

**DATED**

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**MEMORANDUM OF UNDERSTANDING**

between

**WEST SUSSEX COUNTY COUNCIL**

and

**WEST SUSSEX PRIMARY CARE TRUST**

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**THIS AGREEMENT** is dated [DATE]

## **PARTIES**

The parties to this memorandum of understanding **MoU** are:

- (1) West Sussex County Council of County Hall, West St, Chichester, West Sussex PO19 1RQ (**Council**).
- (2) West Sussex Primary Care Trust of 1, The Causeway, Goring-by-Sea, Worthing, West Sussex, BN12 6BT (**PCT**).

## **1. BACKGROUND**

- 1.1 The Council and the PCT have agreed to work together to establish a Joint Commissioning Unit operating under an agreed partnership agreement under section 75 of the National Health Services Act 2006 (**Project**).
- 1.2 The parties wish to record the basis on which they will collaborate with each other on the Project. This MoU sets out:
  - (a) the key objectives of the Project;
  - (b) the principles of collaboration;
  - (c) the governance structures the parties will put in place; and
  - (d) the respective roles and responsibilities the parties will have during the Project.

## **2. KEY OBJECTIVES FOR THE PROJECT**

- 2.1 The parties shall undertake the Project to achieve the key objectives set out in Annex A to this MoU (**Key Objectives**).
- 2.2 The parties acknowledge that the current position with regard to the Project and the contributions already made (financial and otherwise) are as detailed in the Annex A to this MoU.

## **3. PRINCIPLES OF COLLABORATION**

The parties agree to adopt the following principles when carrying out the Project (**Principles**):

- (a) collaborate and co-operate. Establish and adhere to the governance structure set out in this MoU to ensure that activities are delivered and actions taken as required;

- (b) be accountable. Take on, manage and account to each other for performance of the respective roles and responsibilities set out in this MoU;
- (c) be open. Communicate openly about major concerns, issues or opportunities relating to the Project;
- (d) learn, develop and seek to achieve full potential. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- (e) adopt a positive outlook. Behave in a positive, proactive manner;
- (f) adhere to statutory requirements and best practice. Comply with applicable laws and standards including EU procurement rules, data protection and freedom of information legislation;
- (g) act in a timely manner. Recognise the time-critical nature of the Project and respond accordingly to requests for support;
- (h) manage stakeholders effectively;
- (i) deploy appropriate resources. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this MoU. In particular the parties agree to make the contributions detailed in [Annex D (Contributions) to/ this MoU]; and
- (j) act in good faith to support achievement of the Key Objectives and compliance with these Principles.

#### **4. PROJECT GOVERNANCE**

##### **4.1 Overview**

The governance structure defined below provides a structure for the development and delivery the Project.

##### **4.2 Guiding principles**

The following guiding principles are agreed. The Project's governance will:

- (a) provide strategic oversight and direction;
- (b) be based on clearly defined roles and responsibilities at organisation, group and, where necessary, individual level;

- (c) align decision-making authority with the criticality of the decisions required;
- (d) be aligned with Project scope [and each Project stage] (and may therefore require changes over time);
- (e) leverage existing organisational, group and user interfaces;
- (f) provide coherent, timely and efficient decision-making; and
- (g) correspond with the key features of the Project governance arrangements set out in this MoU.

**4.3 Joint Commissioning board**

The **Joint Commissioning Board** provides overall strategic oversight and direction to the Project. Its membership includes leadership in both PCT and WSCC at Cabinet/PCT Board and officer level.

**4.4 Project Sponsors**

The Project Team will carry out the tasks necessary to deliver the Project, reporting to the Project Sponsors:

- (i) Sara Weech, Director of Operations Joint Commissioning, and
- (ii) Judith Wright, Director of Public Health.

As Project Sponsors, these two jointly funded postholders will provide assurance to the Joint Commissioning Board that the Key Objectives are being met and that the Project is performing within the boundaries set by the Joint Commissioning Board.

