

## APPENDIX 1

### DATED

- (1) NORTH EAST LONDON NHS FOUNDATION TRUST
- (2) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BARKING  
AND DAGENHAM

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### **AGREEMENT**

For the integration of functions and funding in respect of mental health and social services between the London Borough of Barking and Dagenham and North East London NHS Foundation Trust pursuant to Section 75 of the National Health Services Act 2006.

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**THIS AGREEMENT** is made the day of

BETWEEN:

- (1) **THE NORTH EAST LONDON NHS FOUNDATION TRUST (NELFT)** of Trust Head Office, Goodmayes Hospital, Barley Lane, Goodmayes, Essex, IG3 8XJ.
- (2) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BARKING AND DAGENHAM (LBBD)** of Civic Centre, Rainham Road North, Dagenham, Essex, RM10 7BN

(together '**the Partners**')

**WHEREAS:**

- (A) The Partners wish to enter into arrangements which formalise the contractual and funding terms in relation to the respective services provided by each Partner for the overall benefit and improvement of the service provision.
- (B) Each Partner separately functions as either a health and/or social care provider for mental health services to residents in the London Borough of Barking and Dagenham. LBBD is responsible for the strategic planning, development and commissioning and provision of certain social care services for persons resident in the London Borough of Barking and Dagenham. NELFT is responsible for the provision of goods and services for the purposes of the health service in England to persons resident in or registered with General Practitioners situated in the London Borough of Barking and Dagenham.
- (C) The Partners agree and acknowledge that this Agreement sets out the Partners obligations in respect of the partnership arrangements referred to herein. The arrangements are pursuant to Section 75 of the National Health Service Act 2006 (hereinafter referred to as "the 2006 Act") and the NHS Bodies and Local Authorities Partnership Regulations 2000 ("the Regulations") which enable the integration of the Partners respective Relevant Functions relating to the provision of services referred to above.
- (D) This Agreement shall specify the basis upon which further arrangements can be entered into.
- (E) The parties are satisfied that the arrangements are likely to lead to an improvement in the way in that their respective functions are exercised.
- (F) The parties will jointly notify the relevant office of the Department of Health of this Agreement.

**NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:**

**1. INTERPRETATION AND GENERAL**

1.1 The following definitions are used in this Agreement

<b>"2006 Act"</b>	The National Health Service Act 2006
<b>"2007 Act"</b>	The Local Government and Public Involvement in Health Act 2007
<b>"Barking and Dagenham Operational Director"</b>	A post within the establishment of NELFT, the post holder of which acts as Pooled Fund Manager to manage the Pooled Fund
<b>"Budget"</b>	the Partnership's annual budget details of which are given in Schedule 4

<b>“Commencement Date”</b>	the 1 <sup>st</sup> day of November 2011
<b>“Eligibility Criteria”</b>	The eligibility for mental health specialist services and social services in the area of the London Borough of Barking and Dagenham, as set out in schedule 1.
<b>“Executive Steering Group”</b>	the group of senior officers of the Partners described in Clause 3.4.1
<b>“Financial Year”</b>	means each financial year running from 1 <sup>st</sup> April in one calendar year until 31 <sup>st</sup> March in the subsequent calendar year and “First Financial Year” means the period from the 1 <sup>st</sup> April 2011 to 31 <sup>st</sup> March 2012
<b>“FOIA”</b>	means the Freedom of Information Act 2000 and all regulations made and guidance issued there under from time to time in force or any superseding or amending enactment, regulations and guidance
<b>“Health and Wellbeing Board”</b>	The statutory board that will lead on improving the strategic coordination of commissioning across NHS, social care, and related children’s and public health services within a local authority area, as set out within the Health and Social Care Bill.
<b>“Host Partner”</b>	means NELFT who shall be the Partner responsible, pursuant to Regulation 7(4) of the Regulations, for the operation and management of the Pooled Fund
<b>“Information Sharing Policy”</b>	means the ‘East London Health and Social Care Inter Organisation General Protocol for Sharing Information between Local Authorities and the NHS 2006’, of which LBB and NELFT are party to.
<b>“JSNA”</b>	A Joint Strategic Needs Assessment in relation to health and social care prepared by a local authority and its partner PCTs under section 116 of the 2007 Act
<b>“LINKs”</b>	Local Involvement Networks established under the Local Government and Public Involvement in Health Act 2007
<b>“Local Safeguarding Children Board”</b>	Statutory multi-agency partnership under the Children Act 2004 to coordinate local work to safeguard and promote the welfare of children
<b>“Mental Health Act 1983”</b>	means the Mental Health Act 1983, as amended to include the Code of Practice in relation to the Act and Memorandum on parts I to VI and VIII
<b>“Mental Health Act 2007”</b>	means the Mental Health Act 2007
<b>“NHS Employment Check Standards”</b>	means the legal and mandatory checks employers must carry out for the appointment and on-going employment of all individuals in the

NHS and include all pre-appointment checks that are required by law, those that are mandated by Department of Health policy, and those that are required for access to the NHS Care Record Service. The standards apply to permanent staff, staff on fixed-term contracts, temporary staff, volunteers, students, trainees, contractors as well as on the appointment of locums and agency staff (in which case the standards must be met by providers of such staff).

<b>“Partner Contract”</b>	any contract with a Service Provider in respect of the Services entered into by an individual Partner during the Term
<b>“Partnership Contract”</b>	any contract with a Service Provider in respect of the Services entered into after the Commencement Date by the Host Partner on behalf of the Partners or either one of them
<b>“Partnership Posts”</b>	the posts referred to in Schedule 7 of this Agreement
<b>“Partnership Resources”</b>	the resources comprised in: <ul style="list-style-type: none"><li>• the Partnership Posts</li><li>• the Services</li><li>• the accommodation goods services and Service Contracts available under Clause 5</li></ul>
<b>“Personalisation”</b>	Means the Government vision of enabling individuals to live independently and have complete choice and control in their lives, as set out within ‘Putting People First’.
<b>“Pooled Fund Manager”</b>	The Barking and Dagenham Operational Director or other officer of NELFT appointed to act as manager of the Pooled Fund as agreed by the Partners
<b>“Pooled Fund”</b>	the fund which the Partners have created to provide the Services as set out in Schedule 4
<b>“Regulations”</b>	the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (S1 2000/617), as amended
<b>“Relevant Functions”</b>	the functions of NHS bodies and the relevant health and social care functions of local authorities as set out in Regulations 5 and 6 of the Regulations and which are set out in Schedule 2 but for the avoidance of doubt excluding any functions carried out in connection with Section 115 of the Mental Health Act 1983 as amended by Schedule 2, paragraph 8 of the Mental Health Act 2007
<b>“Safeguarding Adults Board”</b>	Multi-agency Partnership to safeguard the independence, choice and wellbeing of adults at risk: anyone with social care needs who is or may

be at risk of significant harm

<b>“Service Contracts”</b>	Contracts with third parties for or in connection with the provision of the Services (as set out in Schedule 3) which are in place prior to the Commencement Date
<b>“Service Providers”</b>	third parties providing goods or services under Service Contracts
<b>“Service User”</b>	any adult for whom NHS Barking and Dagenham or LBBB have a duty or power to provide advice, support or direct health or social care services relating to mental health
<b>“Services”</b>	The services described in Schedule 3 and any other services provided by the Partners pursuant to this agreement
<b>“Staff”</b>	Means the current postholders of the Partnership Posts
<b>“Standing Orders”</b>	the Contract Standing Orders and Financial Standing Orders of NELFT and or LBBB (as set out in the Council’s Constitution)
<b>“Term”</b>	the period from the Commencement Date until 31 <sup>st</sup> March 2013 or such longer term as the Partners may agree pursuant to Clause 16 subject to earlier determination in accordance with Clause 21
<b>“Working Day”</b>	Means any day other than a Saturday or Sunday or public holiday in England and Wales

1.2 This Agreement is governed by English Law

1.3 References to any Act or Regulations include reference to any amendment or re-enactment thereof

1.4 References to:-

- masculine include the feminine
- singular include the plural
- persons include companies and corporations

and vice versa where the context so admits

1.5 The headings of the Clauses of this Agreement are for reference only and shall not be construed as part of this Agreement or deemed to indicate the meaning of the relevant clauses to which they relate

1.6 References made to clauses sub-clauses schedules and annexes are to clauses schedules and annexes of this Agreement

1.7 Any decision or act or thing which any Partner is required or authorised to take or do under this Agreement may be taken or done by any person authorised generally or specially by the Partner to take or do that decision act or thing provided that each Partner shall provide any other with the name of any person so authorised upon receipt from that other Partner of a written request for the same

1.8 This Agreement is intended to be binding on any successor body to any of the Partners which is created during the Term by or under primary or secondary legislation

## **2. AIMS AND OUTCOMES OF THE PARTNERSHIP**

2.1 The purpose of this Agreement it is to improve the health, social care and wellbeing outcomes of the residents of Barking and Dagenham, with particular reference to their mental health, by:

2.1.1 Ensuring effective management of integrated mental health services in the London Borough of Barking and Dagenham, thereby ensuring that delivery meets the requirements of both the Recovery and Personalisation agendas;

2.1.2 Improving the provision and development of mental health and social care services for service users and carers through closer working between the National Health Service and Local Government;

2.1.3 Reducing duplication and bureaucracy;

2.1.4 Ensuring gaps in the service provision are avoided;

2.1.5 Simplifying access to Services and making them more seamless;

2.1.6 Developing user and recovery focused services which are responsive, co-ordinated and of high quality;

2.1.7 Ensuring that services are delivered effectively;

2.1.8 Sharing information and experience between partners;

2.1.9 Ensuring the effective and efficient use of public funds; and

2.1.10 Developing and maintaining trust between all stakeholders, users, carers, the community staff, statutory bodies and the independent and voluntary sector.

