

TRAFFORD COUNCIL

Report to: Executive
Date: 22nd March 2021
Report for: Decision
Report of: Executive Member for Adult Social Care

Report Title

Section 75 Partnership Agreement – Mental Health

Summary

This report seeks permission to delegate authority to the Corporate Director for Adult Services, in consultation with the Corporate Director for Governance and Community Strategy, to agree the final Terms and Conditions of the Section 75 Partnership Agreement and enter into that Agreement on behalf of the Council.

Section 75 Partnership Agreements provide the legal framework to underpin joint working in Adult and Older People's Mental Health Services. Under this framework, joint Health and Social Care teams deliver mental health services from a single line management structure led by GMMH with designated Council staff seconded, and the delegation of specific social care duties. Although the service delivery elements are integrated the financial responsibilities for health and social care remain separate with this separation to continue under the extended agreement.

The Council entered into a Section 75 agreement on 1 April 2009 with the Greater Manchester Mental Health NHS Foundation Trust (GMMH) for the delivery of integrated mental health services for adults and older people. The Council and GMMH agreed to update the Partnership Agreement in 2020.

The refreshed Section 75 Partnership Agreement ("s75 Agreement") updates the statutory responsibilities to better reflect the requirements of the Care Act and other relevant legislation and includes the CCG as a key partner. The s75 Agreement is undergoing final scrutiny by GMMH with the intention of the document being signed off for an April/May launch. A request is being made for delegated approval to prevent any delay in enacting the s75 Agreement.

The Council, the CCG and GMMH are committed to integrated working practices as a means for delivering person-centred holistic support to people with mental health needs in Trafford and the s75 Agreement continues to provide a suitable vehicle through which to deliver this.

Recommendation(s)

It is recommended that Executive :

- Note the contents of the report

- Approve the proposal to enter into a new Section 75 Partnership Agreement with the Greater Manchester Mental Health NHS Foundation Trust
- Delegate authority to the Corporate Director for Adult Services, in consultation with the Corporate Director for Governance and Community Strategy, to agree the final Terms and Conditions of the Section 75 Partnership Agreement and enter into that Agreement on behalf of the Council.

Contact person for access to background papers and further information:

Name: Karen Ahmed
 Extension: 1890

Background Papers:

N/A

Implications:

Relationship to Corporate Priorities	The s75 Agreement is a key part of delivering Trafford Together, and enabling people to live as independently as possible, remaining /returning home wherever possible. The s75 Agreement supports the delivery of the Mental Health Transformation Programmes and will develop a clearer pathway to accessing the right services at the right time for people who have a mental health need, to enable them to remain as well as possible for as long as possible.
Relationship to GM Policy or Strategy Framework	The s75 Agreement supports the wider GM Mental Health Strategy and is in line with the proposed refresh.
Financial	The annual Council budget to be agreed and included in the agreement will be met from within existing budget resources that are held within the adult social care budget
Legal Implications	Legal advice will be sought on the final version of the s75 Agreement
Equality/Diversity Implications	People with mental health needs often are disadvantaged as a result of experiencing stigma. The s75 Agreement will provide a framework which starts from the perspective that people with mental health needs have equal rights as citizens and will deliver services that build on individual strengths and assets.

Sustainability Implications	N/A
Carbon Reduction	N/A
Staffing/E-Government/Asset Management Implications	N/A
Risk Management Implications	N/A
Health and Safety Implications	N/A

1.0 Background

- 1.1 Under Section 75 of the NHS Act 2006 Local Authorities and NHS bodies can enter into partnership arrangements to provide a more streamlined service and to pool resources, in order to improve services and outcomes for residents.
- 1.2 The Council entered into a Section 75 agreement on 1 April 2009 with the Greater Manchester Mental Health Trust (GMMH) for the delivery of integrated mental health services for adults and older people. The agreement was renewed in 2014.
- 1.3 The Section 75 Partnership Agreement between Trafford Council and GMMH provides the legal framework for joint working in Adult and Older People's Mental Health Services. Under the Agreement, joint Health and Social Care teams deliver mental health services through a single line management structure led by GMMH with designated Council staff seconded, and the delegation of specific social care duties to GMMH. Staffing and service delivery arrangements are integrated and the financial responsibilities for health and social care remain separate. In addition the s75 Agreement covers estates utilised by GMMH to facilitate service delivery.

2.0 Mental Health Transformation in Trafford

- 2.1 As part of delivering Trafford Together; the locality plan, Trafford CCG and the Council has embarked on an ambitious joint transformation programme to improve outcomes for Trafford residents who are experiencing mental health issues.
- 2.2 The programme comprises 3 key elements :
 - A new joint Mental Health Strategy for Trafford which uses the Thrive Framework to redesign and refocus mental health services using the following key principles:
 - enabling self–help and management, access to advice and signposting, early intervention, and getting help and more help without a prolonged journey of escalation through different services
 - taking a needs-led approach. This means that mental health needs are defined by children, young people, adults and families

alongside professionals through shared decision making. Needs are not based on severity, diagnosis or health care pathways.

- Emphasising cross agency and system-wide factors (rather than the current tiered approach) as key to ensuring that good quality care for psychological and emotional well-being is provided across all sectors. ¹



- A review of social work within integrated community mental health teams (Social Work for Better Mental Health). This national framework, published by the Department of Health in 2016 recognises that “the principles of personalisation and the opportunities of the Care Act 2014, social workers are crucial to ensuring people with mental health needs are seen first and foremost as citizens with equal rights, rather than exclusively through a diagnostic or clinical lens.” ²

This together with the Council’s “Let’s Talk” approach provides a firm social work foundation for the delivery of the Thrive agenda, rebalances the importance of social work in a clinical environment, and promotes consistency across social work practice in the Council and in GMMH.

¹ Better lives, better wellbeing, better connections: a new mental health & wellbeing strategy for Trafford p.4

²

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/495500/Strategic_statement_-_social_work_adult_mental_health_A.pdf p.5

- A review of the existing s75 Partnership Agreement between GMMH and the Council.

2.3 Review of the s75 Partnership Agreement

Both GMMH and the Council recognised that the existing s75 Agreement was no longer fit for purpose and did not recognise the current ambitions of either organisation in delivering improved outcomes for our residents. Together, key stakeholders from both organisations and the CCG came together to draw up a scoping document for the review which formed the brief for the review.

The work was a collaborative collective effort which built on the knowledge and expertise of both organisations to develop a document which reflected national legislation, national and local policy directions, and the improved assurance of the delivery of best practice working approaches as defined in “Social Work for Better Mental Health”, effective safeguarding, compliance with the Care Act, a consistent commissioning approach and sound financial management.

As might be expected the document has gone through a number of iterations to ensure all views have been reflected, including a position statement from the CCG and is now in a final draft form.

Because of the consultative nature employed, the work has taken somewhat longer than might be expected but has led to a more robust document, which will enable closer collaborative working in delivering our transformation programme, underpinned by clear expectations, agreed outcomes and clear definitions of roles and responsibilities.

The document is now undergoing a final review by GMMH before moving towards final approval and signing off by the Council.

This is a key document, and it is intended that document will be signed off in March or early April and will become operational immediately. Governance structures are already being put into place alongside revised performance/outcome monitoring schedules, and an action plan (relating to the social work review).

The Trafford s75 Agreement will be shared across the other GM boroughs where GMMH provide mental health services to enable a consistent approach. The role of social work has also been reviewed across those boroughs, and similar action plans have been developed.

A copy of the draft s75 Agreement which is being consulted on with GMMH is embedded at Appendix 1 and schedules are available on request.

3.0. Other Options

3.1. The alternative is to do nothing and allow the existing s75 Partnership Agreement to continue. However, this will not reflect the current statutory responsibilities as required by the Care Act and other relevant legislation nor does it reflect the current ambitions of either organisation in delivering improved outcomes for our residents.

4.0 Consultation

4.1 There is no requirement for public consultation.

5.0 Reasons for Recommendation

5.1 The Section 75 Partnership Agreement between Trafford Council and GMMH provides the legal framework for joint working in Adult and Older People's Mental Health Services. The updated s75 Agreement will update the statutory responsibilities to better reflect the requirements of the Care Act and other relevant legislation.

6.0 Recommendations

- 6.1 The Executive are requested to:
- Note the contents of the report
 - Approve the proposal to enter into a new section 75 Partnership Agreement with the Greater Manchester Mental Health NHS Foundation Trust
 - Delegate authority to the Corporate Director for Adult Services, in consultation with the Corporate Director for Governance and Community Strategy to agree the final Terms and Conditions of the Section 75 Partnership Agreement and enter into that Agreement on behalf of the Council.

Key Decision: Yes

If Key Decision, has 28-day notice been given? Yes

Finance Officer Clearance GB

Legal Officer Clearance SL

CORPORATE DIRECTOR'S SIGNATURE *(electronic)*...



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To confirm that the Financial and Legal Implications have been considered and the Corporate Director has cleared the report prior to issuing to the Executive Member for decision.

APPENDIX 1: S75 Agreement.



