APPENDIX B

PART 2

SERVICE AND FINANCIAL AGREEMENT

PART 2: SERVICE & FINANCIAL AGREEMENT

1. **Services to be commissioned or delegated**

2. **Resources for the commissioned or delegated services**

3. **Financial agreements**

4. **Reporting arrangements**

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SERVICE AND FINANCIAL AGREEMENT

Between

THURROCK BOROUGH COUNCIL
and
SOUTH ESSEX PARTNERSHIP NHS FOUNDATION TRUST

This agreement (the “SAFA”) sets out in detail the Mental Health services to be commissioned and delegated by Thurrock Borough Council (the "Council") to the Chief Executive of South Essex Partnership NHS Foundation Trust ("the Trust") (who may delegate it further within the Trust) for the financial year 1st April 2006 to the 31st March 2007 along with the associated financial, performance and monitoring arrangements pursuant to the agreement entered into by the Council and the Trust on [ ] 2006 under Section 31 of the Health Act 1999 (the “Agreement”). This SAFA forms part of the Agreement.

1 SERVICES TO BE COMMISSIONED

1.1 The service users to which the Service applies for the purpose of the arrangements set out in the Agreement are adults of working age (16-65 years) with mental health problems to whom the provision of mental health services is currently managed by the following teams:

- Community Mental Health Team
- Crisis Intervention Team
- Assertive Outreach Team
- Mental Health Criminal Justice Team
- Community Drug & Alcohol Service (dual diagnosis workers)

2 RESOURCES FOR THE COMMISSIONED / DELEGATED SERVICES

2.1 The Council will make available to the Trust appropriate resources for the delivery of the specified service outcomes, as set out in Annex A to this SAFA.

2.2 Whilst the budget is set for the year, it is recognised that financial pressures may vary during the course of the year due to unforeseen circumstances. The Council will use best endeavours to identify and notify the Trust of the impact of any financial decisions at the earliest opportunity whilst taking into account the relevant Financial and Governance processes set in place pursuant to the Agreement.

2.3 These resources should be deployed in the provision of the Service unless variations in their use has been formally agreed with the Council's designated officer responsible for the commissioning of Mental Health services in Thurrock in line with the Council's financial strategy.

3 FINANCIAL AGREEMENTS

3.1 The creation of these arrangements is in no way intended to avoid VAT liabilities of the parties involved. The parties will adopt the advice on VAT in partnership arrangements when issued by the Department of Health.

3.2 Any movement of funds between the Service activities detailed in this SAFA will require the prior approval of the Council as set out in the Council financial regulations scheme of delegation for revenue virements. It should be noted that formal virements would need to be approved by the relevant Council Cabinet Member where movement of funds crosses policy lines and that if it involves significant expenditure or affects two or more wards it may be a key decision and may therefore require to follow the procedure for making key decisions.

3.3 As part of this SAFA the Council has delegated the ability to procure individual care packages against the assessed need of individual clients, or where appropriate to make a direct payment instead.

3.4 The Council has agreed to:

- Maintain a commitment record of such care packages. To ensure the accuracy of this record the Trust will advise the Council of all new and closed placements along with variations to these.

- Share accountability for commitments made by ensuring that all packages are authorised by the Council-nominated Mental Health commissioner or other designated Council employee, and the relevant finance form sent to the Council's Customer Finance team.

- Make payments to the external service providers in accordance with the existing Council contractual framework. The authorisation to commence payment will be given as set out in the above bullet point.

3.5 The Council will provide to the Trust on a monthly basis, financial monitoring report data in relation to the Service in sufficient detail to enable the Trust to be able to supply such information to its budget holders. The aim of this reporting mechanism is to provide budget holders with sufficient information to provide a given level of service for a given level of resources.

3.6 Ideally this would result in spend being in line with budget. However, the reality of day to operations of adult mental health services, and the fact that once a budget has been agreed at the start of the year there are no further resources available, consideration needs to be given as to how to manage any potential adverse variances during the year.