### THE PURPOSE OF THE ESTABLISHMENT OF THE PARTNERSHIP

2.2 With the intentions:

- of using the flexibilities available to the Partners under the 2006 Act;
- and
- that the Partnership should be implemented in a manner which is consistent with and complimentary to the Local Authority's respective duties and powers under the 2007 Act in respect of LINKs and JSNAs insofar as these impact upon the delivery of the Services

the Partners have agreed to do the following:

2.2.1 to enter into the partnership arrangements;

2.2.2 to establish the Executive Steering Group to oversee the implementation of the Partnership in accordance with the terms set out herein; and

2.2.3 to establish the arrangements set out herein to enable the Executive Steering Group to be kept informed of and where appropriate to offer advice to the London Borough of Barking and Dagenham upon the operation of the Partnership



- 2.3 The Partners agree and acknowledge that:-
- 2.3.1 the Partnership is established by the Agreement under section 75 of the 2006 Act and all related legislation and Regulations. The agreement has been formed with particular regard to the 1999 Act Circular Guidance as amended;
  - 2.3.2 before the Commencement Date they carried out the consultation required pursuant to Regulation 4(2);
  - 2.3.3 the Partnership contributes to meeting the objectives of both parties' strategies for adult mental health, which shall be agreed between the Partners within a timescale set by the Executive Steering Group; and
  - 2.3.4 the local authority's health related functions and NHS body functions which are relevant to this Agreement are the Relevant Functions.

2.4 Under section 82 of the 2006 Act the Partners are committed to co-operating with one another under the Partnership to secure and advance the health and welfare of users of the Services by securing the availability and continuous improvement of the Services. To this end the Partners have agreed that the Partnership shall embrace the following two 2006 Act flexibilities:-

- the pooling of budgets
- integrated provision

and such other actions as are incidental or conducive to the achievement of the same.

### **3. DURATION COMPOSITION AND GOVERNANCE OF THE PARTNERSHIP**

3.1 The Partners agree that the Partnership shall take effect on the Commencement Date and shall subsist for the Term.

3.2 The Partners agree that:-

3.2.1 the Partnership is not intended to create a legal partnership for the purposes of the Partnership Acts but rather a statutory relationship between the Partners as provided for under the 2006 Act and the Regulations;

3.2.2 although the Partnership will be used to secure an integrated arrangement for the provision of services all responsibilities relating to any Partner Contract made by one Partner shall be enforceable only by that Partner; no other Partner shall, unless otherwise provided for in a particular Partner Contract, have any right to enforce such a Partner Contract. But this clause shall not:-

3.2.2.1 prevent reference being made to the Partnership in any Partner Contract; nor

3.2.2.2 affect a Partner's statutory obligations; and

3.2.2.3 any person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefits of it.

3.3 Unless agreed otherwise no Partner can act as the agent of any other Partner.

3.4 London Borough of Barking and Dagenham hereby delegates to NELFT its Relevant Functions, to the extent necessary to enable NELFT to comply with its obligations pursuant to this Agreement.

3.4.1 The Executive Steering Group shall comprise of six members as follows:

- For NELFT, the Managing Director of the MHS Business Unit or their nominee

- For LBBB, the Director of Adult and Community Services or their nominee;
  - For NELFT the Barking and Dagenham Operational Director (the designated Pooled Fund Manager) or any senior manager who is required to discharge the responsibilities of the Barking and Dagenham Operational Director post during any period when it is vacant
  - For LBBB, the Divisional Director for Adult Commissioning
  - Two Finance Officers, one from NELFT and one for London Borough of Barking and Dagenham
- 3.4.2 The Chair of the Executive Steering Group shall be the senior of the LBBB officers. The Chair shall not have a casting vote in relation to any item of business transacted by the Executive Steering Group. If a dispute arises over any matter which is voted on this shall be managed following the processes set out with clause 19.
- 3.4.3 The Partners agree that Executive Steering Group's purposes are:
- to provide high level management in respect of the Services;
  - to be responsible for agreeing the approach to all relevant issues arising from the provision and procurement of the Services including the commissioning of reports on the provision of the Services and the making of recommendations on their procurement and management;
  - to identify, where appropriate, senior managers employed by the Partners to manage the Services and to commit through delegated responsibility from the Pooled Fund Manager an agreed level of funding to them from the Pooled Fund;
  - to consider the Pooled Fund Manager's reports referred to in Clause 3.8 and to ensure that the reports take account of the respective reporting cycles of both Partners and, having regard to the contents and recommendations of such reports, to take all actions which the Executive Steering Group considers appropriate.
- 3.5 The Executive Steering Group will report to the borough's Health and Wellbeing Board and be a part of its substructure.
- 3.6 All decisions of the Executive Steering Group must be unanimous in order to bind the Partners.
- 3.7 The quorum required for the Executive Steering Group shall be one representative of each of the Partners represented on it.
- 3.8 The Partners shall make such arrangements as may command their unanimous agreement as to the application of all or any of the following matters to the Executive Steering Group:
- attendance requirements
  - frequency of meetings (which should be at least quarterly)
  - secretarial requirements
  - policy and delegation framework from the Partners
  - such other constitutional and related matters which are necessary to ensure of Executive Steering Group's effective operation

3.9 The Partners agree that the following responsibilities shall be assigned to the Barking and Dagenham Operational Director of NELFT, in accordance with Regulation 7 (4) of the Regulations:

- management of the Pooled Fund
- management of the Budget
- day to day management of the Partnership Posts
- line management responsibility for the Partnership Resources in accordance with the provisions relating to the Services
- management of the procurement of Partnership Contracts, in accordance with the Regulations and any other applicable legislation, with required consultation and notification to the Department of Health in line with applicable legislation
- management of the delivery of the targets set by the Partners pursuant to Clause 13 hereof
- preparation of quarterly reports and annual return to the Executive Steering Group on income of and expenditure from the Pooled Fund
- preparation of quarterly reports and annual return to the Executive Steering Group on the Partnership's aims and objectives (to include achievement and forecasting of the same)
- ensure that the recommendations put forward by the Executive steering Group are enacted
- such other responsibilities as the Executive Steering Group or the Partners may agree

#### **4. WORKFORCE ARRANGEMENTS**

4.1 Pursuant to Section 75 (2) (d) of the 2006 Act and Regulation 10 (1) of the Regulations the Partners will continue to make available the staff resources required to facilitate the Partnership including the secondment of staff of London Borough of Barking and Dagenham to NELFT pursuant to existing arrangements and those arrangements which have been agreed and the details of which are attached as Schedule 6.

4.2 The Partners shall subject to each Partner consulting with its Staff (and their representatives) and where required having obtained their written consent, subject to all applicable legal requirements, at the outset of and throughout the Term, continue the employment of each of their respective Staff members on their existing terms and conditions, make the Staff available for the purposes of the Partnership the services (including any relevant proportion of such services in relation to non-dedicated staff) of such staff, whether commissioning, procurement and finance staff or administrative or clerical staff or professional support staff or administrative or clerical support staff, or staff providing management and support services, as either:

- have been utilised for the purposes of the Services up to the Commencement Date; or
- are agreed to be utilised for the purposes of the Services at any time after the Commencement Date.

4.3 Both the Partners warrant that with respect to the Staff which each party makes available hereunder it has carried out all pre-employment as further detailed herein and regulatory checks reasonably required of it as an employer and, for NELFT as an NHS body, including but not limited to registrations, police checks or applications for a Disclosure from the Criminal Records Bureau as may be required and each Party shall indemnify the other in

respect of any claim, finding or award made in respect of any breach of such warranty. The pre-employment checks required include:

- NHS Employment Check Standards
- London Borough of Barking and Dagenham Employment Check Standards and
- Enhanced CRB, professional registration confirmation and any such other checks which are to be undertaken in accordance with current and future national guidelines and policies.

- 4.4 Both the Partners warrant that the Staff which each party make available for the Service have all relevant qualifications to perform the Services required by the Service. NELFT as Host Partner will provide assurance to the London Borough of Barking and Dagenham that they have a sufficient number of Approved Mental Health Practitioners (AMHPs) to fulfill duties set out under the Mental Health Act 2007 and provide a service which can meet the needs of people with Mental Health problems and their carers in Barking and Dagenham. This will be either through new appointments of Approved Mental Health Practitioners or through the training of existing staff. In all cases, the approval of persons to be deployed as AMHPs remains a function of the Local Authority, such approval will be provided to NELFT in writing.
- 4.5 If at any time during the term of this Agreement it becomes necessary or desirable for any employee of any other Partner to be transferred to the employment of the Host Partner such transfer shall be effected pursuant to a staff transfer order made by the Secretary of State under Schedule 18 to the 2006 Act and each relevant Partner will be separately responsible for its part in and any professional costs associated with any application for such an order.
- 4.6 In the event that TUPE is determined to apply to the Staff of either Partner who are made available for the Services or any other person, the Partners agree to cooperate in a manner consistent with the principles of this Agreement and the Partnership 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.
- 4.7 NELFT as Host Partner will in respect of each of the following posts dedicate to the extent necessary for the operation of the Services the post to the Partnership;
- the Barking and Dagenham Operational Director
  - the post details of which appear in Schedule 7
  - such other management posts as are agreed by the Executive Steering Group
- 4.8 Staff occupying the Partnership Posts will be managed by the Barking and Dagenham Operational Director of NELFT. Direct, day to day line management arrangements of the staff providing Services will be organised by NELFT, however overall accountability of the staff will be with the Barking and Dagenham Operational Director of NELFT (unless agreed otherwise by the Executive Steering Group).
- 4.9 The Partners may consider that it is necessary for new or replacement staff ("New Staff") to be appointed in order to fulfill the aims and objectives of this Agreement. The recruitment and appointment of New Staff will be carried out in accordance with the London Borough of Barking and Dagenham Recruitment Protocol as the employing organisation.
- 4.10 The provision of all professional supervision, training and staff development will remain the responsibility of the employing organization but will be discharged jointly with the Host Partner. As such, the employing organisation will ensure that their staff members continue to have access to resources to support their professional and personal development within the framework of that organisation's agreed training and development arrangements.
- 4.11 Any staff occupying the Partnership Posts or providing Services may be designated as delegated managers by the Barking and Dagenham Operational Director of NELFT subject to

the needs of the Partnership and Partners' financial standing instructions. Designated managers may line manage staff from each Partner organisation or employing organisation irrespective of the staff's employer.

