Manager post be split 0.25 fte/0.25 fte across the Service Manager and Placement Review Team Manager posts.

E. Nutting, Placement Officer: Costs funded from under spends against the placement budget and therefore not included in the section 75 agreement.

D. McDowell, Placement Review Officer: This post is managed under Mitcham R&S Team in the Trust but reflected as part of the Placement Review Team in the Local Authority schedule (ab Waldemar Road £12k is a lump sum of funding and therefore currently does not have an fte aligned with it.

Posts commissioned by LBM from the Trust in the Merton DART service are included under the Trust Budget Schedule rather than the Local Authority Budget Schedule. Although these posts by LBM through the DART contract, these are not being treated as recharge posts.

## **Annex C: Financial Governance Framework for the Non-Pooled Delegated Budget**

### **Principles**

This financial governance framework follows these key principles:

- The Section 75 agreement is a Partnership with the aim being that Parties work together to ensure benefits arise for all. It is designed to both strengthen the delivery of existing efficiency and effectiveness plans and to deliver additional bottom line benefit across mental health and social care;
- Transparency, equity, accountability and control;
- To ensure that Personal Budgets and individual packages of care are funded in line with the statutory framework so that the NHS is meeting the cost of healthcare (e.g. NHS continuing healthcare) and the Council is meeting the cost of social care (e.g. cost of meeting assessed eligible social care needs);
- To ensure that the Trust maintains budgetary control over the social care commissioning budgets managed on behalf of the Council as a Non Pooled Fund;
- To ensure proper accountability and responsibility for financial assessment and income collections functions.

The financial governance framework includes details of the following:

- The responsibility and accountability of the Trust and the Council for the commissioned care service budgets and arrangements for care packages/Personal Budgets;
- The financial management arrangements, including Scheme of Delegation and definition of controllable and non-controllable budgets ;
- Financial planning arrangements;
- Financial reporting arrangements;
- Rules for sharing of costs, risks and benefits.

### **Responsibility and Accountability**

**The Trust will be responsible for:**

- Assessing the eligible social care needs of service users and developing a Support Plan to meet those needs;
- Making a referral to the Council's Financial Assessment Team at the start of the needs assessment process;
- Providing information to service users about the Council's Contributions Policy;
- Identifying services to meet the assessed eligible care needs;
- Liaising with the Council's Brokerage Team about the care arrangements required;
- Reviewing the service user's needs to ensure these are being met by the care package/Personal Budget/residential care placement and to ensure that the services provide Value for Money;
- Recording of assessment, support plans and reviews on the Council's Framework-I system, as required;
- Highlighting any service quality issues or concerns about a care provider to the Council's QA team;
- Working with the Council's Financial Assessment and Debt Recovery Team to resolve issues relating to financial assessment and debt recovery;
- Managing and making decisions on the Non Pooled Fund on behalf of the Council, staying within the approved budget, providing a monthly year end forecast, recommending remedial action if an over spend is forecast and making the Council aware if assessed eligible social care needs cannot be met within the available budget;
- Requesting authorisation from the Council before making a decision to commit expenditure which exceeds the approved budget;

- Submitting an action plan for approval to the Council to address a forecast over spend on the budget if this exceeds the lesser of £100,000 or 2% of the approved budget.

**The Council will be responsible for:**

- carrying out a financial assessment visit, if required;
- completing a financial assessment and notifying the service user of their assessed contribution and recording the contribution on Framework-i;
- putting a Direct Debit Agreement in place to collect the contribution;
- responding to queries on the financial assessment calculation Contributions Policy;
- income collection and debt recovery action;
- providing a Brokerage Service to procure and contract for residential care placements and other care services under (council) managed Personal Budgets and recording that service on Framework-i ;
- issuing contracts to care providers agreed by the Trust;
- providing access to a Personalisation Support Service and a Pre-paid card to support service users choosing a Direct Payment;
- quality assurance and contract monitoring of care providers;
- providing monthly budget reporting of care purchasing commitments to the Trust;
- processing invoices from care providers for payment;
- negotiating annual price adjustments with care providers;
- authorising expenditure recommended by the Trust which cannot be met from within the approved Non Pooled Fund budget and agreeing action plans with the Trust to bring expenditure within approved budget limits.

**Financial Management Arrangements**

The delegated Non-Pooled Fund and Directly Contracted Council Funds will be separated into the following elements which will require different levels of financial control to apply:

- Non Pooled Fund Delegated to the Trust as a Commissioned Care Service Budget; and
- Directly Contracted Council Funds as Commissioned Care Service Budgets– not managed as budgets by the Trust.