**4.5 Project Team**

The Project Team consists of representatives from each of the parties. The Project Team shall have responsibility for the creation and execution of the Joint Commissioning Unit's Work Plan for inclusion in the Section 75 Agreement, and therefore it can draw technical, commercial, legal and communications resources as appropriate into the Project Team. The core Project Team members are:

Workstream	Council Representative	PCT Representative
Programme management	<p style="text-align: center;">Martin Virr</p> <p style="text-align: center;">Jerome Douglas</p>	

Programme Support	Jane Taylor Sue Fleet	Liz Costigan
HR	Andrew Kerry	James Blakely
Finance	Susan Taylor-Searle	Joe Dorman
Accommodation	Mike O'Horan	Iain Le Bruin
Legal/Governance	Tony Kershaw	Sarah Creamer
Service leads		
Children	Philippa Gibson	Aaron Gain
Older People	Jim Pillow Hayley Connor	Jackie Nettleton
Continuing Care		Lorna Hart
Communication	Roger Snell Michelle Crowley	Linda Benny

#### 4.6 Reporting

Project reporting shall be undertaken at three levels:

- (a) **Project Team:** Minutes and actions will be recorded for each Project Team meeting. Any additional reporting requirement shall be at the discretion of the Project Team.
- (b) **Joint Commissioning Board:** The Project Sponsors shall be responsible for reporting progress to the Joint Commissioning Board on issues being managed, issues requiring help (that is, escalations to the Joint Commissioning Board), and progress planned next period, aligned with the frequency of the Joint Commissioning Board meetings.
- (c) **Organisational:** the Project Team members shall be responsible for drafting reports into their respective sponsoring organisation as required.

## **5. ROLES AND RESPONSIBILITIES**

- 5.1 The parties' nominated representatives will carry out the roles and responsibilities set out in Annex B (Project Plan).

## **6. ESCALATION**

- 6.1 If either party has any issues, concerns or complaints about the Project, or any matter in this MoU, that party shall notify the other party and the parties shall then seek to resolve the issue by a process of consultation. If the issue cannot be resolved within a reasonable period of time, the matter shall be escalated to the Project Team, which shall decide on the appropriate course of action to take. If the matter cannot be resolved by the Project Team, the matter may be escalated to the Project Sponsors for resolution.

- 6.2 If either party receives any formal inquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier or requests for information made under the Freedom of Information Act 2000) in relation to the Project, the matter shall be promptly referred to the Project Team (or its nominated representatives). No action shall be taken in response to any such inquiry, complaint, claim or action, to the extent that such response would adversely affect the Project, without the prior approval of the Project Team (or its nominated representatives).

## **7. INTELLECTUAL PROPERTY**

- 7.1 The parties intend that notwithstanding any secondment any intellectual property rights created in the course of the Project shall vest in the party whose employee created them (or in the case of any intellectual property rights created jointly by employees of both parties in the party that is responsible party noted in Clause 5 above for the part of the Project that the intellectual property right relates to).

- 7.2 Where any intellectual property right vests in either party in accordance with the intention set out in clause 7.1 above, that party shall grant an irrevocable licence to the other party to use that intellectual property for the purposes of the Project and/ or the work of the Joint Commissioning Unit.

**8. TERM AND TERMINATION**

- 8.1 This MoU shall commence on the date of signature by both parties, and shall expire on completion of the Project.
- 8.2 Either party may terminate this MoU by giving at least three months' notice in writing to the other party.

**9. VARIATION**

- 9.1 Subject to clause 9.2, this MoU, including the Annexes, may only be varied by written agreement of the Joint Commissioning Board.
- 9.2 The Project Sponsors shall be responsible for monitoring adherence to, and updating the contents of, Annex B (Project Plan).

**10. CHARGES AND LIABILITIES**

- 10.1 Except as otherwise provided, the parties shall each bear their own costs and expenses incurred in complying with their obligations under this MoU.
- 10.2 Both parties shall remain liable for any losses or liabilities incurred due to their own or their employee's actions and neither party intends that the other party shall be liable for any loss it suffers as a result of this MoU.