- 4.12 The Partners agree to review the arrangements for the provision of training and development and other support functions as set out above from time to time in the light of in particular (but without limitation):
- 4.12.1 any material changes to the proportion of staff employed by one or other of the Partners as a result of the operation of this Agreement: and/or
- 4.12.2 either Party considering that it is or is likely to become disproportionately responsible for the costs of such obligation in the provision of the Services.
- 4.13 During the term of the secondment, as set out within Clause 4.1, any staff providing Services will abide by the requirements set out in the Codes of Conduct, policies, procedures and practices of both the Partners. Local Authority staff will continue to be contractually bound by the policies and procedures of their employer. Where the policies, procedures of the Host Partner are at variance with those of LBBB, then the appropriate policies and procedures of the London Borough of Barking and Dagenham will apply in relation to the employees of the London Borough of Barking and Dagenham. The Barking and Dagenham Operational Director of NELFT will consult with the employing organisation's Human Resources Services for advice and support.
- 4.14 For recruiting to vacant established posts, the Barking and Dagenham Operational Director of NELFT will use the NELFT Human Resources Services to carry out the recruitment process and will consult with the Human Resources Services of the Partner who is funding the post in order to undertake any job evaluation required for the post and make arrangements for the post to also be advertised within the Partner's organisation. Staff recruited to these posts as employees will have the option of remaining in their current employing sector, for the purposes of continuous service, through employment with either the Host Partner or a Partner organisation. The Partners will liaise where necessary to ensure consistency. It is the Barking and Dagenham Operational Director of NELFT's responsibility to ensure that the recruitment is carried out in an integrated manner, and in accordance with the procedures (such as advertising period) set out within the LBBB recruitment protocol.
- 4.15 Staff will be performance managed according to the policies and procedures of the relevant Partner or other employing organisation and subject to the overall functions and objectives of the Executive Steering Group.
- 4.16 Staff terms and conditions will be those applicable to the relevant Partner or other employing organisation and any such changes of these terms and conditions will be subject to the employing organisation's policies including staff consultation. Where another member of staff or a third party wishes to make a complaint or has an enquiry about any act or omission of a member of staff providing Services then that person may raise the matter with or make the complaint to the Barking and Dagenham Operational Director of NELFT who will as necessary refer the matter through to the member of staff's employing organisation whose complaints grievance and/or disciplinary procedures shall be followed in resolving the matter.
- 4.17 Where a Partner proposes to take action in relation to one of its employees who is providing available staff services and that action is likely to affect the performance of the obligations of any other Partner then any such action will be notified to that other Partner prior to it being implemented.
- 4.18 Where it is necessary for the purposes of either Partner's personnel procedures for a member of Staff employed or contracted by the other Partner to co-operate with the operation of any discipline or grievance procedures, 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 member relating to matters which are the subject matter of this Agreement.

- 4.19 Where a member of Staff employed by one party (the manager) is the manager of a member of Staff employed by the other party (the managed person), the manager is authorised by virtue of the Partnership Arrangement to give instructions to the managed person and to take all appropriate management action in respect of the managed person. This is provided that any such instructions shall not contravene the managed person's terms and conditions of employment.
- 4.20 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
- 4.21 Each Partner or other employing organisation as the case may be will continue to be responsible for its employees in respect of the range of risks normally associated with their employment, including, without prejudice to the generality, employer's liability, third party liability and premises liability risks and each Party shall indemnify the other in respect of any claim, finding or award made in respect of such liabilities
- 4.22 In the event of a growth in the Partnership's need for Services after the Commencement Date then any additional staff required shall be recruited by the Barking and Dagenham Operational Director of NELFT in accordance with the terms of clause 4.3.3 and will be employed pursuant to Clause 4.3 by the Partner agreed by the Executive Steering Group. The salary or wages (as the case may be) costs of any such staff shall be met from the Pooled Budget unless otherwise agreed by the Executive Steering Group. To maintain an overview of the workforce, particularly in relation to the representation of social care professionals, the Barking and Dagenham Operational Director of NELFT will undertake an annual review of the workforce profile, in consultation with the Human Resources Services of the Partners, for the consideration of the Executive Steering Group.
- 4.23 Upon the termination of this Agreement for any reason, it is the intention of the Partners that subject to the application of TUPE, each Partner 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 of the Agreement.

## **5. ACCOMMODATION SERVICES AND GOODS**

- 5.1 Pursuant to Section 75 (2)(d) of the National Health Service Act 2006 and Regulation 10(1) of the Regulations the Partners will from the Commencement Date provide in connection with the Partnership such accommodation, goods and Service Contracts relating to the Services as are indicated in respect of each of them in Schedule 5 or as are agreed by the Partners from time to time
- 5.1.1 The Partners will so far as is necessary and appropriate to the achievement of the purposes of the Partnership cooperate over the Term of the Agreement to utilise the accommodation, goods, services and Services Contracts described in Schedule 5 in an integrated manner and periodically to review the needs of the Partnership for accommodation goods and services on the same basis and shall make additional or substituted accommodation goods or services available by agreement in the light of such periodic review.
- 5.1.2 The Host Partner is required to acknowledge the Partnership of the London Borough of Barking and Dagenham in all communications material it produces and where practicable on all capital items, vehicles and/or buildings provided through the Pooled Fund throughout the duration of this agreement.

- 5.1.3 In respect of the accommodation provided by each Partner that Partner shall be responsible for arranging all FM and other estates services for that accommodation, for the payment of all outgoings in respect of that accommodation and for complying with any lease or other legal requirements relating to the accommodation.

## **6. COMMISSIONING AND CONTRACTING FRAMEWORK**

- 6.1 All Services directly provided pursuant to this Agreement shall be subject to the requirement of the Local Authority's commissioning and procurement principles.
- 6.2 The individual Partners, in respect of any Partner Contract, will:
  - 6.2.1 Seek to agree common contract formats and policy requirements with Service Providers;
  - 6.2.2 Abide by any standing orders and contracting policies of the relevant individual Partner;
  - 6.2.3 Comply with applicable UK and EU legislation.
- 6.3 In relation to any Partnership Contract the Host Partner shall apply Standing Orders so far as relevant to commissioning as if references therein to the Host Partner as an individual agency were to the Host Partner in its lead capacity for the purposes of the Partnership.

## **7. RECORD KEEPING, INFORMATION SHARING, CONFIDENTIALITY AND DATA PROTECTION**

- 7.1 The Executive Steering Group, NELFT as Host Partner and LBBB as the case may be shall keep the necessary records to ensure that decision making by each is referenced to appropriate statutory powers or to relevant provisions of this Agreement.
- 7.2 In the event of disputes arising such records may be used to establish the basis of decisions made and where necessary to assign individual or organisational responsibility for any particular matter.
- 7.3 The Executive Steering Group, NELFT as Host Partner and LBBB as the case may be shall in relation to information sharing between agencies, having proper regard to the principles of client confidentiality and the need to comply with the Data Protection Act 1998 observe and comply with the obligations set out in the Information Sharing Policy or any similar replacement Government guidance and the Freedom of Information Act 2000. In relation to record management, NELFT as Host Partner will have proper regard to the principles set out within the Social Care Record Guarantee for England (as produced by the National Information Governance Board for Health and Social Care) and Caldicott Standards.

## **8. FREEDOM OF INFORMATION ACT 2000 AND RELATED STATUTES**

- 8.1 Each Partner ("the First Partner") acknowledges that in responding to a request received by the other Partner ("the Other Partner") under the FOIA or the Environmental Information Regulations 2004 ("the EIR") the Other Partner will be entitled to provide information held by it relating to this Agreement or which otherwise relates to the First Partner.
- 8.2 The Other Partner shall use reasonable endeavours to notify the First Partner of any request under the FOIA or the EIR and the intention to disclose the information within 10 Working Days (as defined in the FOIA) of receipt of such request. Before disclosing any information, the Other Partner shall consider any representations made by the First Partner within 4 Working Days (as defined in the FOIA) of notification from the Other Partner to the First Partner in accordance with this Clause 8.2.
- 8.3 The First Partner acknowledges that, if it does not revert to the Other Partner within the period set out in Clause 8.2, or if its representations do not alter the view of the Other Partner that the information should be disclosed, the Other Partner is under a duty to disclose such information.

8.4 The First Partner shall co-operate with the Other Partner in connection with any request received by the Other Partner under the FOIA or the EIR in compliance with the statutory timescales and such co-operation shall be at no cost to the Other Partner.

8.5 Both partners acknowledge that members of the public can also make requests for information under the Audit Account Regulations 2003 and the Audit Commission Act 1998 and shall liaise and assist each other as required.