The Non Pooled Fund as a Commissioned Care Service Budget will be ring-fenced for use to purchase care services to meet the assessed eligible care needs of service users assessed by the Integrated Health and Social Care teams, in line with the Council's eligibility criteria.

The Trust will put in place a scheme of delegation, agreed by the Council, to govern decision making by the Trust staff which promotes devolved decision making at team level, whilst ensuring adequate senior management oversight is maintained for individual high value commissioned care services (e.g. high cost placements and high value Personal Budgets).

The Directly Contracted Council Funds as a Commissioned Care Service Budget will relate to block contracts. These budgets will be ring-fenced so that they can only be used by the Council to purchase the services for which they are intended at an agreed fixed cost.

The Trust will be responsible for making optimal use of these resources, through access by the integrated staff teams but will not be responsible for managing these budgets.

The Trust will make spending decisions about individual care packages/Personal Budgets, from the Non Pooled Fund taking into account existing in-house care provision and block contract provision commissioned by the Council, framework contracts available for call off and the available resources for care purchasing to ensure optimal use of in-house and block provision.

### **Trust Scheme of Delegation**

The Trust will put in place a Scheme of Delegation through the Pooled Fund Manager in order to cover authorisation of expenditure or allocation of Commissioned Care Services budgets on behalf of the Council from the Non Pooled Fund.

The Scheme of Delegation for access to Commissioned Care Service Budgets from the integrated staff teams will be agreed by the Council.

The Pooled Fund Manager will have oversight of the Non-Pooled Fund as a delegated budget.

The Trust cannot commit resources beyond the approved budget limit for the Non Pooled Fund without approval from the Council.

**The process for gaining additional spending approvals from the Council beyond that of the Non Pooled Budget available shall be as follows:**

#### Overspend Authorisation:

A decision to spend which is forecast to create up to £50,000 overspend on the total non-pooled budget at year end may be taken at the discretion of the pooled fund manager and reported (within a calendar month) to the DASS through the monthly finance reporting process and to the next JMG.

A decision to spend which is forecast to give rise to more than a £50,000 overspend on the total non-pooled budget at year end - or which will further increase overspend that has already reached £50,000 - may only be agreed if the pooled fund manager provides a rationale and the spend is agreed with the Merton DASS. The forecast will be reported (within calendar month) through the monthly finance process to the DASS, and to the next JMG.

The JMG will agree a management plan for any forecast overspend.

### **Financial Planning**

The Council will provide not less than 1 month's notice before changing the level of the non-pooled fund as delegated budget.

### **Financial Reporting**

Financial reporting will be aligned to the Integrated Performance Framework set out at Schedule 6 with different levels of reporting to ensure that performance is reported at the right level of detail to the various levels within the overall Partnership governance framework, with exception reporting and escalation as set out below.

The Council's Finance Team will provide monthly budget monitoring reports to the Trust.

The Trust will be responsible for providing monthly budget forecasts for year-end spend to the Council.

The financial reporting framework will include an escalation process so that performance is reported to the Joint Management Group for oversight to provide assurance that the required actions are being taken to control the budget where targets are not being met. The JMG will be responsible for working to resolve any issues.

### **Sharing Agreement for Costs, Risks and Benefits**

Costs, risks and benefits arising from the S75 Partnership agreement will be shared between the Council and the Trust as set out in the Agreement.

For the Non Pooled Fund this will reflect the following overarching principles to govern the sharing of costs and benefits arising:

- The Trust will improve outcomes for residents within available budgets
- There will be a planned shift in Investment to early intervention and prevention activities with the aim of reducing long term care costs
- Benefits realised will be shared fairly and transparently, in accordance with risk sharing agreements.

A plan will be put in place annually to govern the non-pooled fund delegated budget within the first three months of commencement and this will take effect as a plan from 1 April 2014.

Incentive plan:

To incentivise management of the non-pooled budget to below the budgeted annual limit, the following is agreed:

- Up to £25,000 favourable\* will all be reinvested in the partnership services through a plan to be agreed at JMG
- £25,000 - £50,000 favourable\* will be 50% reinvested in the partnership services and 50% returned to London Borough of Merton
- More than £50,000 favourable\* will be dealt with at the discretion of London Borough of Merton.

\*Full year effect

### **Financial Assessments**

The responsibility for financial assessments, income collection and debt recovery will be retained by the Council..

The Council will retain budgets for income from adult social care charges.