Trafford Borough Council, NHS Trafford Clinical Commissioning Group and Greater Manchester Mental Health NHS Foundation Trust

Agreement under Section 75 of the NHS Act 2006

Version	v17
Status	Draft
Approval – project group	Outstanding
Approval – Board/Council/Governing Body	Outstanding
Author	Chris O’Gorman

Version control	
Version	Change from previous version and source
v1	Skeleton agreement
v2	Template version produced to identify leads
v2a	Additions from Diane Eaton
v3	<p style="text-align: center;">Initial drafting</p> <p>(*) means text drawn from model Agreement by Bevan Brittan LLP with acknowledgements. Editing has occurred in some cases.</p> <p>(**) means text drawn from the agreement to establish Manchester Local Care Organisation with acknowledgements. Editing has occurred. * and ** now removed (v16)</p>
v4	Comments on v3 from Karen Ahmed
v5	Comments from Karen Ahmed (v4) incorporated into revision draft
v6	Further comments from Karen Ahmed
v7	‘Clean’ draft incorporating Karen Ahmed’s amendments with track changes removed
v8	Marked up version of v7 with names of Council, Trust and CCG leads against each section to invite comment.
v9	<p style="text-align: center;">Comments from Paul Barratt, Gilli Painter, Emma Brown, GMMH, Fortune Mahlangu and Caroline Myers, Paul Davies, Diane Eaton included.</p> <p style="text-align: center;">New sections on Freedom of Information and Business Continuity drafted</p>
v10	Amendments made following discussion on outstanding issues between Diane Eaton and Claire Fraser (25 September 2020)
v11	Amendments and additions made following meeting of the s75 Agreement project team on 9 October 2020 and amendments proposed by Stephen Tonge (Trafford Council legal team)
v12	Comments from Karen Ahmed and NHS Trafford CCG incorporated
v13	Additional comments from Karen Ahmed included and revision of schedules
v14	Revisions to numbering of schedules
v15	Minor amendments e.g., to terminology, requested by Diane Eaton
v17	Amendments following legal review by Stephen Tonge
v18	Very minor amendment to Business Case Process

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Trafford Council, NHS Trafford Clinical Commissioning Group and Greater Manchester Mental Health NHS Foundation Trust

Agreement under Section 75 of the NHS Act 2006

1. PARTIES

The Parties to this Agreement are:

a) **Trafford Borough Council**, Trafford Town Hall, Talbot Road, Stretford, M32 0TH (“the Council”)

and

b) **Greater Manchester Mental Health NHS Foundation Trust**, Bury New Road, Prestwich, Manchester, M25 3BL (“the Trust”)

and

c) **NHS Trafford Clinical Commissioning Group**, First floor, Trafford Town Hall, Talbot Rd, Stretford M32 0TH (“the CCG”)

Hereinafter collectively referred to as “**the Parties**”.

2. TERMS

Agreement means this Agreement between the Parties

Annual Plan means the plan for the operation of the services under this Agreement, which is prepared for approval by the Head of Operations on a yearly basis.

Approved Mental Health Professional means a mental health professional approved by the Council as defined in section 144 of the Mental Health Act 1983 (2007)

Arrangements mean the processes, structures and systems put in place by the Parties to ensure the effective operation of this Agreement and the achievement of its purpose, aims and objectives.

Budget means the financial resources transferred to the Trust to meet the direct costs of the services to be provided under this Agreement.

Business Case Process means the procedure set out to prepare a business case using an established template for review and approval by the Council in respect of matters such as changes to a Staffing Establishment.

Clinical Commissioning Group (CCG) means NHS Trafford Clinical Commissioning Group and any successor in title

Commencement Date is the date on which this Agreement commences and its terms come into effect: this date is 1 January 2021

Committee means the Joint Director of Adult Social Services (DASS) Assurance Committee established by the Parties to monitor the implementation of and compliance with this Agreement

Constitution means the document that specifies the arrangements for the governance of the Council including its delegations to key officers and the process for decision-making.

Council means Trafford Borough Council.

Council Services mean the services supplied by the Council to support the operation of this Agreement (**Schedule 9**)

Counterpart means a duplicate copy of this Agreement made so that there is a separate copy for signing by each Party.

Director of Adult Social Services (DASS) means the statutory officer of the Council whose specific responsibilities and accountabilities are set out in law and guidance including the Human Rights Act 1998, the Domestic Violence, Crime and Victim Act 2004, the Safeguarding Vulnerable Groups Act 2006 and subsequent legislation and guidance relating to domestic violence, the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards, the Care Act 2014, the Carers Act 2014, and the statutory guidance issued under Section 7 of the Local Authority Social Services Act 1970. The actual title of the postholder may differ from the statutory term but the statutory term is used throughout this Agreement for the purposes of clarity.

Eligibility Criteria means the criteria set out in Schedule 1 that determine whether or not a person may receive a Trust Service.

Force Majeure Event means one or more of the following:

- a) war, civil war (whether declared or undeclared), riot or armed conflict;
- b) acts of terrorism;
- c) acts of God;
- d) fire or flood;
- e) industrial action where spontaneous and/or undertaken without notice;
- f) prevention from or hindrance in obtaining raw materials, energy or other supplies; and

in each case where such event is beyond the reasonable control of the Party claiming relief.

Head of Operations means the authorised officer appointed from time to time by the Trust who is accountable to the Parties for the operation and fulfilment of this Agreement

The **Integrated Mental Health and Social Care Services** means those services in the community which health and social care staff work as single teams under single line management providing a holistic mental health service to adults who meet the Eligibility Criteria.

Residents means people who are ordinarily resident in the Borough of Trafford.

The **Trust Services** mean health and social care related functions of the Council being carried out under this Agreement by the Trust (Schedule 1).

The **Schedules** mean the annexes to this document as follows:

Schedule 1	Service Specification including Eligibility Criteria
Schedule 2	Reporting and Monitoring Requirements
Schedule 3	Terms of Reference of Governance Group(s)
Schedule 4	Information Sharing Agreement and Protocol
Schedule 5	Procedure for Placements
Schedule 6	Staffing Structure and Staffing Establishment
Schedule 7	Staff Recruitment, Registration, Training and Development, Supervision and Appraisal, Sickness Management Procedures
Schedule 8	Trafford Council Organisational Change Policy and Procedure
Schedule 9	Schedule of Services Provided to the Trust by the Council
Schedule 10	Council and Trust's Digital Care Records Policies and Procedures https://www.traffordapp.co.uk/
Schedule 11	Annual Budget
Schedule 12	Procedure for Responding to Enquiries from Elected Members and MPs.
Schedule 13	Preparing for Adulthood Protocol https://www.traffordapp.co.uk/
Schedule 14	Safeguarding Adults Policy and Procedure https://www.traffordapp.co.uk/
Schedule 15	Summary Action Plan for Schedules to be Developed in the Future, Subsequent to Signing this Agreement

Trust means Greater Manchester Mental Health NHS Foundation Trust.

3. INTRODUCTION

a) Purpose of the Agreement

This Agreement is made pursuant to section 75 of the NHS Act 2006 and is to replace the original agreement made under section 31 of the Health Act 1990 between the parties dated 5 April 2004, and subsequently renewed on 15 April 2009 under section 75 of the NHS Act 2006.

The purpose of this Agreement is to enable Greater Manchester Mental Health NHS Foundation Trust to act with delegated powers of the Council to ensure that eligible adults with mental health needs, and their carers, who are residents of the Borough of Trafford may be assessed, supported, treated and cared for as the law requires and permits.

To achieve this purpose, the Council will delegate to the Trust specific health and social care-related functions and also statutory duties under the Care Act 2014 that the Trust will exercise and fulfil on the Council's behalf (section 4 a). Additionally, the Council will provide the Trust with sufficient resources (staff, financing and infrastructure) to enable the Trust successfully to fulfil its responsibilities under this Agreement.

b) Population covered by this Agreement

This Agreement provides for services to all adults (being those aged 16 years and older for the purposes of this Agreement) who are ordinarily residents of the Borough of Trafford and who are deemed to be eligible for secondary mental health services by the application of the eligibility criteria agreed by the Council and currently in operation and from time to time reviewed. The current Eligibility Criteria are included at Schedule 1.

The Agreement also provides for those young people aged under 18 years who have been identified as "in transition from young people's mental health services" (i.e., child and adolescent mental health services, CAMHS) and into adult mental health services, and who require support from adult services during the period of transition for the purposes of planning, ensuring effective and safe handover of care, and of minimising disruption to the young person's life, relationships and education.

c) Aims of the Agreement

In making this Agreement, the Council aims to promote the wellbeing of every resident of the Borough of Trafford, and to offer support and where appropriate intervention to reduce, prevent and delay needs from emerging or developing. The Council wishes to achieve these aims by working in close partnership with citizens, partner

organisations, and the wider public, voluntary and private sector. Through this Agreement, the Council engages the Trust to act as its delivery partner in achieving these aims for eligible adults who are ordinarily resident in the Borough with mental health needs, and also their carers.

d) Objectives of the Agreement

The objectives of the Agreement are:

- i) To make arrangements for an effective partnership between the Council and the Trust whereby the Trust provides services on behalf of the Council in fulfilment of shared values and goals and provides monitoring, reporting and where required escalation to the Council on all relevant matters
- ii) To make arrangements to enable the agreed functions and responsibilities of the Director of Adult Social Services to be discharged effectively and fully by the Trust and that the statutory accountability of the DASS for those functions and responsibilities is supported by appropriate monitoring, reporting and escalation
- iii) To make arrangements to ensure that Council staff who are seconded to the Trust are appropriately and effectively managed, supported and led and that they maintain both a strong connection with mental health care professionals in the context of an integrated service and also with the Council as their employer.
- iv) To make arrangements to ensure that the professional standards of social work practice, and the working culture of social workers seconded to the Trust is consistently of the highest standard and represents best practice at all times and that the Council and the Trust co-operate effectively in providing leadership to social care practitioners
- v) Specifically, to delegate health and social care-related functions and duties under the Care Act 2014 to the Trust so that it can effectively provide high quality, Integrated Mental Health and Social Care Services to residents in fulfilment of its relevant responsibilities and duties
- vi) To ensure that no decision about resources (including finance, staffing and buildings) that has an implication or impact on another Party is made without consultation and engagement with all Parties in order to avoid unintended or unplanned consequences.

e) Benefits arising from the Agreement

The Parties to this Agreement intend to work together to secure benefits to the people who are ordinarily residents of Trafford and to the Parties themselves through the Parties' complementary capabilities and through their shared commitment to improve the health and wellbeing of those people who are ordinarily Trafford residents. The specific benefits that this Agreement seeks to deliver are as follows:

- i) The provision of well-co-ordinated, Integrated Health and Social Care Services for eligible members of the community who have severe mental health needs, such that there is no duplication of process, no unnecessary handoffs or avoidable referrals and that residents experience mental health care between health and social care professionals as seamless
- ii) The achievement of optimised value from joint resources, arising from single line management arrangements for health and social care staff in community mental health settings, the streamlining of processes including assessment and care management, recruitment, and the most efficient use of estates and facilities
- iii) The provision of mental health services based a balanced, and evidence-based approach between different concepts and models such that biological, psychological, social and emotional needs of mental health residents are recognised and addressed in a holistic and comprehensive manner
- iv) The streamlining and simplification of services for residents, carers and referrers such that access to mental health and social care services is through joint gateways and access points and unnecessary or duplicated referrals are avoided and residents and carers have clarity on access arrangements at all times

f) Future ambitions

The Parties to this Agreement confirm their shared ambitions to extend and deepen joint work between the Council, NHS Trafford Clinical Commissioning Group and NHS mental health services. Over time, all Parties to this Agreement aim to consider and where agreed, design and implement the following arrangements:

- i) Pooled funds for commissioning and provision of mental health and social care services
- ii) A single digital care record system
- iii) Fully integrated arrangements for public services at neighbourhood level

These ambitions are the Parties' expression of aspirations at the Commencement Date and do not form a contractual commitment to further them.