## **9. THE HOST PARTNER**

9.1 The Partners agree that NELFT, as the Host Partner shall have the following responsibilities (which shall be discharged on a day-to-day basis by the Barking and Dagenham Operational Director of NELFT):

9.1.1 To apply the relevant parts of the constitution and the Standing Orders and other relevant regulations of the Host Partner to the management of the Pooled Fund, within the context of the arrangements made under Clause 9;

9.1.2 To lead on the implementation of the delivery of the Services in accordance with the terms of this Agreement and decisions of the Executive Steering Group and utilising the Partnership Resources in the way best designed to promote the purposes of the Partnership efficiently and cost effectively;

9.1.3 To provide financial administrative and other relevant support to enable effective and efficient management of the Pooled Fund;

9.1.4 To be responsible for the accounts of the Executive Steering Group and the Pooled Fund and to integrate and maintain a clearly identifiable accounting structure to ensure effective monitoring and reporting of the Partnership;

9.1.5 To provide such information as the Executive Steering Group or either of the Partners may require enabling the effective management of the Services and the Pooled Fund;

9.1.6 As soon as possible after the Commencement Date to introduce effective audit arrangements in accordance with the Regulations which will take account of relevant guidance from relevant regulatory bodies and the Health Act Circular;

9.1.7 To produce a year end memorandum of account showing income received, expenditure and any balance remaining in the Pooled Fund (such report to be provided to the Partners for inclusion in their statutory accounts);

9.1.8 To have due regard to HM Customs & Excise directions and guidance regarding the VAT aspects of the Partnership;

9.1.9 To ensure that the integrated mental health services will always be branded in line with the corporate expectations of both partners and the Executive Steering Group. In particular the logos of both LBBD as employing organisation and NELFT as the Host Partner will be used on public documentation;

9.1.10 To ensure that the Operational Director continues to represent NELFT at Barking and Dagenham's Safeguarding Adults Board and the Local Safeguarding Children Board, and to ensure that there is appropriate representation from Mental Health Services on the sub-groups of both Boards; and

9.1.11 To ensure NELFT Director level representation for mental health services and community health services at the borough's Health and Wellbeing Board.

## **10. POOLED FUND, CONTRIBUTIONS AND BUDGET**

10.1 The Partners agree that:



- 10.1.1 Their respective Contributions for the First Financial Year and relating to the Services are set out in Schedule 4, but shall be subject to the in year adjustment provisions contained in this clause 10.
- 10.1.2 For the second and all subsequent Financial Years of the Term, the Executive Steering Group may agree that due to budget pressures and organisation efficiency savings requirements of Partners that they wish to revise the budget levels for subsequent financial years. Provided the necessary information has been provided by the Host Partner to LBBB in writing before the 30<sup>th</sup> March, the Partners shall use reasonable endeavours to agree to commit funding for the Partnership and their respective Contributions before the 28th February. Once agreed, they shall sign a record of the Contributions and these shall be formally reported to a meeting of the Executive Steering Group. Those Contributions shall similarly be subject to the in-year adjustment provisions contained in this Clause 10. If agreement on them is not reached the provisions of Clause 21.1.5 shall apply, except where the Partners agree that termination is not appropriate.
- 10.2 NELFT's responsibility as Host Partner for managing routine upwards and downwards fluctuations in monthly expenditure from the Pooled Fund against the expected profile of expenditure shall be managed on a day to day basis by the Barking and Dagenham Operational Director.
- 10.3 In relation to any in year variation to the Budget which reasonably appears to the Barking and Dagenham Operational Director of NELFT to be required as a result of an anticipated overspend the following provisions shall apply:
- 10.3.1 Following the reporting by the Barking and Dagenham Operational Director to the Executive Steering Group of any anticipated overspend in respect of the Council's functions, which will be done immediately on becoming aware of the overspend, the Executive Steering Group shall discuss how such overspend shall be resolved and propose to the Partners a method of addressing the expected overspend. This overspend should be managed within the budgets of the Partners. Only as the last option should this include revising the relevant Financial Year's Contributions of the Partners. Upon authorisation from the Partners in writing the Executive Steering Group will authorise the Barking and Dagenham Operational Director to take any appropriate remedial action within such time as is agreed between the Partners
- 10.3.2 For the avoidance of doubt, nothing in this Agreement is intended to:
- 10.3.2.1 result in NELFT's Contribution to the Pooled Fund being higher than the payment made to the Host Partner (whether under this Agreement, commissioning agreement with the PCT or otherwise) for the provision of the Services; or
- 10.3.2.2 otherwise result in NELFT being liable for any shortfall between the Pooled Fund and the costs of the integrated provision of the Services (other than as a result of the Host Partner failing to make reasonable endeavours to manage the budgets and take any remedial action as specified at 10.3.1) – NOTE THIS CLAUSE IS STILL UNDER NEGOTIATION WITH NELFT
- 10.4 In relation to any in-year variations to the Budget which reasonably appear to the Barking and Dagenham Operational Director to be required as a result of any anticipated under spend the following shall apply:
- 10.4.1 Following the reporting by the Barking and Dagenham Operational Director to the Executive Steering Group of any anticipated under spend, which will be done immediately on becoming aware of the under spend the Executive Steering Group shall discuss how such under spend shall be resolved and propose to and agree with the Partners a method of addressing the expected under spend including revising the relevant Financial Year's Budget and Partner's Contributions and shall authorise the

Barking and Dagenham Operational Director to take any appropriate remedial action within such time as is agreed between the Partners

- 10.4.2 In default of such Agreement the Partner on whose account the under spend has arisen shall have the option of:-
- reducing its in year Contribution to the Pooled Fund proportionately
  - having an amount equivalent to the amount of the under spend carried forward to be netted off against the amount of its due Contribution for the following year.
- 10.5 The Executive Steering Group may agree from time to time to achieve an under spend in a particular Financial Year and carry it forward to the following Financial Year of the Term. This would require subsequent agreement by the Cabinet of London Borough of Barking and Dagenham
- 10.6 The Executive Steering Group may agree that due to budget pressures they wish to plan an under spend to enable a planned withdrawal of funds.
- 10.7 The Pooled Fund shall only be used for the provision of or procurement of the Services.
- 10.8 The Partners shall pay their Contributions in 12 monthly installments payable on the 15<sup>th</sup> of each month unless otherwise agreed.
- 10.9 The Partners (including the internal auditors) shall have the right of access to relevant accounting records relating to the Pooled Fund. In terms of responsibility both Partners' through their Internal Audit Sections shall be responsible for auditing the areas pertaining to their individual organizations and will work together in areas where an overlap of interest occurs.
- 10.10 The Budget shall be calculable as the initial Budget for the previous Financial Year of the Term plus or minus any in year changes agreed by the Executive Steering Group or the Partners (where it is decided that these should be recurrent); plus any agreed inflation uplift in the coming Financial Year; plus any planned changes for the coming Financial Year; less any agreed efficiency savings.
- 10.11 The Executive Steering Group will apply the Host Partner's virement framework to apply to the Pooled Fund and this framework may be varied only with the Partner's consent; no other virement shall take place on any part of the Pooled Fund.
- 10.12 The costs which are incurred by the Partners in connection with the administration of the Partnership shall be met from the Pooled Fund except where otherwise agreed and the Partners accept the need to make provision for these costs in determining their Contributions to the Budget.
- 10.13 All payments made in respect of this Partnership Agreement will be made by the Pooled Fund Manager.

## **11. ASSESSMENT AND ELIGIBILITY CRITERIA**

- 11.1 The persons who are within the scope of the provision of Services pursuant to the Partnership are those defined as 'Service users' at clause 1.1. The partners will ensure that Eligibility Criteria for particular services are considered and met at all times when implementing delivery of the Services.
- 11.2 Persons may fall into eligibility criteria for other services funded by the Partners, such as housing, education and generic health, in addition to the Services. Nothing in this Agreement shall prevent any Service User from using such services if he meets the relevant criteria.
- 11.3 If case law, legislation or national Government policy alters the responsibilities of the respective Partners to this Agreement in relation to eligibility or service provision/funding then

such law or policy shall take precedence. In such a case the Partners agree to reflect such changes in the delivery of Services under this Agreement through the Partnership.

- 11.4 All local policies determined by the Partners that impact on this Agreement must be agreed by the Partners through the Executive Steering Group and cannot be incorporated into this Agreement without the prior consent of all Partners

## **12. CHARGES**

- 12.1 Nothing in this Agreement shall detract from the principle that NHS services and services provided under Section 117 of the Mental Health Act 1983 are free at the point of delivery and may not be charged for.
- 12.2 The London Borough of Barking and Dagenham shall be at liberty to levy charges for such elements of the Services for which legislation requires or permits them to charge provided that those charges comply with any charging policy agreed by the Executive Steering Group. The Host will be required to supply information relevant to the usage of services, as necessary to enable the LBBDD to implement charging policies for services, which exist or may be introduced.
- 12.3 Where a Service User makes it clear to Mental Health Services that they think that the distinction between charged for and non-charged for Services is blurred, whether through the operation of assessment arrangements or arrangements for the delivery of integrated Services under this Agreement, then the Barking and Dagenham Operational Director in consultation with relevant officers of the Local Authority will be responsible for identifying to the relevant Service Users the Partner levying the charges and the nature of the Services charged for and for making it clear to Service Users as to which element of the Services a charge is being levied.