**11. STATUS**

- 11.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this MoU. The parties enter into the MoU intending to honour all their obligations.
- 11.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other party, nor authorise either of the parties to make or enter into any commitments for or on behalf of the other party.

**12. GOVERNING LAW AND JURISDICTION**

This MoU shall be governed by and construed in accordance with English law and, without affecting the escalation procedure set out in clause 6, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.



Signed for and on behalf of WEST  
SUSSEX COUNTY COUNCIL

Signature: .....  
Name: .....  
Position: .....  
Date: .....

Signed for and on behalf of WEST  
SUSSEX PRIMARY CARE TRUST

Signature: .....  
Name: .....  
Position: .....  
Date: .....

CONTACT POINTS

**The Council**

Name: .....  
Office address: .....  
.....  
Tel No: .....  
E-mail Address: .....

**The PCT**

Name: .....  
Office Address: .....  
.....  
Tel No: .....  
E-mail Address: .....

## **Annex A. The Project**

### **Project overview**

This Memorandum of Understanding is intended to establish a single strategic commissioning unit between West Sussex County Council and West Sussex Primary Care Trust by 1 April 2011, with all staffing and funding in place.

### **The Key Objectives**

- Establish a single strategic commissioning function between NHS West Sussex and West Sussex County Council
- Agree a formal partnership agreement (S75) to transfer the commissioning functions from NHS West Sussex to West Sussex County Council
- Produce a business plan, detailing the critical success factors and savings to be achieved through the commissioning arrangements
- Ensure GP commissioners are fully consulted and engaged in the development of the joint commissioning arrangements

### **The existing position and contributions already made**

- The Director of Joint Commissioning is a jointly funded post, managed by the County Council.
- Project costs are shared in advance of agreeing the contributions to be made under the Section 75 Agreement, with both organisations meeting the costs as they fall within each organisation. For example, costs of salaries, IT and all expenses for NHS staff who were co-located in WSCC council offices at the end of September 2010 will be met by the PCT, the accommodation costs are met by WSCC.

## Annex B. Project Plan

Action/ milestone	Owner	Deadline
1st draft of S75 terms and schedules to Robin Lorrimer, copied to Kirsten Maslen	Work plan – Philippa Gibson Scope of services - Philippa Gibson/Hayley Connor Resources - Joe Dorman/Graham Smith Governance - Becca Randell, Alison Hempstead and Sarah Creamer Amendments to draft terms- Kirsten Maslen Staff transfer and secondment protocol- Kirsten Maslen and Andrew Kerry	13 Oct 2010
Revisions sent to authors	Robin Lorrimer	18 October 2010
MOU discussed at Policy and Resources Select	Sara Weech	21 October 2010
S75 meeting	Philippa Gibson	25 October 2010
2 <sup>nd</sup> draft S75 schedules	As for 1 <sup>st</sup> draft	29 October 2010
Detailed staffing structure agreed	Andrew Kerry/James Blakely	End October 2010
Consultation with staff on detailed structure	Andrew Kerry/ James Blakely	November 2010
Revisions to 2 <sup>nd</sup> draft S75 Schedules	Robin Lorrimer	4 November 2010
Meeting to discuss S75 Legal check from WSCC/PCT lawyers/Legal advice	Philippa Gibson Kirsten Maslen	8 November 2010
Meeting to discuss S75	Philippa Gibson	13 December 2010
S75 discussed at Select Committees: Adults' Services CYPS	Sara Weech	13 January 2011 19 January 2011

Policy and Resources Select		21 January 2011
Meeting to discuss S75	Philippa Gibson	24 January 2011
Rolling programme of accommodation moves	Jane Taylor/Mike O'Horan	January – March 2011
JCB invited to recommend sign-off of S75	Philippa Gibson	February 2011
Final version of S75 presented to Policy and Resources Select	Sara Weech	3 March 2011
New Staffing structure in place	Andrew Kerry/ James Blakely	April 2011
Accommodation moves complete	Jane Taylor/Mike O'Horan	April 2011
S75 Agreement in place	Philippa Gibson	April 2011
Funding for S75 in place	Graham Smith/Joe Dorman	April 2011