4. FUNCTIONS OF THE COUNCIL DELEGATED TO THE TRUST

a) Health-related functions

Pursuant to the terms of this Agreement the Council hereby delegates to the Trust the exercise of the following functions:

- (a) the functions specified in Schedule 1 to the Local Authorities Social Services Act 1970 except for functions under
 - (i) sections 22, 23(3), 26(2) to (4), 43, 45 and 49 of the National Assistance Act 1948
 - (ii) sections 6 and 7B of the Local Authorities Social Services Act 1970;
 - (iii) sections 114 and 115 of the Mental Health Act 1983 as amended;
 - (iv) the Registered Homes Act 1984(4); and
- (b) the functions under sections 5, 7 or 8 of the Disabled Persons (Services, Consultation and Representation) Act 1986 except in so far as they assign functions to a local authority in their capacity of a local education authority;

5. DUTIES UNDER THE CARE ACT 2014

a) Co-operation with partners

The Care Act 2014 confers a duty on the Council to co-operate with other partners when exercising any respective functions that are relevant to health and social care. The Care Act 2014 does not confer any additional functions, e.g., which could be delegated to the Trust under a section 75 Agreement (see section 4). This Agreement is a component of the Council's strategy to fulfil the requirement of the Care Act 2014 to co-operate with other partners, specifically in this case to co-operate with the Trust in the provision of Integrated Mental Health and Social Care Services for eligible adults.

The aim of co-operation with the Trust is consistent with the aims of co-operation set out in the Care Act 2014, namely:

- i) promoting the wellbeing of adults with mental health needs needing care and support of carers who meet the terms of the Eligibility Criteria (Schedule 1)
- ii) prevent the deterioration of residents' needs and the escalation of demand for more intensive or costly services
- iii) ensure timely assessment and service response, avoiding delays for the provision of care and support
- iv) ensure appropriate liaison and communication with Trafford Children's Services to support eligible adults with mental health needs who have parental responsibilities or who about to acquire such responsibilities
- v) improving the quality of care and support for eligible adults with mental health needs and support for carers (including the achievement of outcomes for people from such provision)

- vi) planning the transition from children's to adults' mental health services, which includes ensuring appropriate mental health input to Education and Health Care Plans (EHCPs) and to the implementation of the Preparing for Adulthood Protocol (Schedule 13)
- vii) protecting adults with care and support needs in relation to mental health who are currently experiencing or at risk of abuse or neglect and undertaking inquiries under section 42 of the Care Act 2014 when required to do so by the Council, and completing the inquiry within 10 working days (unless urgent circumstances require a faster response); and ensuring where appropriate the completion and implementation of an appropriate protection plan as specified by the Trafford Safeguarding Adults Policy and Procedure (Schedule 14)
- viii) identifying and widely disseminating lessons to be learned from cases where adults with needs for care and support in relation to mental health have experienced serious abuse or neglect and embedding learning into practice
- ix) Undertaking or contributing in a timely and efficient manner to Safeguarding Adults Reviews (SARs) as required by section 44 of the Care Act 2014, as directed by the Council through the Safeguarding Adults Board where the thresholds for a SAR are met, reporting appropriate on the findings of reviews and widely disseminating learning amongst mental health professionals and others as relevant

b) Importance of the Care Act 2014 to the Trust's integrated mental health and social care provision

The Care Act 2014 provides fundamental shape, direction and purpose to the work of a Council in providing social care whether directly or through a partner. The Council requires under the terms of this Agreement that

- i) The Council of Governors, the Board and staff of the Trust are fully cognisant of the requirements of the Care Act 2014 and are supported in acquiring the relevant knowledge by training and access to advice and guidance. Appropriate and relevant training on the Care Act 2014 to mental health services in Trafford is offered by the Council to Trafford's mental health services under this Agreement (Schedule 9)
- ii) The leaders (professional and managerial) of the Integrated Mental Health and Social Care Service in Trafford must have a full understanding of the Care Act 2014 as it relates to the provision of services for adults with mental health needs and their carers. Leaders of the service in Trafford, whether employed by the Trust or seconded from the Council, should be able to train, advise and coach all staff within the service on the application of the Care Act 2014 and on the actions necessary to fulfil the Council's obligations under the Care Act 2014.

c) Specific requirements of the Trust under the Care Act 2014

Pursuant to the terms of this Agreement the Council hereby delegates to the Trust the exercise of the following functions:

- i) Undertake s.42 enquiries and ensure the implementation of protection plans/ and/or provide feedback from completed enquiries within 10 working days
- ii) Where appropriate, apply s.44 criteria and take appropriate action as a result (safeguarding adults reviews)
- iii) Conduct assessments under s.9 of the Care Act 2014 for all adults referred into the Trust's mental health services to determine eligibility for care under the Care Act 2014
- iv) Create person-centred support plans under s.24 of Care Act 2014 for all eligible adults (it is acknowledged by the Parties that assessments under s.25 (carers) are undertaken by Trafford Carers Centre)
- v) Conduct a review of all eligible adults as a minimum annually and sooner or when a change, or likely change, in social circumstances is reported or identified
- vi) Provide advice and guidance to residents and relevant professionals on the application of, and rights under, the Care Act 2014
- vii) Ensure at all times that the Care Act 2014 principles of reducing, preventing and delaying need are applied including through ensuring attendance at specific meetings including but not limited to (on the Commencement Date) the Daily Risk Meeting, Channel Panel (under the Prevent Programme), Multi-Agency Risk Assessment Conferences (MARAC), and the emergency duty team handover
- viii) Ensure that the Council's Emergency Duty Team is supported to focus exclusively on emergency work, i.e., on-going work being managed by community mental health services shall not be transferred to EDT unless exceptional circumstances apply. The Council confirms that the arrangements for EDT are subject to a review and a variation to this clause may be proposed in due course.

d) Care Act 2014 amendments 2020

Any proposal to step down from the provisions of the Care Act 2014 by virtue of amendments to the Care Act 2014 made by Schedule 12 of the Coronavirus Act 2020 and/or the updated 2020 Guidance to the Care Act 2014, (i.e., to use easements) must be approved by the Council through the Council's Principal Social Worker prior to being enacted.

The Council and the Trust shall promote a culture of compliance with the Mental Health Act 1983 (as amended 2007) at all times and the Council may from time to time

undertake an audit of compliance the scope of which may include the application of the Mental Health Act, the quality of services provided to those residents who are subject to the Mental Health Act and the reporting and monitoring of arrangements made under the Mental Health Act.

All internal and external auditors and all other persons authorised by the Council and/or Trust will be given the right of access by them to any document, information or explanation they require from any employee, and/or representative of either Council or Trust in order to carry out their duties. This right is not limited to information or records which relate to the application of the Mental Health Act 1983 (as amended 2007) and applies equally to premises or equipment used in connection with this Agreement. Access may be at any time without notice, provided there is good cause for access without notice.

6. DUTIES UNDER THE MENTAL HEALTH ACT 1983 (as amended 2007)

Under section 4 of this Agreement, the Council has delegated to the Trust its health-related functions pursuant to section 114 and 115 of the Mental Health Act 1983 (as amended 2007), i.e., the approval of mental health professionals and courses, power to enter premises.

The Council delegates to the Trust the functions and responsibility of appointing Approved Mental Health Professionals and maintaining a daytime rota of such professionals as required by the Mental Health Act 1983 (as amended 2007). The daytime rota shall include those staff appointed by the Council who are warranted under the Mental Health Act 1983 (as amended 2007) but who are not employed by the Council.

The Trust shall undertake regular reviews, on behalf of the Council, of continued eligibility for care and services under section 117 of the Mental Health Act 1983 (as amended 2007). The Council will maintain a register of all adults subject to section 117.

a) Audit and verification

The Council and the Trust shall promote a culture of compliance with the Mental Health Act 1983 (as amended 2007) at all times and the Council may from time to time undertaken an audit of compliance whose scope may include the application of the Mental Health Act, the quality of services provided to those residents who are subject to the Mental Health Act and the reporting and monitoring of arrangements made under the Mental Health Act.

All internal and external auditors and all other persons authorised by the Council and/or Trust will be given the right of access by them to any document, information or explanation they require from any employee, and/or representative of either Council or Trust in order to carry out their duties. This right is not limited to information or records which relate to the application of the Mental Health Act 1983 (as amended 2007) and applies equally to premises or equipment used in connection with this Agreement. Access may be at any time without notice, provided there is good cause for access without notice.

7. STAFFING

a) Introduction

The Council shall second appropriately qualified and experienced staff to the Trust from its workforce to undertake agreed duties in the context of integrated mental health teams. Such seconded staff shall be managed by the Trust as part of Trafford's Integrated Mental Health and Social Care Service and at all times shall be treated as full members of the integrated services.

The Council delegates to the Trust the responsibility for selecting new staff to fill vacant positions on behalf of the Council subject to the Budget allocation for staffing and to the Council's Business Case Process. The Trust shall ensure that all staff undertake appropriate training including induction training and continuing professional development, and that all staff are supervised and appraised in line with the Council's Policies and requirements set out in the Schedules to this Agreement and any modifications to the same.