## **13. PERFORMANCE MANAGEMENT**

- 13.1 The Partners will, through the Executive Steering Group and with close regard to the performance framework and the local priorities of the Health and Wellbeing Board, work to develop a performance management framework for the partnership arrangements with relevant indicators for measuring effectiveness. In doing so the Partners will have regard to paragraphs 51-53 of the 1999 Act Circular.
- 13.2 The performance measures will demonstrate:
- How far the aims of the Partnership Agreement are being achieved;
  - The extent to which outputs including timescales and milestones are being met, as defined in clauses 13.3. – 13.5
  - The extent to which agreed outcomes are being fulfilled and targets met, as defined in clauses 13.3 – 13.5
  - Budget monitoring for all staffing and Partnership budgets.
- 13.3 The targets used to measure quality will primarily relate to those contained in the L.A. key performance indicators, the Monitor targets and the PCT contractual targets and any replacement of such targets mandated through Health sector reform.
- 13.4 In relation to any targets set by the Partners pursuant to clause 13 above, the Partners agree that it shall be the responsibility of the Barking and Dagenham Operational Director to manage the delivery of such targets, in particular:
- the Barking and Dagenham Operational Director will take the lead in ensuring actions plans are prepared in response to Delivery and Improvement Plans, Social Services Indicators and targets
  - to put in place and monitor a clearly identifiable performance monitoring process

- 13.5 The Host Partner shall provide LBBB such information/data and reports to enable the Local Authority to comply with its statutory management requirements
- 13.6 The Host Partner will lead on ensuring that the delivery of information required by LBBB service user database is inputted accurately until such time that LBBB can be assured that the NELFT's IT software can reliably pass information onto LBBB's database. This will be carried out with due regard to the Information Sharing Policy.
- 13.7 The Partners agree that it shall be the responsibility of LBBB, with the assistance of the Host Partner to submit all the required data and reports to the Department of Health each year.
- 13.8 The Host Partner will ensure that any changes to the data required in light of new guidance/legislation by Central Government are communicated and changes made in accordance with the new requirements.

#### **14. INSPECTION AND REPORTING ARRANGEMENTS**

- 14.1 The Partners recognise the potential interest of the various agencies whose names appear below in inspecting different aspects of the provision of Services and agree to cooperate with each other to facilitate any such inspections or reporting requirements by, *inter alia*:
- The Care Quality Commission
  - The Department of Health
  - Monitor
- or their respective successors and similar statutory regulatory bodies.

- 14.2 The Host Partner will allow access for audit and inspection by representatives from the organisations set out in clause 14.1 or other designated officers of LBBB.
- 14.3 Each Partner will report to the next due meeting of the Executive Steering Group the key findings of any inspection in respect of the Services to which it has been subject.

#### **15. COMPLAINTS**

- 15.1 Without prejudice to the complaints procedures under section 7B of the Local Authorities Social Services Act 1970, complaints will be dealt with by the Host Partner's and/or Service Providers complaints procedures internal to their organisation which enable Service Users to be heard in respect of any complaint concerning any element of the Services which are provided by or on behalf of a particular Partner and in accordance with each Partner's statutory obligations in this regard. Nothing in this paragraph shall preclude the Service User from making a complaint to the relevant Partner
- 15.2 Complaints by third parties in respect of the provision of Services to Service Users will also be dealt with initially by the Host Partner or Service Provider within its own complaints procedures.
- 15.3 In any case where the Service User does not feel that his complaint has been adequately addressed through the Host Partner or Service Provider's procedure then he will be entitled to refer his complaint for consideration as one relating to the Partnership.
- 15.4 Any such referred complaint shall in the first instance be considered by the Barking and Dagenham Operational Director of NELFT but additionally the Partners through the Executive Steering Group shall consider the establishment of a formal Complaint Review Body to act as final arbiter pursuant to Regulation 10 (2) – (3) of the Regulations and having regard to the guidance on good practice contained in paragraph 71 of the Health Act Circular.
- 15.5 The Host Partner shall be responsible for keeping a record of complaints and any action as a result on them is to be available at any time for inspection by the Executive Steering Group

## **16. REVIEW**

- 16.1 The Executive Steering Group shall review the operation of the Partnership at appropriate intervals and not less than annually to ensure that this Agreement is operating in the most satisfactory manner.
- 16.2 The Executive Steering Group may review the operation of this Agreement on the coming into effect of any relevant case law legislation or guidance affecting the delivery of Services.
- 16.3 The Executive Steering Group will during the second year of this Agreement review the Partnership working arrangements and consider its scope and subject to the provisions of Clause [17] shall agree any necessary changes to
- 16.3.1 the partnership arrangements; and/or
  - 16.3.2 the financial arrangements; and/or
  - 16.3.3 the service provision or demand which may influence funding.

## **17. VARIATION**

- 17.1 If any Partner proposes a variation to any of the terms of this Agreement that Partner shall initially report its proposal to a meeting of the Executive Steering Group.
- 17.2 Variations will only be effective if agreed by all Partners through the Executive Steering Group and if agreed will be evidenced by a document confirming the details of the variation signed on behalf of each Partner by its senior representative on the Executive Steering Group or, in the case of LBBB and if required, through approval by the Council's Cabinet.

## **18. INDEMNITIES**

- 18.1 This Clause 18 applies where one Partner ("the Indemnified Partner") incurs direct losses or is subject to claims from third parties as a result of the negligent actions or omissions of the other Partner or its/their employees or agents ("the Negligent Partner") and the Indemnified Partner reasonably settles any such claim or is found liable at law in respect of such a claim having reasonably opted to defend such a claim.
- 18.2 In the circumstances outlined in Clause 18.1 the Negligent Partner shall indemnify the Indemnified Partner against any such losses or claims to the extent which such losses and claims result directly from the negligence of the Negligent Partner.
- 18.3 The Indemnified Partner shall not be entitled under this Clause 18 to recover from a Negligent Partner any loss of income or any indirect or consequential loss suffered by the Indemnified Partner.

## **19. DISPUTE RESOLUTION**

- 19.1 The Parties agree that, where a dispute raises multiple issues under this Agreement, they shall so far as practicable endeavour to consolidate the resolution of such disputes.
- 19.2 Any dispute shall in the first instance be referred to the Executive Steering Group who shall endeavour to resolve it within 28 days. If no resolution is possible within that period the dispute shall be referred to the Chief Executives of the Partners affected who shall endeavour to resolve the dispute within a further 28 days.
- 19.3 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of the competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 19.4 If the dispute cannot be resolved by the Parties pursuant to Clause 2.2 the dispute shall be referred to mediation pursuant to the procedure set out in Clause 2.6 unless:
- 19.4.1 LBBB considers that the dispute is not suitable for resolution by mediation; or
  - 19.4.2 NELFT does not agree to mediation.

- 19.5 The Agreement shall not be suspended or cease by the reference of a dispute to mediation and the Partners (or employee, agent, supplier or sub-contractor) shall comply fully with the requirements of the Agreement at all times.
- 19.6 The procedure for mediation and consequential provisions relating to mediation are as follows:
- 19.6.1 a neutral adviser or mediator ("the Mediator") shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution ("CEDR") to appoint a Mediator.
- 19.6.2 The Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from CEDR to provide guidance on a suitable procedure.
- 19.6.3 Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
- 19.6.4 If the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by their duly authorised representatives.
- 19.6.5 Failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior consent of both Parties.
- 19.6.6 If the Parties fail to reach agreement in the structured negotiations within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts.

## **20. STATUTORY COMPLIANCE**

- 20.1 The Partners shall comply with all relevant legislation relating to the Partnership. For the avoidance of doubt the Partners acknowledge that as the Services include functions of a public nature the Partners (at all times) and the Service Providers (at appropriate times) constitute public authorities within the meaning of section 6(3) of the Human Rights Act 1998.
- 20.2 Each Partner in relation to its own Partner Contracts and the Host Partner in respect of Partnership Contracts shall wherever applicable require the acceptance by Service Providers of their status as either public authorities within section 6 (3) of the Human Rights Act 1998 when exercising functions of a public nature or as by analogy public authorities in such circumstances and shall in either case require such Service Providers to enter into appropriate indemnities in respect of any elements of any claims which arise under any provision of the Human Rights Act 1998.

## **21. TERMINATION**

- 21.1 This Agreement shall terminate where:
- 21.1.1 One Partner gives at least twelve months written notice to the other Partner that they wish to terminate this Agreement;
- 21.1.2 A Partner ceases or threatens to cease to carry on all or any part of its undertakings as constituted at the date of this Agreement where this would in the reasonable opinion of the other Partner have a material effect on the ability of the Partners to comply with this Agreement;

- 21.1.3 Any Partner reasonably considers that reasonable circumstances at any time arising as a result of legislation or policy requirements of central Government results in the terms of this Agreement no longer being tenable and has given the other Partner written notice;
  - 21.1.4 There has been service failure, as determined by the Executive Steering Group, as a consequence of which the continuation of the Agreement would be detrimental to Services or a Partner and at least six month's written notice is given;
  - 21.1.5 The Partners are unable to agree the resourcing of this Agreement either in respect of the Contributions or the Services or the accommodation services and goods made available under Clause 5 such that the joint arrangements are no longer functional. Where such a situation arises the Partners will first have fully discussed the implications through the Executive Steering Group and agreed on a joint strategy for the dissolution for the Agreement. A minimum of three months notice will be required to determine the Agreement under this provision.
- 21.2 Where this Agreement is terminated the Partners agree to cooperate fully in ensuring that Partnership is dissolved without harm to Service Users or Services and there is an orderly transition to the arrangements that are to supersede this Agreement.
- 21.3 Any costs resulting from the termination of the Agreement or from the termination of any part of the Services (including in respect of any staff redundancies) shall be paid for:
- 21.3.1 Where that termination is agreed by the Partners, out of the Pooled Fund or in the event of termination of the agreement, by the Partners pro rata to their Contribution to the Pooled Fund;
  - 21.3.2 Where one Partner decides, without the agreement of the other Partner, to cease providing part or all of the Services, by that Partner;
  - 21.3.3 Where that termination is caused by one Partner having acted unreasonably, (which in the case of dispute shall be determined by paragraph 19.1) by that Partner
  - 21.3.4 Ongoing costs which arise as a consequence of the termination of the Agreement and its replacement with new arrangements shall be borne separately by the Partners.
- 21.4 In the event that this Agreement is terminated (whether by effluxion of time or by notice of termination):
- 21.4.1 The Parties agree to co-operate to ensure an orderly wind down of their joint activities as set out in this Agreement and to avoid, or minimise the disruption of the Services to the Service Users;
  - 21.4.2 The Parties agree to comply with any consultation requirements in the event of termination of this Agreement;
  - 21.4.3 Any underspend in relation to the Pooled Fund upon termination shall be apportioned between the Parties in accordance with their contributions to the Pooled Fund in the relevant Financial Year and the Parties shall make such payments to each other as shall be required to reflect this.
  - 21.4.4 Any overspend existing at the date of termination shall be apportioned between the Parties in accordance with their contributions to the Pooled Fund in the relevant Financial Year and the Parties shall make such payments to each other as shall be required to reflect this.
  - 21.4.5 The Partners shall continue to be responsible for any liabilities that arise following distribution of the Pooled Fund pursuant to clause 21.3. Any liabilities that are subsequently quantified shall be apportioned between the Parties in accordance with

the provisions of clause 21.3 and the Parties shall make such payments to each other as shall be required to reflect this.