3.7 Any potential adverse variances within the year will be identified and notifed to the Council as soon as reasonably possible. Where remedial action is required, a recovery plan will be produced by the Trust in full consultation with the Council and other relevant stake-holders, identifying how to resolve the financial impact whilst highlighting any service impact. The Trust will review possible re-allocation of existing funding in order to meet priority needs, and consult with the Council and take such other steps as the Council may reasonably require to rectify the over-spend. This is covered by the urgency process protocol for reporting financial over-spends

3.8 The Council under its agreed Charging policies seeks a financial contribution from clients in receipt of social care services, such as residential care (including respite), home care, and day care services. Services commissioned under the Agreement are to remain part of these agreed charging policy. To facilitate the calculation of these client contributions the Trust will be required to:

- Ensure that the appropriate assessments are undertaken and that the Care Plans requirements have been completed.
- Forward a referral for the service user to the Vertex Financial Assessment and Benefit Adviser visiting team, in order that a financial assessment can be under taken in line with the agreed charging policy and relevant legislation.
- Provide service delivery and attendance data in respect of those service users in receipt of directly provided home and day care services.

3.9 Expenditure from specific grants, joint financed and joint funded activity should be coded to individual cost centres. This will enable the Council's external auditor to verify compliance with the grant rules and ensure that the grant has been fully spent. Grants can only be claimed against actual expenditure; therefore it is essential that these budgets are managed and reported in a way that meets the auditors requirements.

3.10 The Council will be responsible for the obtaining of specific grants, joint finance and joint funded monies.

3.11 Expenditure on capital items can only be incurred for approved schemes within the Council's Capital programme, and in line with the relevant financial and contract rules. All expenditure incurred for capital purposes shall be coded to separately identifiable cost centres and any such assurance as is required to satisfy audit shall be provided by the Trust.

4 REPORTING ARRANGEMENTS

4.1 For the Health Related Functions exercised by the Trust under the Agreement, the Trust will report formally to the Council monthly and annually on the exercise of these functions. The principle reporting will be via the Locality Board and the related Performance Sub-group. Any significant variation of spending and income to the budget will also be notified to the responsible officer of the respective organisation (and for the Council this will be the Section 151 Officer and for the Trust this will be their Chief Executive). For these purposes the term "significant" means a variance which is greater than £10,000.

4.2 The Trust will report quarterly on its performance in respect of the Performance Framework agreed with the Council included as **Annex B** in this document and in relation to its exercise of the Health Related Functions under the Agreement.

5 KEY LINKS AND CONTACTS

To maintain and develop the successful operation of the Partnership Agreement it is essential that formal governance arrangements are underpinned by robust lines of communication between key managers.

The following table represents the minimum structured contact that will be maintained between Council Officers and THE TRUST.

Council Officer	**The Trust Officer**	**Nature of Contact**	**Frequency**
Head of Service	Director of Partnerships	One to one meeting	Quarterly
	Assistant Director	Community Care Management Team meeting One to one meeting	Weekly Monthly
Head of Business Support	Senior information analyst	Performance Sub-group meeting	Quarterly
	Service Improvement Manager	As above	As above
	Assistant Director	As above	As above
Joint Commissioning Manager	Senior information analyst	Performance Sub-group meeting	Quarterly
	Service Improvement Manager	Performance Sub-group meeting One to one meeting	Quarterly Quarterly
	Assistant Director	Performance Sub-group meeting One to one meeting	Quarterly Monthly
Principal finance officer	Assistant Director	Joint meeting with Commissioning Manager	Monthly

Where there is an issue on either side regarding the contacts described above the matter will be referred for discussion at the Locality Board overseeing the Agreement.

6 PERFORMANCE ARRANGEMENTS

6.1 The Council is required to provide information relating to Mental Health Services to Central Government and other organisations. In particular performance reviews/inspections by the Commission for Social Care Inspection and the Mental Health Act Commission are regarded as priorities. The Council and the Trust will work in partnership to provide such information.

6.2 The Council's internal business planning and policy development processes, incorporating service plans and best value reviews, will also require that the Trust works in partnership with the relevant Council officers to meet specified outputs.