The Council delegates to the Trust the responsibility for the day-to-day management of all staff seconded to it, on behalf of the Council. The Trust shall comply with all employee-related legislation, both primary and secondary, and shall respond proactively to matters of good employee practice in all respects and shall apply the Council's Policies and Procedures in relation to seconded staff. Support and advice shall be provided from the Council's HR Department.

b) Staffing establishment

Schedule 6 sets out the Staffing Establishment and Structure on the Commencement Date of this Agreement. Schedule 6 specifies which posts are established on a permanent basis and which on a fixed-term basis (e.g., funded non-recurrently). Schedule 6 also specifies which posts are currently filled (and on what basis, e.g., on acting, interim or permanent bases) and which are vacant at the Commencement Date.

The Council delegates to the Trust the ability to deploy staff within the staffing establishment in the manner which the Trust judges is best suited to fulfilling the requirements of this Agreement and in providing a high quality mental health service for eligible adults, subject to the conditions set out below. This means that the Trust may, subject to the conditions set out below:

- i) vary the staffing structure (e.g., change reporting and line management arrangements)
- ii) vary the skill mix
- iii) re-locate teams and seconded staff members within Trafford

c) Conditions relating to any change to the Staffing Establishment

The following conditions must be adhered to in respect of any changes to the Staffing Establishment and Structure (save for the exception made to the post of principal social worker as provided at section 9 b of this Agreement):

- i) Any proposed changes to the Staffing Establishment must be referred to the Director of Adult Social Services and NHS Commissioners for consultation along with before the preparation of a business case.
- ii) A business case which sets out the rationale for any material change and its financial, staffing and leadership implications, together with an impact assessment of its likely effect on the maintenance of professional social work standards and clinical professional standards, should be provided to the Council and to NHS commissioners
- iii) Trafford Council's Organisational Change Policy and Procedure (Schedule 8) must be followed at all times
- iv) Full engagement with staff side organisations and representatives must be maintained as required by the Organisational Change Policy
- v) Resources committed to the Staffing Establishment by the Council may not be diverted, used to fulfil Trust savings targets, reduced or used for any purpose other than the purposes set out in this Agreement;
- vi) The Trust may not under any circumstances unilaterally reduce or change the terms and conditions offered within any individual's contract of employment
- vii) The Trust must ensure that a suitably qualified and experienced person fills the post of Head of Professional Social Work/Principal Social Worker for mental health at all times, whether by a permanent or temporary employee, so as to ensure day to day professional accountability to the Director of Adult Social Services

d) Selection of staff

The Trust may recruit and select staff to fill vacancies within the Staffing Establishment, pursuant to the Council's Recruitment and Selection Policy and Procedure (Schedule 7) and following submission of a business case to the Council. The Trust must ensure that the Council's obligations under the Equality Act 2010 are fully met in respect of all recruitment and selection and that equalities monitoring is completed following every recruitment exercise in order to provide assurance to the Council of the Trust's approach to equality and diversity.

Council officers, who are not seconded to the Trust, may be asked by the Trust to take part in interviews and other selection processes, e.g., where a senior post is the subject of recruitment.

The Trust must ensure that all pre-employment checks, including appropriate Disclosure and Barring Services checks are undertaken on all staff, as specified by

the Council's Recruitment and Selection Policy and Procedure. Advice from the Council's HR Service will be available to Trust recruiters in the event of queries or uncertainties regarding any aspect of recruitment and selection (Schedule 9).

e) Training of staff

All staff who are recruited to the Council and seconded to the Trust under this Agreement must complete the induction programme provided by the Trust supplemented by any modules within the Council's induction programme that are not included in the Trust's programme. Access to the Council's induction training programme shall be made available at agreed locations for new staff (Schedule 9). Completing the induction training programme(s) shall always be considered part of an employee's contract of employment and employees will always be paid at their appropriate salary rate for completing the induction training.

All Council staff who are seconded to the Trust under this Agreement must complete the Trust's mandatory annual training programme as well as any other elements of the Council's mandatory annual training programme which are not included in the programme of the Trust. Compliance must be recorded on the Council's digital training record. Access to the training via the Council's intranet shall be made available at agreed locations for all staff (Schedule 9).

All Council staff who are seconded to the Trust must have a personalised annual training and development plan (which includes the Council's EPIC check-in) to enable them to retain and develop their appropriate professional competencies and/or other necessary knowledge and skills required successfully and effectively to undertake their work. Personal annual training and development plans should be completed as specified in the Council's training and development policy and procedure (Schedule 7).

All Council staff who are seconded to the Trust must be able to access training and professional development fairly and on an equalities basis, in fulfilment of the Council's obligations under the Equality Act 2010. Access to training will be monitored by the Trust on the basis of the protected characteristics of the Equality Act and reported on a regular basis to the Council.

The Council will provide access to training for Approved Mental Health Professionals including training provided by the Council's Emergency Duty Team (Schedule 9).

f) Supervision and appraisal

Effective professional and managerial supervision, together with regular appraisal, is essential to the support of staff, the continuous development of quality and effectiveness and the formation of well-functioning teams. All members of the Council's staff who are seconded to the Trust under this Agreement must be provided with supervision (managerial and where appropriate, professional) supervision and at least annual appraisal in line with the requirements of the Council's Supervision and Appraisal Policy and Procedure (Schedule 7) conducted by managers within the Trust.

Application of the Council's Grievance and Disciplinary Procedures for seconded staff will be undertaken by the Trust with advice from the Council's HR Service advisors (Schedule 9).

g) Professional accountability

All Council staff seconded to the Trust remain professionally accountable to the Council (through lead social work professional to the Director of Adult Social Services). This means that, inter alia, the DASS must be assured by the Trust through reporting to the Joint DASS Assurance Committee of the following:

- i) That all professional staff meet the specified professional and regulatory standards, as applicable, for professional social work practice
- ii) That all staff meet the standards expected of them by the relevant and applicable code of practice or code of conduct
- iii) That all professional training and development required for fulfilment of duties and responsibilities is up to date and complete
- iv) That all professional staff remain registered, and in good standing, with Social Work England or the Health and Professions Council as required

Data to be supplied by the Trust to the Council shall provide assurance in each of these areas and forms part of the Monitoring Requirements set out in Schedule 2.

h) Standards of conduct and professional practice

This Agreement requires that all Council staff seconded to the Trust shall adhere at all times to the relevant codes of practice from time to time issued by the relevant regulatory bodies and authorities. At the Commencement Date the relevant codes of practice are:

- i) Code of Practice, Mental Capacity Act 2005
- ii) Code of Practice, Mental Health Act 1983 as amended (2007)
- iii) Trafford Council's code of conduct for employees
- iv) Professional standards code of Social Work England (9 April 2020)
- v) Standards of conduct, performance and ethics (Health and Professions Council, January 2016)
- vi) Ethical Framework for Adult Social Care (Department of Health and Social Care, 2020)
- vii) The seven principles of public life ('Nolan' Standards), May 1995

Amendments may be made to these codes of practice and/or other relevant codes published. The Council expects the Trust to remain abreast of any such changes in law, guidance and procedure and to ensure adherence to relevant revised or additional publications.

i) Communication with Council as employer

Council staff seconded to the Trust under this Agreement remain Council employees and need to retain a sense of 'belonging' to the Council as well as to the integrated mental health and social care teams of which they are a part. The Council commits under this Agreement specifically to:

- i) Ensure staff seconded to the Trust are sent all relevant staff communications and email broadcasts from the Council
- ii) Make all relevant training and development opportunities open to seconded staff
- iii) Ensure that an agreed cohort of seconded staff are included in all relevant development and cultural change programmes
- iv) Are eligible to be entered for staff awards and are included in staff surveys and consultations
- v) Are routinely invited to whole staff events
- vi) Are routinely invited to quarterly social work forums
- vii) Ensure staff seconded to the Trust should be able to receive Council email via their Trust email
- viii) Are visited by senior Council officers and Elected Members no less frequently than other teams and departments in the Council
- ix) Are able to access the Council's staff health and wellbeing support services on the same basis as non-seconded staff

The Trust commits under this Agreement to support seconded staff in maintaining communication and connection with the Council, e.g., by facilitating attendance at whole staff events run by the Council.

j) IT arrangements and reporting systems

The Council and the Trust share a joint ambition to identify, procure and deploy a single digital system which supports all relevant reporting to both organisations which provides a comprehensive means of recording assessment and care planning and of event and activity scheduling.

At the Commencement Date, the Council and Trust acknowledge that the ambition of a single digital system has not yet been achieved and that staff seconded from the

Council to the Trust are primarily required to use the Trust's clinical information and administrative system PARIS. PARIS is the digital care records management system and integrated clinical record and Council staff seconded to the Trust shall use this system for integrated care management recording and scheduling. Training shall be available to seconded staff who need, in addition, to use Council's digital systems (Liquid Logic) as required (Schedule 9).

The requirements for use of the Trust's system, PARIS, is set out in the Trust's Care Recording Policy and Procedure

Liquid Logic shall be used by nominated members of staff for placement records. The requirements for use of the Council's system, Liquid Logic, is set out in the Council's digital records policy and procedure. These policies and procedures can be found at Schedule 10. The Council's digital HR system shall also be used by nominated members of staff for HR recording including absence and training records.

The Council commits to ensure that all Council staff seconded to the Trust who use Liquid Logic and the Council's HR system shall have access to the Council's IT helpdesk on the same terms as all other Council staff, when using the Council's digital systems. The Trust commits to ensure that all Council staff seconded to the Trust equally have access to the Trust's IT helpdesk, when using the Trust's digital systems.

In pursuit of the Parties' shared ambition to establish a single digital assessment, care management and recording system, the Council and the Trust agree actively to promote an interim arrangement whereby staffing accessing either current information system (PARIS and Liquid Logic) can access information held on the other, corresponding, system by virtue of appropriate digital technology underpinned by an appropriate Information Sharing Agreement (Schedule 4).

i) Telephony and mobile access

All seconded staff who require access to mobile telephony and/or other relevant and appropriate digital devices (e.g., tablets) shall be provided by the Trust with an appropriate mobile telephone that meets the relevant digital security standards.

k) Access to legal advice for cases

The Council and Trust recognise that access to timely, expert legal advice is necessary for the effective provision of high quality social care services for eligible adults with mental health needs and to ensure that the Council and its staff act always in a manner consistent with the law. Legal advice may be required from time to time in respect of both the Mental Health Act 1983 (2007) and the Care Act 2014.