21.4.6 The Partners shall act in good faith and in a reasonable manner in reaching agreement on the matters referred to in clause 21.4.4 and 22.4.5. In default of agreement the Parties shall refer the matter to be determined in accordance with the disputes procedure specified in clause 19. The Parties shall make such payments to each other as are necessary to reflect such apportionment of liabilities as may be agreed or determined.

21.5 In this Clause 21, "**liabilities**" shall be deemed to include all costs claims liabilities expenses and demands made against or suffered or incurred by the relevant Partner including (but not limited to) the following matters:

21.5.1 public liability;

21.5.2 employer's liability;

21.5.3 professional indemnity (including but not limited to officers liability and clinical negligence);

21.5.4 employment claims including (but not limited to) claims for:

a) damages, costs and expenditure including (but not limited to) claims for wrongful and unfair dismissal and under Transfer of Undertakings (Protection of Employment) Regulations 1981;

b) damages, costs and expenditure in relation to sex, race or disability discrimination and equal pay claims;

c) other claims for breach of employment contract;

21.5.5 Ombudsman awards;

21.5.6 claims for breach of the Human Rights Act 1998 and claims in public law;

and "liability" shall be construed accordingly

## **22. ASSIGNMENT AND SUB-CONTRACTING**

22.1 This Agreement and all rights under it may not be assigned or transferred by either Partner without the prior written consent of the other PROVIDED THAT no such consent shall be necessary for an assignment or novation to a statutory successor in respect of the functions relevant to this Agreement of either of the Partners.

22.2 Upon such assignment or transfer the assignor or transferor shall ensure that the assignee or transferee enters into a written undertaking to comply with the terms and conditions of this Agreement in consideration of which the other parties agree to release the assignor or transferor from further liability except in respect of liability accrued up to the date of such assignment or transfer.

## **23. SEVERANCE**

23.1 If any Clause of this Agreement not being of a fundamental nature shall be held to be illegal or un-enforceable the remainder of this Agreement shall not thereby be affected.



## **24. CONDUCT OF CLAIMS**

- 24.1 In respect of any claim by or against LBBB or NELFT which in any way relates to the Services and/or a Service User including without limitation the performance by the Partners of their obligations under this Agreement, each Partner agrees:
- 24.1.1 to notify the other in a timely manner of the details of any such Claims;
  - 24.1.2 to consult with the other and keep the other fully informed of the progress and details of the Claim; and
  - 24.1.3 that where the Claim relates to both Partners not to compromise, dispose of or settle the Claim without the other Partner's prior written consent (not to be unreasonably withheld); and
  - 24.1.4 that where the Claim relates solely to the Relevant Functions of one Partner (the "First Party") and has been made against the other Partner the Partners shall seek to agree which Partner shall have conduct of the Claim having regard to the requirements of each Partner's insurers (or equivalent); and neither Partner shall compromise, dispose or settle the Claim without the prior written consent of the other (not to be unreasonably withheld).
- 24.2 Each Partner agrees to co-operate and provide all such advice, assistance and information to the other Partner as may be reasonably required in respect of any such Claim or the conduct of any such Claim in a timely manner.

## **25. INSURANCE ARRANGEMENTS**

- 25.1 The Partners shall, so far as is possible at reasonable cost and allowable by law or guidance, agree and effect appropriate insurance arrangements in respect of all potential liabilities arising from the partnership arrangements. In the case of NELFT it may effect, through the National Health Service Litigation Authority, alternative arrangements in respect of NHS schemes in lieu of commercial insurance.

The obligations in this Clause shall include insurance (or equivalent) arrangements after the date of determination of this Agreement in respect of any events acts or omissions prior to such determination.

- 25.2 The Partners in consultation with their insurers (or equivalent alternative providers to cover NHS schemes) may agree from time to time, common policies and protocols for the handling of Claims covered by the Partners' insurance arrangements (or equivalent) for the Relevant Functions. Such policies and protocols as are agreed may be applied to the partnership arrangements.

### **25.3 Uninsured Liability Payments**

- 25.4 Where a Partner makes an uninsured liability payment it may elect after consultation with the other Partner that the same be paid from the following:

25.4.1 the Pooled Fund

25.4.2 other financial resources available to the Partner.

### **25.5 Alternative Arrangements**

The Partners may agree alternative insurance arrangements to the foregoing from time to time.

## **26. ENTIRE AGREEMENT**

The terms herein contained together with the contents of the Schedules constitute the complete agreement between the Partners with respect to the subject matter hereof and supersede all previous communications, representations, understandings and agreement and

any representation, promise or condition not incorporated herein shall not be binding on either Partner.

## **27. NOTICES**

- 27.1 Any notice of communication hereunder shall be in writing.
- 27.2 Any notice or communication to the LBBB hereunder shall be deemed effectively served if sent by registered post or delivered by hand to the LBBB at the address set out above and marked for the attention of the Corporate Director of Adult and Community Services or to such other addressee and address notified from time to time by the London Borough of Barking and Dagenham to NELFT for service on the London Borough of Barking and Dagenham.
- 27.3 Any notice or communication to NELFT hereunder shall be deemed effectively served if sent by registered post or delivered by hand to the address set out above and marked for the attention of the Managing Director, Mental Health Services or to such other addressee and address notified from time to time by NELFT to the LBBB for service on NELFT.
- 27.4 Any notice served by delivery shall be deemed to have been served on the date it is delivered to the addressee. Where notice is posted it shall be sufficient to prove that the notice was properly addressed and posted and the addressee shall be deemed to have been served with the notice 48 hours after the time it was posted.

## **28. WAIVERS**

- 28.1 The failure of any Partner to enforce at any time or for any period of time any of the provisions of this Agreement shall not be construed to be a waiver of any such provision and shall in no matter affect the right of that Partner thereafter to enforce such provision.
- 28.2 No waiver in any one or more instances of a breach of any provision hereof shall be deemed to be a further or continuing waiver of such provision in other instances.

## **29. SURVIVAL OF CERTAIN PROVISIONS**

- 29.1 Clauses 1 (Interpretation), 7 (Record Keeping, Information Sharing, Freedom of Information, Confidentiality and Data Protection), 8 (Freedom of Information Act 2000 and Related Statutes), 12 (Charges), 14 (Inspection Arrangements), 15 (Complaints), 18 (Indemnities), 19 (Disputes), 21 (Termination), 23 (Severance), 24 (Conduct of Claims), 25 (Insurance Arrangements), 26 (Entire Agreement), 27 (Notices) and 28 (Waivers) shall survive termination of this Agreement.

## **30. EQUAL OPPORTUNITIES**

- 30.1 The parties hereto shall do all they reasonably can to seek the elimination of all forms of discrimination in their employment practices, management and provision of services in relation to sex, religion, race, age, ethnicity, disability and sexual orientation in accordance with an established equal opportunities policy (as amended from time to time).
- 30.2 The parties shall not unlawfully discriminate within the meaning and scope of the provisions of the Race Relations Act 1976, the Sex Discrimination Acts 1975 and 1986, Disability Discrimination Act 1995 and the Equalities Act 2010 and shall take all reasonable steps to ensure that all persons employed in the execution of the Contract do not unlawfully discriminate.
- 30.3 In the event of any judicial or other official finding of unlawful discrimination by either party they shall take all reasonable steps to prevent a repetition of the unlawful discrimination and shall provide details of those steps to the other party upon request.
- 30.4 The parties shall ensure that their staff behave with courtesy and respect to everyone regardless of sex, religion, race, disability and sexual orientation.

The parties shall observe any and all Codes of Practice relating to equal opportunities, and shall comply at all times with the relevant Equal Opportunities policy

- 30.5 Neither party shall treat one group of people less favourably than others on grounds including their colour, race, nationality, ethnic origin, sex, sexual orientation, age, religion, beliefs or disability in relation to decisions to recruit, train, promote, discipline or dismiss its personnel.

**31. FORCE MAJEURE**

- 31.1 Either party shall give written notice to the other as soon as it becomes aware of any Force Majeure event, setting out details of the Force Majeure event, its likely duration and the steps being taken and to be taken by both parties to minimise the effect of the Force Majeure on provision of the Service.

- 31.2 Both parties shall use all reasonable endeavours to secure the resumption of the Service at the earliest possible opportunity following a Force Majeure event.

- 31.3 For the avoidance of doubt, a Force Majeure event shall not relieve the parties of their duty to provide the Service in accordance with the requirements of the Contract unless otherwise expressly agreed.