6.3 The Trust will ensure that CareFirst is populated with all the data necessary and to agreed data quality standards for full reporting of social care performance, whether through direct inputting or through electronic transfer of data from other systems, where electronic transfer interfaces are available.

7 RISK ASSESSMENTS

7.1 In its performance reporting the Trust will, on an annual basis, provide the Council with a risk assessment of outcomes specified in the performance framework. The risk assessment will show the impact of the outcome on the service against the likelihood it will be achieved.

8 RESOURCES & COMMISSIONED SERVICES BY THURROCK BOROUGH COUNCIL

8.1 RESOURCES

Annex A sets out the investment being made by the Council for the commissioned and delegated Services pursuant to the Agreement.

8.2 HEALTH RELATED SERVICES TO BE UNDERTAKEN BY THE TRUST

The following services are to be undertaken by the Trust for the period 1 April 2006 to 31 March 2007:

(A) ASSESSMENT AND CARE MANAGEMENT

To undertake the assessment of clients needs against the Council service eligibility criteria for new clients, as specified in **'Fair Access to Care Services'** and provide ongoing care management and service reviews.

These services are to be delivered from local Community Mental Health Team bases in Thurrock.

The Council’s expectations of how these functions should be undertaken are embodied in **‘Better Care, Higher Standards in Thurrock’.**

In setting the level of funding associated with the delivery of these activities the following factors are taken in to account: The agreed staffing establishment at the commencement of the Agreement, with funding in respect of these posts is based upon the actual salary point of the pay range for staff in post and at the middle salary point for vacant posts.

- Pay increase in accordance with NJC Agreements.

- Mileage and Travel Allowances in line with the Council’s employment terms and conditions.

Payment of a market supplement to Social Workers (including National Insurance) in respect of those Social Workers who as at October 2004 have been in post for the complete year or on the same anniversary thereafter.

(B) DELEGATED BUDGETS

(i) GENERAL

These are services that the Trust procures as individual care packages on behalf of the Council as set out in clause 3.3 of the SAFA. The budgets and the prime commitment record remain the responsibility of the Council.

Income From Charging

The Trust shall ensure that the appropriate Financial Assessments are undertaken in respect of clients receiving social care services who will be charged for those services commissioned by Council under its agreed Charging Policies.

(ii) MENTAL HEALTH SERVICES

RESIDENTIAL SERVICES (EXTERNALLY PROVIDED)

The external purchasing budget is based on a review of current commitments in place on the 1st April, and the estimated pattern of new placements from April through to March in the new financial year. There is an assumption of a level of turnover (discharges) built into the budget allocation. This includes service users receiving residential accommodation in residential and nursing homes and respite care, which are identified separately within the residential services external purchasing budgets.

The residential purchasing budget is managed net of client and third party contributions.

The Trust will procure such care packages where appropriate from the Council approved list of service providers as confirmed by the appropriate commissioner and in line with the agreed policies of the Council.

The Trust will work with the Council's Finance Department to ensure that a commitment record is maintained of such externally purchased individual care packages. The Trust may choose to maintain its own record for reporting purposes.

The Trust will use reasonable endeavours to manage the commissioned profile of placements within the financial allocation. Any significant variations to the pattern and volume of services should be notified to the Council nominated Mental Health Commissioner.

DAY CARE (EXTERNALLY PROVIDED)

There is within the external purchasing budgets a budget for the provision of day care services. Historically only limited calls have been made on this budget. It is planned to incorporate it into the direct payments budget.

(iii) HOME CARE (EXTERNALLY PROVIDED CARE)

There is within the external purchasing budgets a budget the provision of home care services. Historically only limited calls have been made on this budget. It is planned to incorporate it into the direct payments budget.

(iv) DIRECT PAYMENTS

This budget was a new development in 2004/5 for making payments to service users who wish to purchase their own care. In future direct payments are expected to become the route through which most packages of care are arranged.

8.3 SHARED ARRANGEMENTS

There are some aspects of the integrated Mental Health Service that fall outside the scope of this Agreement, but which are crucial to the operation of the service.