The Council commits under this Agreement to make available to Council staff and to all Approved Mental Health Professionals round-the-clock availability for professional advice from a trained, qualified, experienced and appropriately regulated lawyer in respect of both the Mental Health Act 1983 (2007) and the Care Act 2014 insofar as this Agreement delegates to the Trust responsibilities under both of these Acts.

Office hour legal services are supplied by the Council's legal service. Out of hours legal services are provided on the Council's behalf by Weightmans LLP whose cover and contact details are as follows:

Monday-Friday: 5pm until 8.30am
Weekend and Bank Holidays: 24 hours
Contact: 0800 302 9259.

Where appropriate and sanctioned by advising solicitors the details of advice may be made available to all professional staff and will form part of the operational policy for Approved Mental Health Professionals (AMPHs) both those employed by the Council and seconded to the Trust and those who are employed by a Third Party (e.g., the Trust) but who are undertaking duties on behalf of the Council.

l) Estates and facilities

Buildings owned and/or managed by the Council and from which the Trust will provide Services under this Agreement are listed in Schedule 1. Those buildings in the ownership of the Council will remain in the ownership of the Council unless the Council sells or transfers the ownership in accordance with the relevant statute and guidance. The Council, as landlord, will be responsible for the maintenance and upkeep of the buildings it owns which are used to provide Services under this Agreement. This includes all matters relating to access under the Equality Act 2010 and all matters relating to health and safety.

m) Equality Act 2010 responsibilities in relation to staff

The Trust will fulfil on the Council's behalf all of its obligations under the Equality Act 2010 in respect of all aspects of staffing including, but not limited to:

- i) Recruitment and selection
- ii) Training and development
- iii) Supervision and appraisal
- iv) Standards of conduct and professional practice, and the application of Grievance and Disciplinary procedures undertaken by the Trust on behalf of the Council with advice from the Council's HR advisors
- v) Access to resources including IT and legal advice

The Trust must keep records in relation to the protected characteristics of staff in relation to i) to iv) of the list above and must provide a regular (quarterly) monitoring report to the Council as specified in Schedule 2 to provide the Council with assurance in relation to its obligations under the Equality Act 2010.

8. CONFLICTS OF INTEREST

All Council staff seconded to the Trust must adhere to the Council's Employee's Code of Conduct, including its provisions in respect of Conflicts of Interest.

Council staff seconded to the Trust must notify the Head of Operations on behalf of the Council of:

- i) Interests that they consider could bring about a conflict with the Council's interests
- ii) any financial interests which could conflict with the Council's interests

Council staff seconded to the Trust must notify the Head of Operations on behalf of the Council or the Monitoring Officer (as appropriate) of:

- iii) their membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct (e.g., Masonic lodges)

9. MANAGEMENT AND LEADERSHIP

a) Introduction

Effective leadership and management of the Council's seconded staff in the context of an integrated mental health service is essential for the effective provision of mental health services and for the fulfilment of the terms of this Agreement. Leadership helps create the conditions for person-centred service provision which focuses on residents' and carers' abilities and individual assets which make optimal use of all community assets and services that promote well-being and prevent the escalation of mental health and associated needs.

b) Specific requirements

The Council expects and requires the Trust under this Agreement to ensure that its seconded staff are appropriately, effectively and purposefully led and managed and that, specifically:

- i) The Trust employs a Head of Operations at an appropriate grade who is responsible for the provision of the services specified by this Agreement and whom the Council holds accountable for the fulfilment of the Agreement.
- ii) The Head of Operations shall prepare an annual plan for the services and this shall be presented for approval to the Joint DASS Assurance Committee no later 28 February each year.
- iii) The Trust ensures that the post of Principal Social Worker (Mental Health) is always filled and is not removed from the staffing establishment
- iv) The Trust ensures that action is taken from the Commencement Date to strengthen and make more visible the social work leadership within the Trafford division of the Trust.

- v) The Care Quality Commission standards in relation to leadership (currently described as 'well-led' standards) or any replacement standards are followed at all times
- vi) Staff in a leadership position amongst or over Council staff seconded to the Trust have access to appropriate training and professional development in management and leadership, coaching and peer support as required and access to training which enables a full understanding of the statutory requirements which govern the role of social workers.
- vii) That staff in leadership positions on behalf of the Council have regular access to their peers amongst other Council staff, including adult social care staff, for the purpose of mutual support and learning

10. DUTIES UNDER THE DATA PROTECTION ACT 2018 INCLUDING INFORMATION SHARING

a) Adherence to policies and procedures (data protection and confidentiality)

The Trust shall ensure that all staff seconded to it from the Council fully adhere at all times to the Trust's obligations under the Data Protection Act 2018, and the Trust's commitments in its policies and procedures on:

- i) Confidentiality and privacy
- ii) Information governance
- iii) Information security including cyber security
- iv) Records retention policy
- v) Access to records

All staff seconded from the Council shall be fully familiar with the complementary data protection, confidentiality and security requirements, policies and procedures of the Trust including the procedures listed above and also:

- vi) Caldicott principles, policy and procedures

All seconded staff shall complete their induction and annual mandatory training programme including training in information governance, data security and confidentiality.

b) Information (data) sharing

The Council and Trust shall enter into an Information and Data Sharing Agreement & Protocol on or before the Commencement Date that shall be incorporated and form part of this Agreement governing the sharing of information in relation to residents

including carers receiving services from the Integrated Mental Health and Social Care Service. The information sharing agreement shall specify the obligations and duties on both Parties and these shall be fulfilled at all times. The information sharing agreement shall be reviewed at the frequency specified in this Agreement.

The Information and Data Sharing Agreement shall set out the legal basis on which the Parties may share information about staff responsible for providing the Council Services and Trust Services under this Agreement.

The Information and Data Sharing Agreement and Protocol shall be accompanied by a Data Protection Impact Assessment.

The form of the Information and Data Sharing Agreement and Protocol is contained in Schedule 4.

11. ESTATES AND FACILITIES

The Council and the Trust hereby confirm their intention to use best endeavours to develop and establish an integrated community mental health and social care teams on a co-located basis as soon as this can be achieved. Co-location will support the development of integrated neighbourhood teams and will help ensure effective mental health contributions to the wider multi-disciplinary teams being developed across Trafford under the Local Care Organisation arrangements. Details of neighbourhood arrangements are to be developed (Schedule 16).

12. BUDGET SETTING AND BUDGET MANAGEMENT AND MONITORING

a) Introduction

On or before 30 September each year the Council shall confirm the outcomes required from the operation of this Agreement for the forthcoming year commencing 1 April and the Annual Budget available to deliver its health and social care-related functions for the forthcoming year to fulfil the provisions of this Agreement. The Budget shall include the direct costs of:

- i) Seconded staff including on-costs
- ii) Training and development costs
- iii) Digital costs
- iv) Office equipment maintenance and renewal costs
- v) Placement (care) costs
- vi) Other direct costs to be reimbursed to the Trust

For the avoidance of doubt this Budget is not transferred to the Trust but held and managed by the Council. The Council shall also provide services and facilities to the Trust and to seconded staff which shall not form part of the Budget provided to the

Trust but which shall be included in the Council's contribution to the provision of an Integrated Mental Health and Social Care Service. These indirect costs services and facilities include the following:

- i) Professional indemnity, employers' and public liability insurance
- ii) Specialist HR advice
- iii) Specialist legal advice in respect of individual cases
- iv) Payroll costs

b) Budget setting for the next year

The Trust shall consider the Council's outcomes requirements and the planned Annual Budget for the forthcoming year and may make proposals to the Council for the changes to the proposed Budget, e.g., to meet changing levels of demand. The Council shall consider the Trust's proposals and then issue a final Budget and set of required outcomes that shall be notified to the Trust by no later than 31 October each year, for the forthcoming financial year which commences on the following 1 April.

In the event of any slippage to this timetable both Parties must either

- i) Agree to a revised timetable
- ii) Agree to maintain the existing arrangements until a final Budget and required outcomes is issued by the Council
- iii) Agree to terminate this Agreement pursuant to its termination provisions.

c) Changes to the current year's Budget

Proposals for changes to the current year's Budget may be made by the Trust to the Council not later than 31 December in each year. The Council will consider proposals made by the Trust for changes to the current year's Budget and provide its response within 28 days.

d) Management of financial risk

The Council expects the Trust to take a proactive approach to the management of financial risk on the Council's behalf.

Any commitments to expenditure on placements or care packages made by the Trust on the Council's behalf which have not followed the Council's procedure (Schedule 5) shall be funded by the Trust until such time as an appropriate review has been undertaken.

Risks in relation to cost pressures must be reported to the Council via the reporting arrangements at Schedule 2 and the scale of risk made clear according to the agreed risk assessment rating.

e) Capital expenditure

The Council's Annual Budget for the provision of services under this Agreement shall contain an element of capital for the purchase of digital equipment and office equipment.

Where the Trust requires access to capital funds, e.g., for estates, these shall be subject to separate negotiations with the Council outside of the terms of this Agreement. Any request by the Trust for capital funds must be made to the Council by 30 November in the year preceding the year in which the funds, if granted, will be spent.

f) Value added tax (VAT)

The Council accepts no liability for any Value Added Tax incurred by the Trust in the fulfilment of the terms of this Agreement.

g) Charging for care

Residents and their carers receiving services from the Trafford community mental health and social care services receive social care services on the same basis as all other residents, namely that they are subject to charges for care where the criteria and procedures set out in the Care Act 2014 are met and followed.