**32. LAW**

- 32.1 The Contract shall be governed by interpreted in accordance with English Law and shall be subject to the jurisdiction of the English Courts

**33. SUPPORT FUNCTIONS**

The London Borough of Barking and Dagenham agrees to continue to provide all of the current management and support functions in relation to the Services that it has been providing up to the date of this Agreement including without limitations:-

- 33.1 H.R and payroll support
- 33.2 Occupational health
- 33.3 Access to training
- 33.4 Finance/procurement/shared services
- 33.5 Management support
- 33.6 Governance
- 33.7 Performance
- 33.8 I.T. Support

**IN WITNESS** whereof the parties hereto have signed this Agreement the day and year first before written

Signed on behalf of The London Borough of Barking and Dagenham

.....

Authorised signatory

Signed on behalf of by THE  
NORTH EAST LONDON NHS FOUNDATION  
TRUST

.....  
Authorised signatory:

## **SCHEDULE 1: ELIGIBILITY CRITERIA**

**Eligibility to mental health services provided by London Borough of Barking and Dagenham and the NELFT will be assessed in accordance with:-**

The agreed NELFT service specification

## **SCHEDULE 2: RELEVANT FUNCTIONS**

### **London Borough of Barking and Dagenham**

Any function provided in relation to the adult social services included in Regulation 6 of the Regulations.

### **North East London NHS Foundation Trust**

Any function in relation to adult mental health services which is the responsibility of NELFT and included in Regulation 5 of the Regulations

### SCHEDULE 3: SERVICES

#### Mental Health Partnership – Services

The Services currently provided at the date of this Agreement relate to the following teams. The Section 75 Agreement will not vary the service specification for any of the listed services.

<b>Service</b>	<b>Provider</b>
Dagenham CRT	NELFT & LBBB
Barking CRT	NELFT & LBBB
Older Peoples CMHT	NELFT & LBBB
Assertive Outreach Team	NELFT & LBBB
Home Treatment Team	NELFT & LBBB
MHICAS (Access Team)	NELFT & LBBB
Moreland Road Day Hospital and Memory Services	NELFT & LBBB
Early Intervention in Psychosis Team	NELFT
A+BIT (IAPT Service)	NELFT
Becontree Psychological Services (Secondary psychological services)	NELFT

**SCHEDULE 4: NELFT AND LBBB CONTRIBUTIONS TO THE POOLED FUND**

<b>LBBB Cost Centre</b>	<b>NELFT Cost Centre</b>	<b>Service Area</b>	<b>LBBB 2011-12 Budget</b>	<b>NELFT 2011/12 Budget</b>	<b>Total 2011/12 Budget</b>
A60010		Residential Homes – Mental Health	£867,250	£0	£867,250
A60019	KBND	Older Persons CMHT	£243,090	£521,015	£764,105
A60022		Mental Health Management fee	£67,561	£0	£67,561
A10414		Older Person CMHT residential costs	700,000		700,000
A60025	EDGC /FBGC/ GBGC	Mental Health Assessments Team	£613,509	£1,425,103	£2,038,612
A60028	KB1C	Mental Health Initial Contact Assessment Service	£46,000	£610,132	£656,132
A60034	KBCR	Home Treatment Team	£144,650	£918,719	£1,063,369
A60037	KBGC	Assertive Outreach/ Intensive Case Management	£172,510	£300,913	£473,423
A60040		Mental Health Commissioning General	£11,270	£0	£11,270
A60046		Mental Health – Other Day Care	£229,420	£0	£229,420
	GADH	Morland Road Day Hospital	£0	£263,935	£263,935
	KBL1	Barking and Dagenham People Liaison	£0	£99,894	£99,894
	KBYD	Memory Service	£0	£199,476	£199,476
	EPBD	Becontree Psychotherapy Service	£0	£517,467	£517,467
	EPBD	EIP	£0	£369,743	£369,743
	KBB1	Brief Intervention Team	£0	£452,967	£452,967
	KBPT	Barking and Dagenham Access to Psychological Therapy	£0	£665,280	£665,280
<b>Total</b>			<b>£3,095,260</b>	<b>£6,344,644</b>	<b>£9,439,904</b>



**SCHEDULE 5: ACCOMMODATION**

**PREMISES**

**OWNER**

**Barking Community Hospital  
Upney Lane  
Barking  
Essex  
IG11 9LX**

**NHS ONEL, leased to  
NELFT**

**The Hedgecock Centre  
Barking Hospital  
Upney Lane  
Barking  
Essex  
IG11 9LX**

**NELFT**

**Broad Street Health Centre  
Morland Road  
Dagenham  
Essex  
RM10 9HU**

**NHS ONEL, leased to  
NELFT**

## **SCHEDULE 6: SECONDMENT AGREEMENT**

### **1 Introduction**

- 1.1 The Council and the Trust (the “Partners”) have today entered into an agreement (“the Agreement”) relating to the development of the Services.
- 1.2 Pursuant to the terms of the Agreement the Partners have agreed to enter into this Secondment Agreement for the secondment to the Trust by the Council of the Staff of the Council engaged in the delivery of Mental Health Partnership Services which are to be delivered by the Partners in accordance with the Agreement (the “Services”).
- 1.3 The purpose of this Secondment Agreement is to give effect to the terms of the Agreement whereby certain of the Staff of the Council will remain employed by the Council but will be seconded to and managed by the Trust during the currency of the Agreement (the “Seconded Staff”).
- 1.4 Provisions regarding the rights and obligations of the Partners in relation to any staff who are hereafter seconded are set out in this Secondment Agreement and the relevant sections of the Agreement. In the event that the obligations under this Secondment Agreement differ from those in the Agreement, the terms of the Agreement will prevail.

### **2 The Parties to the Secondment Agreement**

The parties to this Agreement are London Borough of Barking and Dagenham (the “Council”) and North East London NHS Foundation Trust (the “Trust”)

### **3 Responsibilities of Council**

- 3.1 The Council will identify staff engaged in the direct delivery of the Services. Once the Trust has confirmed this list, the Council will consult with the identified staff with respect to the secondment of these staff to the Trust. This will include temporary staff, trainees or locums assigned to the service as well as staff in permanent positions.
- 3.2 The duration of the secondment of any Seconded Staff will be for the term of the Agreement unless terminated earlier.
- 3.3 The Seconded Staff will remain employed by the Council which originally employed them for the duration of their secondment to the Trust. Throughout their secondment to the Trust the Council will remain responsible for the payment

of salary, allowances, and expenses, tax, NI and pension contributions due to and/or with respect to the Seconded Staff which the Council employs.

- 3.4 The Council will delegate responsibility to the Trust for any action short of dismissal. Any disciplinary actions will be taken in line with the relevant Discipline/Conduct procedure of the Council. The parties to this Secondment Agreement will determine which officers have delegated authority to make dismissal decisions for their own employees. Any appeals against dismissal will be determined by the Council using their own procedure.
- 3.5 The Council will ensure that the Seconded Staff are cleared to carry out their full duties having undertaken all necessary pre-employment checks and having alerted the Trust to any outstanding investigations. The Council is responsible for issuing the necessary paperwork to the Seconded Staff.
- 3.6 At the end of the secondment of Seconded Staff the Council will be responsible for all matters relating to the employment of the Seconded Staff which the Council employs.
- 3.7 The Council is responsible for the provision of accommodation and equipment for the Seconded Staff which the Council employs unless a subsequent agreement is reached.

#### **4 Responsibilities of the Trust**

- 4.1 The Trust will be responsible for providing the Council with all relevant management information to enable the Council to pay the Seconded Staff which the Council employs correctly and complete necessary returns eg. sickness, maternity, other absence, reportable incidents/accidents.
- 4.2 The Trust's health and safety policies will apply to all Seconded Staff working within the Trust under the direction of the Trust as soon as this is agreed via an integrated Trust Health & Safety Committee. Until agreement is reached the existing policies of the Council will apply with respect to the Seconded Staff which the Council employs.
- 4.3 The Trust will be responsible for the induction of Seconded Staff. This induction will cover the induction requirements of the Council.
- 4.4 The Trust will be responsible for ensuring all Seconded Staff receive regular supervision and appraisal. Pay progression will continue as per the council's policy.
- 4.5 The Trust is responsible for ensuring appropriate insurance cover exists for all Seconded Staff.
- 4.6 The Trust is responsible for allocating budgetary accountability.

## **5. Records**

- 5.1 The Council shall keep all records in relation to the Seconded Staff which each of the Council employ as required of an employer by Law and in accordance with the Agreed Policies and shall, upon the Trust's reasonable request and subject to compliance with the Data Protection Act 1998, provide the Trust with access to those records including, where appropriate, the taking of copies. The Trust shall keep all such records as are reasonably within its possession as a result of its obligations hereunder and upon the Council's reasonable request and subject to compliance with the Data Protection Act 1998, provide the Council with access to those records including, where appropriate, the taking of copies.

## **6. General**

- 6.1 The Council shall write to all the Seconded Staff informing them of the arrangements set out in this Secondment Agreement and in particular that the Trust has the authority to give management instructions to those Seconded Staff and to implement all Agreed Policies in respect of them (subject to the provisions of this Secondment Agreement).
- 6.2 Nothing in this Secondment Agreement will be construed to have effect as forming or recording any relationship of employer and employee between the Trust or the Trust and any member of Seconded Staff and nothing in this Secondment Agreement shall constitute or be construed as constituting or establishing any partnership or joint venture between the parties to this Secondment Agreement for any purpose whatsoever.

## **7. Term and Termination**

- 7.1 This Secondment Agreement shall commence on the date of execution of this Secondment Agreement and shall terminate on the date on which the Agreement terminates.
- 7.2 The termination of this Secondment Agreement shall not affect any rights or obligations of the parties which accrued prior to such termination.

## **8. Entire Agreement**

- 8.1 This Secondment Agreement and the Agreement (including its schedule and appendices) constitute the entire agreement between the Partners relating to the subject matter of this Secondment Agreement.