**Annex E: Staff Recharges**

Posts in which staff are recharged between the Trust and Local Authority - As at 31-12-13

Team (As Per Schedules Above)	Staff Group	Post Title	Current or Recent Incumbent	Total FTE	Trust Funded FTE	LBM Funded FTE	Employed By
Wimbledon R&S Team	Employment Specialist	Vocational Team Manager	TM	1.00		1.00	Trust
Wimbledon R&S Team	Support Worker	Support Worker	MDN	1.00	0.50	0.50	Trust
Mitcham R&S Team	Manager	Team Manager	Previous: CS	1.00		1.00	Trust
Mitcham R&S Team	Employment Specialist	Employment Specialist	JW	1.00		1.00	Trust
Mitcham R&S Team	Support Worker	Support Worker	CF	1.00		1.00	Trust
Morden R&S Team	Employment Specialist	Employment Specialist	SM	1.00		1.00	Trust
Morden R&S Team	Support Worker	Support Worker	RL & AM	1.00		1.00	Trust
Merton OP CMHT	Manager	Team Manager	MW	1.00	0.75	0.25	Trust
Merton OP CMHT	A&C	Admin Support	Contribution	2.69	2.29	0.40	Trust
Merton Home Treatment Team	Manager	Team Manager	BM (Prev: AT)	1.00	0.50	0.50	Trust
Merton Home Treatment Team	Support Worker	Support Worker	RB	1.00		1.00	Trust
Merton Home Treatment Team	Support Worker	Support Worker	AD	1.00		1.00	Trust
Merton Home Treatment Team	Support Worker	Support Worker	LP	1.00		1.00	Trust
Merton Home Treatment Team	Support Worker	Support Worker	AC	1.00		1.00	Trust
Merton EIS	Employment Specialist	Employment Specialist	AM (Prev: KM)	1.00		1.00	Trust
Merton EIS	Support Worker	Support Worker	EW	1.00		1.00	Trust
Wilson Admin Group (Morden R&S Team)	A&C	Admin Support	SM	1.00		1.00	Trust
Placement Review Team	Manager	Placement Review Officer	DM	1.00		1.00	Trust
Placement Review Team	Manager	Placement Team Manager	KS	0.25		0.25	Agency via Trust
Merton Mgmt	Manager	Operational Manager	GM	1.00	0.75	0.25	Trust
Wimbledon R&S Team	Short Term Cover	Social Worker	DU	1.00		1.00	Agency via Trust
Merton Assessment Team	Short Term Cover	Social Worker	RS	TBC		100%	Agency via Trust

Note 1

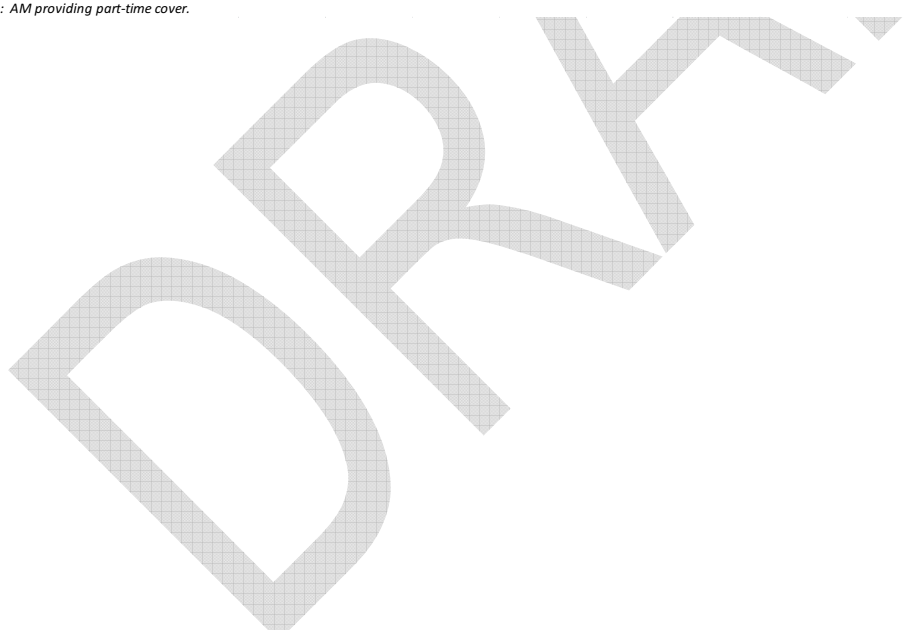
Note 2

Note 3

Note 1: Fte reflects current LBM fixed value contribution of £15k.