Staff seconded from the Council to the Trust are expected and required by this Agreement to be supported by the Trust to:

- i) Ensure that they are fully familiar with the Council's policies and procedures in respect of charging for care, including understanding of the arrangements of those exempt from charging (e.g., those residents receiving services under section 117 and including those whose are subject to the joint Council and CCG Integrated Mental Health and Disability (IMHaD) funding arrangements.
- ii) Ensure that they inform and advise residents likely to be charged for their care of the implications of charging, the procedures to be followed, their rights and obligations and their access to advice and support and to ensure that the conversations are documented in contemporaneous electronic case records.
- iii) Undertake the required assessments and complete the appropriate reports (e.g., the panel tracker) and submissions where required, or ensure that appropriate trained and qualified staff undertake assessments as required
- iv) Monitor and re-assess all residents as required by the policy and procedure, e.g., to identify and assess any changes of circumstances

- v) Routinely assess and review eligibility for support under s117 of the Mental Health Act 1983 (2007) in conjunction with the relevant multi-disciplinary team and ensure that any changes are appropriately recorded on the electronic case record
- vi) Ensure that all records relating to charging for care are completed in a timely manner and are comprehensive and complete: all anticipated costs must be recorded on Liquid Logic within 28 days of an assessment and before financial commitments are made
- vii) The appropriate management of packages of care, e.g., those funded under NHS continuing healthcare or NHS complex care packages arrangements, for residents who are in transition from young people's mental health services to adult services such that appropriate financial assessments are made in a timely manner and that arrangements for on-going care are not delayed

The Trust will ensure all staff seconded from the Council under this Agreement have access to specialist advice, training and support to enable them to implement the Council's policies and procedures in respect of charging for care consistently and fairly.

h) Liabilities, insurance and indemnity

For the avoidance of doubt, the provisions of this section apply from the Commencement Date of this Agreement.

If the Council or the Trust ('first Party') incurs a loss arising out of or in connection with this Agreement as a consequence of any act or omission of the other Party to the Agreement which constitutes negligence, fraud or a breach of contract in relation to this Agreement or any services contract then the other Party shall be liable to the first Party for that loss and shall indemnify the first Party accordingly.

This provision, set out in the paragraph above, shall only apply to the extent that the acts or omissions of the other Party contributed to the relevant loss. Furthermore, it shall not apply if such act or omission occurred as a consequence of the other Party acting in accordance with the instructions or requests of the first Party or the Joint DASS Assurance Committee.

In the event of a claim being made arising under this section of the Agreement, the Parties agree to ensure that they communicate between themselves in a timely manner so as to ensure the earliest notice of potential risk and liability for individual Parties. All Parties to this Agreement shall act with openness and transparency towards the others at all times.

Each Party shall ensure that they maintain policies of insurance (or equivalent arrangements through schemes operated by NHS Resolution) in respect of all potential liabilities arising from this Agreement and in the event of losses shall seek to recover such loss through the relevant policy of insurance or equivalent arrangement. Employers' and public liability insurance must each provide cover for a minimum of £10m.

Each Party must, on request by the other, provide documentary evidence of their insurance or equivalent arrangements.

Each Party shall at all times take all reasonable steps to minimise and mitigate any loss for which one Party is entitled to bring a claim against the other pursuant to this Agreement.

Each Party confirms that, in seconding staff from the Council to the Trust there is no intention of transferring undertakings such as would fall under the arrangements of the Transfer of Undertakings (Protection of Employment) Regulations 2006. Each Party confirms that in enabling staff employed to by the Trust to undertake the functions of the Council delegated under this Agreement, there is also no intention of transferring undertakings such as would fall under the arrangements of the Transfer of Undertakings (Protection of Employment) Regulations 2006.

Each Party confirms that, in the event of a claim being brought against either the Trust or the Council in respect of TUPE, the Party which employs the member(s) of staff at the time of the claim (the 'transferor') shall bear any costs arising from a successful claim, e.g., in relation to pension contributions.

i) Commissioning packages of care

The Council delegates to the Trust under this Agreement responsibility for commissioning care packages for eligible adults with mental health needs within agreed limits as part of the Integrated Mental Health and Social Care Service. Care packages may take a variety of forms depending on the needs of the client and the availability of appropriate services to meet those needs. In every case however, the following steps must be completed as appropriate:

- i) All care packages should be designed and delivered on the basis of utilising and strengthening the assets of the resident for whom they are provided, both their own personal strengths and interests and also the concrete and relationship assets of their community.
- ii) The commissioning of care packages should be consistent with the commissioning frameworks developed by Council and NHS commissioners and consultation with relevant commissioners should be undertaken where appropriate
- iii) All care packages should optimise the use of digital and other technological facilities where this is appropriate for the resident
- iv) Care packages may be commissioned by appropriately qualified, trained and experienced Council staff seconded to the Trust where a resident is assessed as eligible for care services and the Trust has, on behalf of the Council, the legal power to provide the service.
- v) Care packages must be developed in accordance with the principles of the Care Act 2014 (and any amendments to this Act which postdate the Commencement

Date), and in accord with the policies and procedures of the Council. Care packages should always be person-centred and support the use and development of residents' skills, abilities and assets and should maximise residents' independence and wellbeing by seeking to reduce deterioration or escalation in residents' needs.

- vi) Care packages must be commissioned in accordance with the Council's policies and procedures and, where relevant, the policies and procedures of NHS Trafford CCG, and must be consistent with the arrangements for care co-ordination in operation at the time. All care packages must be approved by the Principal Social Worker or their nominated deputy and this approval must be recorded on the Council's electronic care recording system, prior to submission to the Council's placements and care packages panel
- vii) Care packages including spot purchases must be supplied by appropriately qualified, experienced and regulated providers which have been accepted and registered on the Council's list of approved providers or which fulfil the Council's criteria to be registered and are so registered following contract award. No placement or care package may be made with a provider that is not already on, or appropriate to be added to, the Council's list of approved providers.
- viii) Care packages must be recorded on the Council's digital care management system, Liquid Logic, and details of the care being provided must be kept accurate and up to date in line with the Council's care management records policy and procedure.
- ix) Reviews and reassessments of residents' care packages must be undertaken as specified by the Council's care management policy and procedure or when a material change in need is reported or identified.
- x) Care packages must fulfil the quality standards required by the Council in relation to packages of care, together with other appropriate regulatory standards. Quality audits of care packages may be undertaken by the Council at any time and the Trust should co-operate with any such audit under the same terms as a financial audit (see section 11 i) above).
- xi) When a care package ends, e.g., when a resident no longer requires the services purchased under the care package, the Trust will ensure that prompt action is taken to close the care package on the care management system and to cease payments by the Council to the provider(s).
- xii) Care packages up to a value of £850 per week may be commissioned on the Council's behalf by the Trust; care packages above this value must be authorised by the Council's Principal Social Worker

The Council encourages the uptake of personal health budgets (direct payments) for all residents in receipt of a care package and where a resident is assessed as having capacity to manage such a personal health budget. Where a personal budget is

agreed with a resident to be an appropriate means to commission a care package, the following steps will apply:

- i) Council staff seconded to the Trust and/or other members of the Integrated Mental Health and Social Care Service will ensure that the resident understands the arrangements for using a personal budget, including the opportunities, benefits and responsibilities
- ii) Staff will ensure that residents using a personal budget have access to advice, information and support to ensure that their care package is successful and that its use contributes to their wellbeing and independence, and that it is used in a manner that is fully consistent with the relevant law, standards and guidance
- iii) Staff will ensure that care packages commissioned under a personal budget are reviewed on the basis specified within the Council's care management policy and procedures, and that this review is led by the resident themselves

j) Review of care packages and assurance of best value

Care packages shall be reviewed on a regular basis to ensure that they continue to meet residents' needs, are of the appropriate high quality, provide value for money, and are effective in promoting independence and well-being and preventing deterioration and escalation in needs. The regularity of the review shall be determined by the individual circumstances of the resident but the following minimum standards shall apply in all cases:

- i) For non-residential care packages, a review must be undertaken at least every 12 months
- ii) For residential care packages, a review must be undertaken every 12 months
- iii) All care packages shall achieve best value by ensuring that the following criteria are applied in each case:
- iv) All providers must be drawn from the Council's approved provider list when this has been agreed; providers who meet the Council's criteria for inclusion on the list may be added to the list following contract award. Gaps in the provider market should be communicated to the Council and will inform the Council's mental health commissioning strategy.
- v) All costs relating to residential care, nursing and home care must be within the Council's published current fee range, as advised by the Council to the Trust from time to time
- vi) All providers must meet the specified quality standards set out in the care plan and contract

The Council reserves the right under this Agreement to conduct reviews and audits of care packages commissioned by the Trust on its behalf. The Trust must ensure full access to information and staff, as set out at Section 11 i) above.

13.COMPLAINTS FROM RESIDENTS USING MENTAL HEALTH SERVICES

Residents who wish to make a complaint about the Integrated Mental Health and Social Care Service should use the Trust's complaints procedure. Where the complaint relates to a social care service, seconded member of staff from the Council or otherwise involves the Council, the complaint should be investigated initially by the Council. Complex complaints may require a joint investigation between the Council and the Trust. Jointly investigated complaints should be recorded in the monitoring reports to the Council and form part of the Council's overall analysis and reporting of complaints.

14.ENQUIRIES FROM ELECTED MEMBERS AND MPS

Enquiries from elected members of the Council and from MPs are received by the Council on a regular basis and form an important part of democratic accountability. The Council has firm timescales to which its officers and staff must adhere in respect of providing elected members and MPs with a timely response to their queries, i.e., within 3 working days.

Under the terms of this Agreement, the Trust must adhere to these timescales and supply complete and accurate responses to the Council in relation to elected members' and MPs' inquiries insofar as they relate to services provided by the Trust on behalf of the Council. The timescales and the reporting process are set out at Schedule 12.

15.MONITORING, REPORTING AND ARRANGEMENTS FOR ESCALATION

The accountability for the services provided under the arrangements created by this Agreement and for the discharge of the Council's social care and health-related functions delegated by this Agreement remain with the Council. In order to ensure that this accountability can be effectively exercised, the Council requires regular, comprehensive reports, using an agreed format and against agreed indicators and metrics, to be supplied by the Trust.

The details of metrics and key performance indicators, the required format for reporting and the specific frequencies at which reporting must be made are set out in Schedule 2.

Failure to supply the required monitoring information in accordance with the frequency requirements set out in Schedule 2 may be deemed by the Council to be a material breach of this Agreement.