**9. Third Parties**

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

**10. Governing Law**

10.1 This Secondment Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English Courts.

EXECUTED as an agreement under hand on the date specified at the beginning of this Secondment Agreement

Signed by: \_\_\_\_\_ Date: \_\_\_\_\_  
North East London NHS Foundation Trust

Signed by: \_\_\_\_\_ Date: \_\_\_\_\_  
London Borough of Barking and  
Dagenham

## SCHEDULE 7: POSTS INCLUDED IN AGREEMENT

### LBBD posts

CC	Client Group	Unit	SAP Service Area	Description	Grade for Post	Hrs for Post	WTE	SCP	Budget Total	VF	Total less VF
A60019	Older People	Older People's CMHT		Senior SW Practitioner	PO3	35	1		£45,142		
A60019	Older People	Older People's CMHT		Senior Practitioner	PO3	35	1		£45,142		
A60019	Older People	Older People's CMHT		Care Manager/ AMHP	PO1	35	1		£39,409		
A60019	Older People	Older People's CMHT		Care Manager	PO1	35	1		£39,409		
A60019	Older People	Older People's CMHT		Care Manager	PO1	35	1		£39,409		
A60019	Older People	Older People's CMHT		Community Care Worker	SO1	35	1		£35,646		
A60025		Barking CRT		Senior Social Worker	PO4	35	1		£49,592		
A60025		Barking CRT		Social Worker	PO3	35	1		£46,176		
A60025		Barking CRT		Social Worker	PO3	35	1		£46,176		
A60025		Barking CRT		Social Worker	PO3	35	1		£46,176		
A60025		Barking CRT		Social Worker	PO3	35	1		£46,176		
A60025		Barking CRT		Senior Support Worker	Scale 5	35	1		£29,406		
A60025		Dagenham CRT		Senior Social Worker	PO4	35	1		£49,592		
A60025		Dagenham CRT		Social Worker	PO3	35	1		£46,176		
A60025		Dagenham CRT		Social Worker	PO3	35	1		£46,176		

CC	Client Group	Unit	SAP Service Area	Description	Grade for Post	Hrs for Post	WTE	SCP	Budget Total	VF	Total less VF
A60025		Dagenham CRT		Social Worker	PO3	35	1		£46,176		
A60025		Dagenham CRT		Social Worker	PO3	35	1		£46,176		
A60025		Dagenham CRT		Senior Support Worker	Scale 5	35	1		£29,406		
A60025		Dagenham CRT		Receptionist	Scale 3	21	0.6		£14,020		
A60025		Dagenham CRT		Receptionist	Scale 3	21	0.6		£14,020		
A60028		Initial Contact and Assessment Service		Social Worker	PO3	35	1		£45,991		
A60034		Home Treatment Team		Care Manager – Crisis Resolution	PO3	35	1		£39,195		
A60034		Home Treatment Team		Care Manager – Crisis Resolution	PO3	35	1		£39,195		
A60034		Home Treatment Team		Care Manager – Crisis Resolution	PO3	35	1		£39,195		
A60037		Intensive Case Management Service		Senior Social Worker	PO4	35	1		£41,949		
A60037		Intensive Case Management Service		Approved Mental Health Practitioner	PO3	35	1		£48,994		
<b>Total</b>							<b>25.2</b>		<b>£1,054,120</b>		

**Barking and Dagenham Staff List as of 01/08/2011**

<b>Organisation (Section)</b>	<b>Cost Centre</b>	<b>Subjective Code</b>	<b>Position Title</b>	<b>Fte</b>	<b>Ctr Hrs</b>	<b>Employee Category</b>
Older People's CMHT	A60019	10010	Senior SW Practitioner	1	35	
Older People's CMHT	A60019	10010	Senior Practitioner	1	35	
Older People's CMHT	A60019	10010	Care Manager/ AMHP	1	35	
Older People's CMHT	A60019	10010	Care Manager	1	35	
Older People's CMHT	A60019	10010	Care Manager	1	35	
Older People's CMHT	A60019	10010	Community Care Worker	1	35	
Barking CRT	A60025	10010	Senior Social Worker	1	35	
Barking CRT	A60025	10010	Social Worker	1	35	
Barking CRT	A60025	10010	Social Worker	1	35	
Barking CRT	A60025	10010	Social Worker	1	35	
Barking CRT	A60025	10010	Social Worker	1	35	
Barking CRT	A60025	10010	Senior Support Worker	1	35	
Dagenham CRT	A60025	10010	Senior Social Worker	1	35	
Dagenham CRT	A60025	10010	Social Worker	1	35	
Dagenham CRT	A60025	10010	Social Worker	1	35	
Dagenham CRT	A60025	10010	Social Worker	1	35	
Dagenham CRT	A60025	10010	Social Worker	1	35	
Dagenham CRT	A60025	10010	Senior Support Worker	1	35	
Dagenham CRT	A60025	10010	Receptionist	0.6	21	
Dagenham CRT	A60025	10010	Receptionist	0.6	21	
Initial Contact and Assessment Service	A60028	10010	Social Worker	1	35	
Home Treatment Team	A60034	10010	Care Manager – Crisis Resolution	1	35	
Home Treatment Team	A60034	10010	Care Manager – Crisis Resolution	1	35	
Home Treatment Team	A60034	10010	Care Manager – Crisis Resolution	1	35	
Intensive Case Management Service	A60037	10010	Senior Social Worker	1	35	
Intensive Case Management Service	A60037	10010	Approved Mental Health Practitioner	1	35	



## **Appendix A - SECONDED STAFF EMPLOYMENT AGREEMENT LETTER**

Dear

### **Secondment to North East London NHS Foundation Trust**

As you are aware North East London NHS Foundation Trust (the "Trust") and London Borough of Barking and Dagenham (the "Council") are entering into a formal Agreement for the delivery of mental health services (the "Services") within the Trust's and the Council's areas of responsibility. The Services will be delivered by the Trust.

Staff of the Council who are engaged in providing these health and social care services will remain seconded to work for and under the management of the Trust but will also remain employed by the Council on their current terms and conditions.

The purpose of this letter is to explain how this will work and to provide reassurance that there will be no effective changes to the nature or terms of your secondment.

#### **THE TERMS OF YOUR SECONDMENT ARE AS FOLLOWS:**

- 1 The Council remains your employer during your secondment to and while working under the management of the Trust. Accordingly, you will continue to be employed by the Council under your contract of employment which shall remain in force save where temporarily varied by the terms of this letter. If there is any conflict in the terms of your existing contract and the terms of this letter, the terms of this letter will prevail.
- 2 Your pay, benefits and other entitlements will not be affected by your secondment. Salary enquiries should continue to be directed to the Council's Payroll Department.
- 3 During your secondment you will perform all the duties assigned to you by the Trust and you will be subject to the day-to-day management by your line manager who may be an employee of either the Council or the Trust. This means that during the secondment the Trust will (amongst other things):
  - 3.1 appraise and monitor staff on behalf of the Council (and in accordance with the Council's policies so far as reasonably practicable); and
  - 3.2 have the right to deal with all disciplinary, capability and other personnel issues on behalf of the Council and in accordance with the agreed policies. This right will not extend, however, to dismissing you from your employment. This means that in the event that you raise a grievance issue which arises after your secondment it will be dealt with in the same way as occurs currently.
- 4 You will consent to the supply by the Council to the Trust of copies of your personnel records and other relevant information and documents regarding your employment.

- 5 You agree that the Trust may have access to and process employment records and any personal data (including sensitive personal data), as defined in the Data Protection Act 1998, that they may reasonably require in connection with your secondment. The Trust may process, disclose or transfer such personal data (including sensitive personal data such as medical details and details of gender, race and ethnic origin) if it is required or permitted by law to do so.
- 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.
- 7 Your holiday entitlement will remain unchanged and the scheduling of any holiday leave will be arranged through your line manager.
- 8 In the event of absence on medical or other grounds, you will be required to notify your line manager of your absence in accordance with the procedures set out in the Trust rules of which you will be advised.
- 9 The Council and the Trust will apply agreed policies, Code of Conduct and rules and regulations, [to the extent that they do not conflict with those of the Trust]. You will be provided with a full introduction by the Trust of the terms and location of all agreed policies, codes, rules and regulations.
- 10 While seconded to and under the management of the Trust, your employment will remain subject to the law relating to health and safety at work, data protection, anti-discrimination and equal opportunities, as well as the Trust's policies and procedures including for the avoidance of doubt work policies and procedures, smoking, anti-discrimination, equal opportunities, and harassment. You will be advised of all of these policies and procedures as well as their location.
- 11 Your secondment shall automatically terminate if your contract of employment with the Council terminates.
- 12 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.
- 13 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.
- 14 During your secondment you may come across confidential information about the Trust or the Council. Accordingly, you agree not to disclose to a third party or make use of confidential information about matters connected with the Council, (or related to a subsidiary, supplier, customer or client of the Council), 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.

If you have any questions about any of the above or enclosed documentation, please contact Mr. Tony Fisher of the LBBD HR Department via Council Extension 8454.

Yours sincerely

**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 London Borough of Barking and Dagenham.

I have read and understood the above and confirm my agreement to secondment to North East London NHS Foundation Trust on the terms set out. I understand that I will remain employed by London Borough of Barking and Dagenham during my secondment.

Signed

Name:

Date:

## **Appendix B - COUNCIL AND TRUST POLICIES**

### **NELFT Policies**

The web link to the NELFT policies is listed below:

[http://www.nelft.nhs.uk/about\\_us/policies](http://www.nelft.nhs.uk/about_us/policies)

### **LBBB HR Policies**

The web link to relevant LBBB policies is listed below:

<http://lbbd/hr/employee-relations/employee-relations-home.htm>