Note 2: Fte reflects current LBM fixed value contribution of £11k.

Note 3: AM providing part-time cover.



## SCHEDULE 6

### JOINT MANAGEMENT GROUP AND GOVERNANCE

#### **JMG Membership**

The membership of the JMG will be as follows:-

- The Trust's Chief Executive or a deputy to be notified in writing (or email) in advance of any meeting;
- The Council's Director of Adult Social Care or a deputy to be notified in writing (or by email) in advance of any meeting;

The role of the Pool Manager (non-voting) will be fulfilled by the Service Director of the Trust unless otherwise agreed under the terms of Clause 7.2 to the Agreement and who will also provide the Secretariat function to the JMG.

#### **Role of JMG**

The JMG shall:-

- Review for agreement annually an Annual Plan and Risk Assessment to be prepared by the Trust including consulting further where necessary on the Aims and Objectives at Schedule 1
- Review and agree annually the integrated performance framework as attached here
- Receive and review the necessary integrated performance information;
- Ensure the Pooled Fund is being managed so as to achieve the aims and objectives set out in Schedule 1 in the manner specified in Schedule 3
- Make such variations to this Agreement from time to time as it thinks necessary to deliver the NHS Health Care Functions in accordance with the NHS Commissioner Contract
- Make such variations to this Agreement from time to time as it thinks necessary to service delivery arrangements in order to ensure delivery of the activities delegated by the Council
- Agree in accordance with Clause 8.20 any arrangements for the appointment of new Staff to the Service
- Set such protocols and guidance as it may consider to be necessary to enable the effective management of the Pooled Fund and the Service
- Review on an on-going basis and annually for the purpose of Clause 10 the operation of this Agreement and the Secondment Agreement;
- Review and agree annually the revised budgets and finance procedures to be set out in Schedule 5 for the following year following confirmation by the Parties of their respective contributions in accordance with Clause 10
- Review the operation of the Single Assessment Process for all services where it applies and in particular (but without limitation) to ensure that it complies with all legal requirements;

- Provide an annual report on outcomes to the Trust's Board and the Council's Cabinet and Health and Wellbeing Board on the operation of the Section 75 agreement.
- Make such variations to this Agreement and its Schedules from time to time as it thinks fit;

### **JMG Support**

The JMG will be supported by officers from the Council and the Trust from time to time and they may be involved in assisting the JMG in implementation of the Aims and Objectives set out in Schedule 1 and the preparation of annual revisions to Schedule 5 and the Performance Framework here at Schedule 6. In particular the meetings of the JMG shall be supported by nominated finance officers of both Parties.

### **Meetings**

The JMG will meet regularly every 2 months in the first year and thereafter on a quarterly basis (at least) in each year for the duration of the Agreement . . The monthly reports of the Pool Manager referred to below will be available 10 days in advance of the meetings.

The quorum for meetings of the JMG shall be a minimum of both members, not counting the Pool Manager who will be a non-voting member.

Decisions of the JMG shall be made unanimously by those present

Minutes of all decisions shall be kept and copied by the Pool Manager to the Authorised Officers and the Trust's Board Secretary for inclusion on the next Trust Executive Team agenda, within five (5) working days of every meeting.

The Chief Executive of the Trust shall be accountable, within the Trust Governance Framework, as the "Authorised Officer" for the Trust.

### **Limitations on Authority**

The JMG is authorised within the limits of delegated authority for its members (which is received through their respective organisations own scheme of delegation) to:-

- Agree pursuant to Clause 10 of the Agreement the respective contributions of the Parties for the budget and the revised Schedule 5;
- Agree solutions to commitments which exceed or are reasonable likely to lead to exceeding the contributions of the Parties to the aggregate contributions of the Parties to the Pooled Funds, to be confirmed or agreed by the Parties pursuant to Clause 10 ;
- To agree changes to the service delivery model ensuring that the proposed changes continue to deliver the



activities delegated by the Council:

- To agree in accordance with Clause 8.20 any arrangements for the appointment of New Staff
- To agree the Annual Plan comprising the services, objectives, contributions and performance monitoring arrangements

The JMG shall not be responsible for the direct management of any NHS staff or Council staff who are not accounted for in Schedule 4 as amended from time to time, such staff remaining accountable to and the responsibility of their respective current employer at all times.

Staff accounted for in Schedule 4 shall be managed in accordance with arrangements set out in Clause 8; Schedule 4 and the appended Secondment Agreement.