8.4 APPROVED SOCIAL WORKER ROLE (ASW's)

Approved Social Workers have an independent professional role but are supported by and accountable to the Local Authority. It will be the responsibility of the Local Authority to arrange training, co-ordinate the rota, and arrange meetings of the 'ASW Group'.

The Trust will work with the Council to ensure that there are an adequate number of ASW's to meet operational needs.

8.5 TRAINING

The Council will maintain a ring-fenced budget to support the training of ASW's as stated above.

There is a reciprocal arrangement whereby Social Care Staff within Mental Health Services can access training provided/commissioned by the Trust, and vice versa for health staff wishing to access training provided or commissioned by the Council.

Annex A

SUMMARY

COMMISSIONED SERVICES	2005/06
	Budget
Mental Health Services	£109,967
Assessment and Care Management	£470,317
TOTAL	£580,284

DELEGATED BUDGETS

Non-Residential Charging Income	£0
Residential Charging Income	£(49,951)
Residential Care (external)	£279,415
Nursing Care	£58,425
Respite	£0
Day Care (external)	£6,000
Home Care (external)	£5,125
Direct Payments	£26,320
TOTAL	£325,334
GRAND TOTAL	£905,618

DETAILS OF GRANT FUNDED EXPENDITURE

Listed below are the grant funded activities which THE TRUST must provide evidence of expenditure to Thurrock with the exception of the external budgets.

Mental Health Grant

Funded at 100%

External Residential-South Essex HA Assertive Outreach
Criminal Justice MH
Support

Total Mental Health Grant	£225,480

Annex B

TARGETS, OUTCOMES AND REPORTING REQUIREMENTS

The following reports are required monthly unless otherwise stated.

Staffing (excluding Management Posts)

1. A statement of staff in post by grade and type at the start of the financial year.
2. A statement of staff in post by grade and type at the end of the financial year.
3. A quarterly statement of the numbers of vacancies to coincide with the Joint Partnership Board Report.

Financial Report

	Annual Budget 2005/06 £000	Cumulative Actual at Month 1 £000	Cumulative Budget at Month 1 £000	Cumulative Variance at Month 1 £000	Projected Variance at the year-end £000
Commissioned Services **Mental Health Services** **Assessment and Care Management**					
Total					

Activity

Activity reports will be provided in accordance with the legally binding FT contract (Schedule 5) hosted by South West Essex PCT.

DEVELOPMENTS

The detailed outcomes required by the Council are incorporated in the Performance Framework agreed with THE TRUST. As services develop and improve there are a number of trends that the Council would expect to emerge from the performance and activity data provided under this Agreement:

Balance of Activity

- Shift in activity from inpatient to community; reduced admissions & re-admissions and occupied bed days.
- Integration with Primary Care - Community Services that are more integrated with Primary Care achieved through service redesign/modernization.
- Evidence of stepped approach to care: advice and support with less serious problems provided at the primary care level and in collaboration with the voluntary sector.

Access

- Extending service access points to locations outside Grays. There are opportunities to use new roles such as Gateway Workers in Primary Care settings to improve both accessibility and pathways to appropriate services.

Social Inclusion

- Accommodation - a reduction in Service Users placed outside the Borough matched by a greater range of accommodation and support within the Borough.

- Benefits - an increase in Service Users receiving benefits checks.

- Employment - an increase in Service Users in paid employment.

- Leisure - a reduction in the number of Service Users who do not access any recreational / leisure opportunities.

- Physical Health - an increase in Service Users receiving a Physical Health check.

- Increased availability of self-help and talking therapies

- More people accessing services at the Primary Care level.