16.DIRECTOR OF ADULT SOCIAL SERVICES – ROLE AND ASSURANCE

a) Introduction

The Director of Adult Social Services (DASS) is the Council's statutory officer to whom the Council has delegated a range of social care duties and responsibilities under its Constitution. The role of the DASS includes ensuring that effective systems are in place for discharging the following functions.

- i) Supply of prevention services, information and advice
- ii) Provision of systems leadership and making sure the voice of social care, social work and social model is heard, particularly by working with NHS partners, the police, providers, voluntary organisations, the wider council, and members of the community.
- iii) Shaping care and health and wider public services in the area.
- iv) Promoting inclusion.
- v) Providing leadership and championing the voice of the people who need care by engaging with them to shape, influence and implement policy to effect change.
- vi) Meeting essential needs for care and support.
- vii) Market shaping and continuity: commissioning effectively and ensuring the availability and quality of services that people need in order to take control of their lives.
- viii) Safeguarding adults that need care and support:
 - a. From abuse and neglect.
 - b. When doctors are considering compulsory treatment or admission to a psychiatric hospital.
 - c. When people lack capacity to make decisions for themselves and may be restricted of their liberty, including advice, advocacy and support.
 - d. Financial and resources management – to manage within the available resource.

These duties and responsibilities are not delegated to the Trust under this Agreement, unless explicitly specified, and the DASS remains accountable to the Council for their discharge and fulfilment.

b) Reserved matters

The following powers and responsibilities are retained by the DASS and are not delegated to the Trust under this Agreement.

- i) Discharge of the Supervisory Body function of the Council for the Deprivation of Liberty Safeguards (DoLS) in hospitals and registered care homes, pursuant to Schedule A1 of the Mental Capacity Act 2005 and the Deprivation of Liberty Code of Practice

- ii) Confirmation of appointment of approved Independent Mental Capacity Act advocates and Section 12 approved Mental Health Assessors to complete eligibility assessments pursuant to Schedule A1 of the Mental Capacity Act 2005
- iii) To be accountable for discharging the functions of the Council pursuant to sections 42-47 of the Care Act 2014, in relation to safeguarding adults at risk of abuse or neglect and to be accountable for discharging the functions of the Council in relation to: multi-agency risk assessment conferences; the Greater Manchester Multi-Agency Public Protection Arrangements (MAPPA)
- iv) Discharge of the Council's statutory responsibilities in relation to the establishment and administration of the Safeguarding Adult Board pursuant to Section 43 of the Care Act 2014
- v) To be notified of matters that are considered appropriate to be placed on the Adult Social Services risk register
- vi) To retain responsibility for oversight of the Adult Social Services' risk register and reporting duty to the Council
- vii) To be consulted on and where appropriate approve any significant changes to the provision of adult social care services or changes to the Council's adult social care policies and procedures (to ensure the Council's compliance with Section 149 of the Equality Act 2010 (Public Equality Duty) and any statutory or implied duty to consult with affected groups
- viii) Finance, governance and HR matters
- ix) Compliance with the Council's Constitution, Register of Delegation of Executive Functions, Standing Orders and Financial Regulations of the Council
- x) Key decisions as defined in Article 13 of the Council's Constitution which must be taken in accordance with the requirements of the Access to Information Procedure Rules set out in 13 of the Constitution
- xi) Discharge of the duty to make arrangements to ensure proper administration of the Council's financial affairs under section 151 of the Local Government Act 1972
- xii) Responsibility for assessing residents' ability to pay under The National Assistance Assessment of Resources Regulations 1992 which came into force 1 April 1993
- xiii) Responsibility for approving and providing arrangements for Guardianship under section 7 of the Mental Health Act 1983 (2007)

- xiv) Responsibility for determining charges for adult recipients of non-residential services under Section 17 of the Health and Social Services and Social Security Adjudications Act 1983
- xv) Decisions on employee pensions, including flexible early retirement, voluntary early retirements and other decisions which impact on the employer pension liability are made in accordance with the LGPF requirements and authorised by the Council's chief finance officer
- xvi) Final decisions to dismiss Trafford Council employees, following disciplinary proceedings conducted by the Trust using the Council's policies and procedures with support and advice from the Council's HR team, and hearing of appeals against dismissal

c) Monitoring

The Director of Adult Social Services requires specific reporting arrangements to be in place under this Agreement to ensure that they are provided with assurance in respect of their accountabilities that are being discharged on their behalf by the Trust. Details of the monitoring requirements are set out in Schedule 2.

d) Escalation

In order to exercise their functions, duties and accountabilities effectively and appropriately, the Director of Adult Social Services needs to be informed of a range of key issues, challenges, incidents and activities in a prompt, accurate and comprehensive manner. Late or non-reporting reporting of important matters to the Director of Adult Social Services can prevent the postholder from exercising their functions, and has the potential to cause harm to others and to the Council.

The Director of Adult Social Services should be informed immediately by telephone or email in the event of any of the following occurring:

- i) Safeguarding allegations raised in respect of any member of the Council's staff seconded to the Trust, or Trust staff who are responsible for Council staff or the discharge or Council functions. Allegations must be provided to the Council's safeguarding adults board manager in line with requirements in relation to persons in positions of trust (PIPOT) set out in the Safeguarding Adults Policy and Procedure (Schedule 14).
- ii) Any incident involving significant or substantial harm to a Trafford resident who is under the care of the Integrated Mental Health and Social Care Service
- iii) Any alleged breach of the social work professional code of practice related to a member of the Council's staff seconded to the Trust
- iv) Any suspension of a member of the Council's staff seconded to the Trust

Reports on incidents in the categories above, made directly and immediately to the Director of Adult Social Services, are in addition to and not alternatives to, other agreed reporting lines, e.g., reporting through DATIX and through the Multi-Agency Safeguarding Hub when this is established.

In the event of the Director of Adult Social Services not being available (e.g., by virtue of leave), escalation should be made to his/her nominated deputy (i.e., the Council's Strategic Lead for North Area Team and Principal Social Worker for Adults).

17. SAFEGUARDING

The Trust shall comply at all times with its obligations under the Trafford Safeguarding Adults and Children's Partnership in the provision of the services under this Agreement. The Safeguarding Adults Policy and Procedures is found at Schedule 14.

18. GOVERNANCE OF THE AGREEMENT

a) Head of Operations

The Trust shall appoint a Head of Operations who will be accountable for the delivery of the services under this Agreement. The Head of Operations need not be a Council employee seconded to the Trust but must be accountable to the Council and the Trust for the fulfilment of the terms of the Agreement.

b) Joint DASS Assurance Committee

The Council and the Trust will form a Joint DASS Assurance Committee to oversee the fulfilment of the Agreement. The Joint DASS Assurance Committee shall meet no fewer than eight times a year and shall be chaired by the Director of Adult Social Services.

The Joint DAS Assurance Committee shall be a regulation 10 committee under Statutory Instrument 2000 617 and in line with the NHS Bodies and Local Authorities Partnership Regulations 2000.

The Joint DASS Assurance Committee shall:

- i) Receive a monthly report from the Head of Operations containing information pertaining to:
 - a. The performance of the services against the monitoring and reporting requirements set out in Schedule 2
 - b. The services' income and expenditure position, areas of risk and opportunity, and details of any actions planned or taken under section 10 d) and e) of this Agreement
 - c. Any proposals for variations of the budget as set out in section 10 m)

- d. Any other matters to be brought to the attention of, or escalated to, the Director of Adult Social Services or the Council as a whole
 - e. Risks associated with the management of the arrangements presented as a risk register, with any recommendations for risks to be considered for inclusion in the Council's overall risk register.
 - f. Any other matters which are material to the operation of the Agreement including any proposals from either Party for variations to the Agreement.
- c) Approve the annual plan on its presentation by the Head of Operations
 - d) Provide a quarterly report to the Health and Wellbeing Board on the functioning of the Agreement and the provision of services under the Agreement
 - e) Consider any proposals made by either Party for variations to the Agreement

19. TERM OF AGREEMENT AND ARRANGEMENTS FOR RENEWAL

a) Initial review

The Agreement shall remain in force for three (3) years from the Commencement Date ("Initial Term").

The Agreement shall be reviewed not less than 12 months before the end of the Initial Term and recommendations arising from the review, (e.g., for any variation to the Agreement), shall be presented to Joint DASS Assurance Committee not less than 6 months before the end of the Initial Term

The Agreement may be extended, (whether arising from the review or otherwise), for a further period of three (3) years ("Extended Term") and then thereafter on an annual basis ("Annual Extended Terms").

The maximum duration of this Agreement (being the aggregate of the Initial Term and any Extended Term plus Annual Extended Terms) shall not extend beyond a total of ten (10) years from the Commencement Date and this Agreement shall expire automatically ten years and one day from the Commencement Date in any event.

b) Variations

Variations to be this Agreement may be proposed by either Party at any time after the Commencement Date,.

Variations must be agreed by both Parties through the Joint DASS Assurance Committee. Variations must be documented by additional Schedules to the Agreement and/or revision to the Agreement itself, in either case the variation must be made in writing and be signed by authorised officers of both Parties.

Where required by statute or guidance, appropriate impact assessments must be undertaken of any proposed variation before its agreement

20. TERMINATION AND DEFAULT

This Agreement may be terminated by either Party giving not less than six months' notice in writing to the other Party to terminate the Agreement.

If either Party fails to meet its obligations and commitments under this Agreement, the other Party may by written notice require the Party at fault to take reasonable action within a reasonable timescale as specified by the other Party to rectify such failure, normally within one month of notification. Should the relevant Party fail to rectify such failure within such reasonable timescale, the matter shall be referred for resolution under the Dispute Resolution provisions of this Agreement. .

Termination of this Agreement whether by passage of time or otherwise shall be without prejudice to the Parties' rights in respect of any antecedent breach and the provisions of the Dispute Resolution provisions of this Agreement..

In the event of termination of this Agreement, the Parties agree to co-operate to ensure an orderly wind down of arrangements and to use their best endeavours to minimise disruption to the mental health and social care services provided to Trafford residents.