### **Pool Manager**

The Pool Manager may delegate the day-to-day management of pooled funds in accordance with Trust's Standing Financial Instructions, provided that the Pool Manager remains responsible at all times for the obligations set out in Clause 7 of the Agreement.

### **Information and Reports**

The JMG members will be supplied with the financial and activity information, on a monthly basis, as outlined at here at Schedule 6 subject to any amendment in light of agreement of the Annual Plan as referred to above. These reports will have first been agreed by finance representatives of both Parties.

The Annual Plan, as revised annually thereafter, will be the basis for delivery by the Trust against the Agreement. This will include appropriate action to redress any shortfall in achieving any agreed national and local standards for service delivery. Any variation from it will need to be agreed by JMG.

The JMG will submit an annual report to the Trust's Board and the Council's Cabinet via the Authorised Officers.

In other circumstances and where any one JMG member requests, information received or a query raised at a meeting on matters of operational or financial performance will be directed in the form of a written briefing by the Pool Manager to the JMG and where requested to the Authorised Officers with a view to the Authorised Officers meeting and considering the issue before the date of the next subsequent scheduled meeting of JMG.

### **Plans and Review**

The Pool Manager will refine any remaining Aims and Objectives set out on Schedule 1 into targets and performance measures to be agreed by JMG from time to time and in any event by 30th April 2014 and annually

thereafter each March following a review to be led by the JMG in accordance with Clause 10 of the Agreement and to include an Annual workforce plan on the scope and coverage and skill mix proposed for the integrated teams.

### **INTEGRATED PERFORMANCE FRAMEWORK**

A performance framework will be developed on an annual basis in order to measure progress against targets at Schedule 1.

The JMG will also review other performance of the Parties according to their individual Key Performance Indicators (KPIs) where these have a bearing upon performance of the Partnership or individual Party performance rating as affected by the Partnership.

The Pool Manager will provide regular monthly reporting to the Council on the Council KPI's to assist in tracking performance and to highlight matters for additional JMG discussion.

The Council KPI's will be agreed at least annually by the Council for the Trust to provide reports on.

#### **Performance Indicators for 2014/15 will include:**

1. Reports on Progress of targets and Objectives at Schedule 1.
2. Financial reporting on spend and forecast
3. Integrated Performance Indicators to be agreed from time to time between the Parties.

The Integrated performance Indicators set out in the attached are aligned to Merton Council agreed performance measures.

They are developed in order to meet statutory reporting requirements to the Dept of Health and management information required for Council officers and members. The measures are to be reviewed annually

#### **Performance Reporting**

Performance reporting will be aligned to financial reporting with different levels of reporting to ensure that performance is reported at the right level of detail to the various levels within the overall partnership governance framework, with exception reporting and escalation to the Joint Management Group in order to provide assurance that the required actions are being taken to improve performance where targets are not being met. The JMG will be responsible for working to resolve any issues.

### HIGH LEVEL PERFORMANCE MATRIX

Theme	Target	Health/ Social care	RAG	Commentary
Safety	22 MH safeguarding referrals per 1/4	SC		
	60% of safeguarding referrals completed within 60 days	SC		
	80% of safeguarding investigation outcomes are either 'risk removed' or 'risk reduced'.	SC		
	1/4ly SI report presented to Board	H		
Workforce	AMHP workforce to increase to 10 by 31.3.15	SC		
	Social care workforce vacancy rate below 10%	SC		
	Healthcare vacancy rate below 10%	H		
Service	70% of those eligible will have a Personal Budget/Direct Payment within 6 weeks of assessment	SC		
	60% of care plans will reflect recovery plans	H		
	DToC rate below 5%	H		
	Employment rate of CPA caseload exceeds 10%	H/SC		
	Settled accommodation rate of CPA caseload exceeds 80%	H/SC		
Reviews	No of residential placements to reduce to 22 by 31.3.15	SC		
	100% of those with personal budgets will receive reviews every 12 months	SC		
	95% of those on CPA will be reviewed every 12 months	H		
	100% of carers will have an up to date review	SC		
Resources	Social Care staff budget managed within budget	SC		
	Social Care Commissioning budget managed within budget	SC		
	Health staff budget within partnership managed within budget	H		
Quality	Two wider engagement meetings involving service users and/or carers to take place each year.	H/SC		
	Team specific Real Time Feedback processes in place	H		
	Integrated audit agreed, and team based audit in place – report 6 monthly	H/SC		

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