Independence & Choice

- An increase in Service Users accessing Direct Payments

- Evidence of greater Service User Ownership of the care planning process
- Increasing numbers of Service Users making advance directives

Relationship with Voluntary Sector

- Evidence of collaborative working with Voluntary Sector Services

Carers

- Increase in carers accepting assessments, Services, and Direct Payments
- Evidence of local engagement with carers to promote access to services

Services for BME Communities

- Increased activity and engagement with BME communities

Gender mainstreaming

- The development and analysis of gender disaggregated data across all services
- Evidence that gender differences are recognized in the development of ‘choice’

Signed for and on behalf of Thurrock Borough Council by:

Signature: ___________________________________ **Date:** ____________

Position: ____________________________________

Signed for and on behalf of South Essex Partnership NHS Foundation Trust by:

Signature: ___________________________________ **Date:** ____________

Position: ____________________________________

PARTNERSHIP PERFORMANCE MONITORING FRAMEWORK

SOUTH ESSEX PARTNERSHIP NHS FOUNDATION TRUST
AND
THURROCK BOROUGH COUNCIL
Period : April 2206 – March 2007

SOUTH ESSEX PARTNERSHIP NHS FOUNDATION TRUST
AND
THURROCK BOROUGH COUNCIL
PARTNERSHIP PERFORMANCE MONITORING FRAMEWORK

Period : April -2006 - March 2007

Indicator/Construction	Comment	Number %	Number %	Number %	Number %	Data Source
Service User Focused		Q1	Q2	Q3	Q4	
C31 People helped to live at home per 1,000 population. Thurrock population 91005 The Trusts remit towards fulfilling data for the indicator is: Active caseload 18-64 years for South Essex CMHTs including support workers/qualified staff. England Average 3.5: Local Average: 5 per 1,000 This figure includes health and social care	**Adults helped to live at home (using CPA caseload- adults with mental health problems only)** No. on CPA caseload Per l,000 population **Adults helped to live at home (clients Receiving Social Services)** Clients receiving social services Per l,000 population					THE TRUST
D39 Percentage of people receiving a statement of their needs and how they will be met.	No. on CPA caseload (including other specialties although MH					THE TRUST

This definition **excludes** those who are not yet in receipt of their services following assessment National target: 100%	is main diagnosis)) No. of clients with a care plan Percentage with a care plan LL will monitor to ensure that this continues following CPA review					
C51 Adults and older people receiving direct payment per 100,000 population aged 18+ Local Target 3: **Evidence that all service users offered a domiciliary care package have been informed of Direct Payments** Target: 100% of those eligible are informed	Clients who are presently in receipt of a Direct payment: This target has increased by 100% Thurrock LA to supply data					THURROCK LA
D40 Reviews (please see D39) **Adults receiving a review as a percentage of those receiving a service (Clients on CPA reviewed at least annually)** Numerator: number of existing clients receiving a review during the year (either SSD or non SSD staff) Denominator: Total number of clients receiving services during the year. Target : 60% Calculate on a rolling 12 months	No. on CPA caseload in period No. of clients reviewed in period % of clients reviewed Please note: This percentage will appear low until the end of the year as it is calculated on a rolling 12 months.					THE TRUST
Number of people whose last review is more than 12 months old Target: 0%	No. on CPA caseload Clients last reviewed 12 mths+ ago Percentage “ “ “ “					THE TRUST

E50 Assessments leading to the provision of a service (National Average 50%) No. of assessments						THE TRUST
No of assessments which lead to new service						
Percentage leading to a new service						
C27 Admissions of supported residents aged 16-64 to residential/nursing care	Collected on Care First by Social Services					THURROCK LA
Acceptable waiting times for assessments Adult Team Percentage of assessments within 48 hours Percentage of assessments within 28 days – local target 70%	**48 hours** No of assessments commenced No. commenced within 48 hours % commenced in 48 hours **28 days** No of assessments completed No. completed within 28 days % completed within 28 days Assessments within 28 days has exceeded its target					THE TRUST
Ethnic Monitoring (1)						THE TRUST
No of assessments in period						
No. of assessments with ethnicity recorded						

% of assessments with ethnicity recorded						
No. of assessments from ethnic minority						
% of assessments from ethnic minority						
No of assessments from ethnic - new service						
% of assessments from ethnic – new service						
Ethnic Monitoring (2)						
No. on CPA caseload						
No. with ethnicity recorded						
% with ethnicity recorded						
No. from ethnic minority						
% from ethnic minority						
Our local target in this area should be ensuring that numbers are proportionate to the Thurrock population of 91005						
Service User Views Report to be provided on an annual MH National Patient Survey**.**	Patient Survey results have been presented to Thurrock. The next survey is to take place in February 2006.					THE TRUST