Upon termination of this Agreement for any reason whatsoever the following shall apply:

- i) The Parties agree that they will work together and co-operate to ensure that the winding down and disaggregation of the integrated and joint activities to the separate responsibilities of the Parties is carried out smoothly and with as little disruption as possible to residents, employees, the Parties and third parties, so as to minimise costs and liabilities of Party in doing so;
- ii) Termination of this Agreement shall have no effect on the liability of any rights or remedies of either Party already accrued, prior to the date upon which such termination takes effect.
- iii) Both Parties shall co-operate in the communication of information about the termination of this Agreement to third parties

21. FREEDOM OF INFORMATION

The Council and the Trust, as public bodies, have identical obligations under the Freedom of Information Act 2000. Both Parties are committed to openness and transparency to the public. Council staff seconded to the Trust are expected to fulfil their obligations under the Freedom of Information Act including

- i) The provision of information on request by Freedom of Information managers within the timescales specified

- ii) The retention of records and information in a manner consistent with the obligations of the Freedom of Information Act

These obligations apply to requests made under the Freedom of Information Act made to either the Council or the Trust, which relate to the Integrated Mental Health Services and Social Care Services.

Both the Trust and the Council commit to co-operate with each other in the provision and supply of information, when requested to do so, which relates to joint services or matters under this Agreement in which both Parties have an interest.

22. BUSINESS CONTINUITY

The Council requires the Trust to maintain appropriate business continuity and disaster recovery plans to ensure the sustainability of the Integrated Mental Health and Social Care Services in the scope of this Agreement. Business continuity plans and disaster recovery plans must cover a wide range of business threats and challenges and be regularly (at least annually) tested.

Business continuity planning should meet the standards of the International Standard for business continuity ISO 22301:2019 although the Council does not expect the Trust to achieve accreditation under this standard.

The Trust's business continuity and disaster recovery plans should be made available to the Council on request.

23. DISPUTE RESOLUTION

In the event of a dispute between the Parties arising out of this Agreement, either Party may serve written notice of the dispute on the other Party, setting out full details of the dispute.

The Head of Operations shall meet in good faith with the disputant(s) as soon as possible and in any event within fourteen days of notice of the dispute being served pursuant at a meeting convened for the purpose of resolving the dispute.

If the dispute remains after the meeting has taken place, the Parties' Director of Adult Social Services and the Trust's Executive Director of Operations or nominees shall meet in good faith as soon as possible after the relevant meeting and in any event with twenty days of the date of that meeting, for the purpose of resolving the dispute.

If the dispute remains unresolved after the meeting of senior officers has taken place, then the Parties will attempt to settle such dispute by mediation in accordance with the Centre for Effective Dispute Resolution model mediation procedure or any other model mediation procedure as agreed by the Parties. To initiate a mediation, either Party may give notice in writing (a "mediation notice") to the other requesting mediation of the dispute and shall send a copy thereof to CEDR or an equivalent mediation

organisation as agreed by the Parties asking them to nominate a mediator. The mediation shall commence within twenty working days of the mediation notice being served. Neither Party will terminate such mediation until each of them has made its opening presentation and the mediator has met each of them separately for at least one hour. Thereafter, paragraph 14 of the model mediation procedure will apply (or the equivalent paragraph of any other model mediation procedure agreed by the Parties). The Parties will co-operate with any person appointed as mediator, providing him with such information and other assistance as he shall require and will pay his costs as he shall determine or in the absence of such determination such costs will be shared equally.

Nothing in the procedure set out in this section shall in any way affect either Party's right to terminate this Agreement in accordance with any of its terms or take immediate legal action.

24. FORCE MAJEURE

Neither Party shall be entitled to bring a claim for a breach of obligations under this Agreement by the other Party or incur any liability to the other Party for any losses or damages incurred by that Party to the extent that a Force Majeure Event occurs and it is prevented from carrying out its obligations by that Force Majeure Event.

On the occurrence of a Force Majeure Event, the affected Party seeking relief shall notify the other Party as soon as practicable. Such notification shall include details of the Force Majeure Event, including evidence of its effect on the obligations of the Affected Party and any action proposed or relief from performance requested to mitigate its effect.

As soon as practicable, following notification as detailed here, the Parties shall consult with each other in good faith and use all best endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and facilitate the continued performance of the Agreement insofar as possible.

If the Force Majeure Event continues for a period of more than sixty days either Party shall have the right to terminate the Agreement by giving fourteen days written notice of termination to the other Party. For the avoidance of doubt, no compensation shall be payable by either Party as a direct consequence of this Agreement being terminated in accordance with this Clause.

25. NOTICES

Any notice to be given under this Agreement shall either be delivered personally or sent by first class post or electronic mail. The address for service of each Party shall be as set out below or such other address as each Party may previously have notified to the other Party in writing. A notice shall be deemed to have been served if:

- i) personally delivered, at the time of delivery;

- ii) posted, at the expiration of forty eight (48) hours after the envelope containing the same was delivered into the custody of the postal authorities;

In proving such service, it shall be sufficient to prove that personal delivery was made, or that the envelope containing such notice was properly addressed and delivered into the custody of the postal authority as prepaid first class or airmail letter (as appropriate), or that the electronic mail was properly addressed and no message was received informing the sender that it had not been received by the recipient (as the case may be).

The address for service of notices as referred to here shall be as follows unless otherwise notified to the other Party in writing:

If to the Council, addressed to the

Director of Adult Social Services
Trafford Council
Trafford Town Hall
Talbot Road
Stretford
M32 OTH
Tel:
Email: diane.eaton@trafford.gov.uk

And if to the Trust, addressed to the

Director of Operations
Greater Manchester Mental Health NHS Foundation Trust
Bury New Road
Prestwich
Manchester
M25 3BL

Tel:
Email: deborah.partington@gmmh.nhs.uk

26. CHANGE IN LAW

The Parties shall ascertain, observe, perform and comply with all relevant laws, and shall do and execute or cause to be done and executed all acts required to be done under or by virtue of any Laws.

On the occurrence of any change in law, the Parties shall agree in good faith any amendment required to this Agreement as a result of the change in law subject to the Parties using all reasonable endeavours to mitigate the adverse effects of such change in law and taking all reasonable steps to minimise any increase in costs arising from such change in law.

In the event of failure by the Parties to agree the relevant amendments to the Agreement the issue shall be referred for resolution pursuant to the Dispute Resolution provisions of this Agreement.

27. WAIVER

No failure or delay by any Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same or of some other right to remedy.

28. SEVERANCE

If any provision of this Agreement, not being of a fundamental nature, shall be held to be illegal or unenforceable, the enforceability of the remainder of this Agreement shall not thereby be affected.

29. ASSIGNMENT AND SUB-CONTRACTING

The Parties shall not sub-contract, assign or transfer the whole or any part of this Agreement, without the prior written consent of the other Parties, which shall not be unreasonably withheld or delayed. This shall not apply to any assignment to a statutory successor of all or part of a Party's statutory functions.

30. EXCLUSION OF PARTNERSHIP AND AGENCY

Nothing in this Agreement shall create or be deemed to create a partnership under the Partnership Act 1890 or the Limited Partnership Act 1907, a joint venture or the relationship of employer and employee between the Parties or render either Party directly liable to any third Party for the debts, liabilities or obligations of the other.

Except as expressly provided otherwise in this Agreement or where the context or any statutory provision otherwise necessarily requires, neither Party will have authority to, or hold itself out as having authority to:

- i) act as an agent of the other;
- ii) make any representations or give any warranties to third parties on behalf of or in respect of the other; or
- iii) bind the other in any way.

31. THIRD PARTY RIGHTS

Unless the right of enforcement is expressly provided, no third Party shall have the right to pursue any right under this Contract pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.

32. ENTIRE AGREEMENT

The terms herein contained together with the contents of the Schedules constitute the complete agreement between the Parties 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 any Party.

No agreement or understanding varying or extending or pursuant to any of the terms or provisions hereof shall be binding upon any Party unless in writing and signed by a duly authorised officer or representative of the Parties.

33. COUNTERPARTS

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

34. GOVERNING LAW AND JURISDICTION

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

Subject to the Dispute Resolution provisions of this Agreement the Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to hear and settle any action, suit, proceedings, dispute or claim, which may arise out of, or in connection with, this Agreement, its subject matter or formation (including non-contractual disputes or claims).

IN WITNESS WHEREOF this Agreement has been executed by the Parties on the date of this Agreement

THE CORPORATE SEAL of **THE**)
COUNCIL OF TRAFFORD)
BOROUGH)
was hereunto affixed in the)
presence of:

THE CORPORATE SEAL of)
GREATER MANCHESTER)
MENTAL HEALTH NHS)
FOUNDATION TRUST)
was hereunto affixed in the)
presence of:

THE CORPORATE SEAL of **NHS**)
TRAFFORD CLINICAL)
COMMISSIONING GROUP)
was hereunto affixed in the)
presence of:

35. Schedules

Schedule 1	Service Specification including Eligibility Criteria
Schedule 2	Reporting and Monitoring Requirements
Schedule 3	Terms of Reference of Governance Group(s)
Schedule 4	Information Sharing Agreement and Protocol
Schedule 5	Procedure for Placements
Schedule 6	Staffing Structure and Staffing Establishment
Schedule 7	Staff Recruitment, Registration, Training and Development, Supervision and Appraisal, Sickness Management Procedures
Schedule 8	Trafford Council Organisational Change Policy and Procedure
Schedule 9	Schedule of Services Provided to the Trust by the Council
Schedule 10	Council and Trust's Digital Care Records Policies and Procedures https://www.traffordapp.co.uk/
Schedule 11	Annual Budget
Schedule 12	Procedure for Responding to Enquiries from Elected Members and MPs.
Schedule 13	Preparing for Adulthood Protocol https://www.traffordapp.co.uk/
Schedule 14	Safeguarding Adults Policy and Procedure https://www.traffordapp.co.uk/
Schedule 15	Summary Action Plan for Schedules to be Developed in the Future, Subsequent to Signing this Agreement
Schedule 17	Operation of the Mental Health Act 1983 (2007)