Service User Views No. of complaints (by ethnicity and gender) This report contains complaints from integrated teams. Specific Social Care complaints will be flagged up to the local authority.	No of complaints Ethnicity Gender Broken down by Category: • Attitude of staff • Admission • Communication • Behaviour of fellow patient • Waiting time for appointment • Medical care/treatment					THE TRUST
% response time within 20 working days National median 2004: 71.76% Summary of issues raised	Average time taken Completed within 20 days or less.					
Report on issues raised with PALS	No of PALS contacts Ethnicity Gender Broken down by Category: • Attitude of staff • Admission • Communication • Behaviour of fellow patient • Waiting time for appointment • Medical care/treatment • Patient Records • Hotel Services • Privacy & Dignity • Negative					

Quarterly Complaints/PALS Report						THE TRUST
Carer Focus						
No of carers at end of period	Not all carers want an assessment					THE TRUST
No of carers offered assessment						
% of carers offered an assessment						
No. of carers who have declined an assessment						
% of carers who have declined an assessment						
Service Focused						
Activity CI and C2 supplied routinely. Plus Thurrock bed usage/occupancy (Thurrock to identify numbers notional) Broken down by gender, ethnicity and age	C1 sent on a monthly basis C2 sent on a 3 monthly basis					THE TRUST
Equality and Diversity Strategy Local Implementation Copy of quarterly progress/annual report to Trust Board	The Trustember was the last meeting of the Equality and Diversity Steering Group. A January meeting is being set-up, and minutes will be available next quarter.					THE TRUST
Staffing for health commissioned services only Number of vacant posts for CMHT/AOT/ Crisis Resolution (all staff) Sickness Target: Best outturn achieved across the Trust 2004/5	CRHT fully staffed, subject to current appointment going through . AORT one STR vacancy, subject to above appointment going through. Sickness CRHT one significant episode of long term sickness (6 weeks), relating to a disabled member of staff, who is now back at work					THE TRUST

	AORT no significant long term sickness, although one member of staff suspended under investigation since Oct 05 CMHT-Sickness: 1 significant episode of long term sickness. Vacancies: Support worker (SS) x1 OT technician x1 Support worker (THE TRUST) x1					
A6 Psychiatric re-admissions Adult 28 days England Average:10.323%	No. of Psychiatric discharges No. of Psychiatric re-admissions Percentage of re-admissions This indicator is below the national median. Low value is good performance This indicator has been met.					THE TRUST
National Service Framework Commissioners SHA Performance Report Proforma						**THE TRUST**
Sanctuary Flat Use with breakdown by issue, length of stay, gender, age and ethnicity						**THE TRUST**
Percentage of Mental Health Act assessments As a % of total assessments	No. of MH Act assessments Assessments + MH Act assessments.. Percentage of MH Act Assessments %					**THE TRUST**
24/7 Services No of contacts by team outside core hours (Mon to Fri 9x5 with breakdown re: nature of contact and age, ethnicity, gender, location of service user)	Out of hours information for EDT					**THE TRUST**

Women only services (including requests for women professionals) No accessing women-only services No. requesting women professionals						**THE TRUST**
TARGET FROM BEST VALUE REVIEW						
Targets from the Mental Health Service Plan (Adult)						
Addressing issues of social inclusion and mental health To ensure that housing, education, leisure and employment are fully addressed in assessment, care planning and service delivery						**THE TRUST**
Targets from Mental Health Service Plan						
Waiting time for care packages in line with performance indicators (from referral to services in place) % of 4 Weeks to assessment % of 8 Weeks to service in place Target: 70%						**THE TRUST**
Service Users and carers provided with relevant information folders Target 100%	.					THE TRUST
Gender and choice Access Team seek and record user views re choice of gender as part of referral process Target 100%						THE TRUST

Evenness of referral across Borough Monitor referrals by postcode						THE TRUST
Ensuring that service users and carer contribute to risk assessment process 75% of assessment include user and carer input as indicated by sign off Target 75%%						THE TRUST
Quality of assessment and care plans Outcome from QA process Target: upward trend						THE TRUST
BELOW INDICATORS THAT CONTAIN DATA NOT ROUTINELY COLLECTED BY THE TRUST. THE TRUST IS WORKING TOWARDS DEVELOPING THIS DATA COLLECTION						
C62 Number of carers receiving specific carers services as a percentage of clients receiving community based services Information required from the Trust: No.of carers receiving a carers break or specific carers service during the year following an assessment or review during the year. Total No. of clients receiving community based services during the year. Target: No Social Care target has been set due to lack of baseline data.	The majority of carers who require a service are referred on the Carer's Service for this following assessment and are therefore closed to the CMHT.					**THE TRUST**

Interpreting Nos. of interpreters needed for inpatient services Nos. of interpreters needed for community teams						THE TRUST
Advance Directives Number of service users reviewed with advance directives						THE TRUST
Benefit check % of active cases in receipt of benefit Local Target 50%						THE TRUST
Activity (a) Clients with dual diagnosis (b) CMHT referrals where request for ‘talking therapy’ was made with breakdown of disposal (c) Assessment Unit activity –						THE TRUST
Outcome measurement CUES						THE TRUST
Employment Number of service users moved into employment, supported employment or achieving qualifications. This indicator needs to indicate a year on year increase in numbers in supported employment placements, mainstream employment and achieving vocational qualifications						THE TRUST

APPENDIX 1

COMPLAINTS POLICY

CORPORATE POLICY CP 2

SOUTH ESSEX PARTNERSHIP NHS TRUST

COMPLAINTS POLICY

Controls Assurance Statement

The purpose of this policy document is to ensure that complaints about services provided by the Trust are dealt with in line with the NHS (Complaints) Regulations 2004, in a speedy and efficient manner, that is open, fair, flexible, conciliatory and without blame.

1.0 Introduction

1.1 This policy should be read in conjunction with the procedural guideline on complaints (reference CPG2).

1.2 The aim of the Trust Complaints Policy and Procedural Guideline is to encourage communication on all sides to resolve the complaint satisfactorily.

1.3 Every public area within the Trust will display a notice board that informs patients and visitors of the Trust Complaints procedure. There is also a supply of leaflets describing the Complaints procedure which are available in every service and available on request from the Complaints Manager free of charge.

1.4 The Trust is committed to resolving complaints as quickly as possible. An immediate informal response by a front-line member of staff is the preferred option.

2.0 What is a Complaint

A complaint is an oral or written expression of dissatisfaction about any matter reasonably connected with services supplied through this Trust. This includes NHS services and local authority services delegated to the Trust under its partnership agreements. Dissatisfaction may concern any aspect of the service e.g.

- care and treatment
- communication
- behaviour and attitude
- hotel services
- access to treatment or management policy
- the commissioning of services by this Trust under an NHS contract or with an independent provider

This list is not exhaustive. Refer to procedural guidelines for further details.

3.0 Procedure for Handling Complaints

A step by step guide to handling complaints received in writing as well as those made to front-line staff is provided in CPG2 Complaints Procedural Guidelines.

4.0 Scope

4.1 This policy and associated procedure is open to complainants who are service users, patients or clients or those who are complaining on behalf of a service user, patient or client. Further clarification is available in section 3 of CPG2.

4.2 This policy should not be used by staff to complain about the conduct, harassment or capability of other staff members nor should this process be used to lodge complaints regarding the late payment of invoices. There are separate policies and procedures dealing with these.

5.0 Responsibilities

5.1 The National Health Service (Complaints) Regulations 2004 require that the Trust designates a member of its board of directors, to take responsibility for ensuring compliance with the arrangements. The Director of Modernisation and Performance is therefore responsible for ensuring compliance with the Regulations and Trust Complaints Policy and Procedural Guidelines and that action is taken in light of the outcome of any investigation. The Director of Modernisation and Performance will deal with complaints on behalf of the Chief Executive.

5.2 The Director of Modernisation and Performance will appoint a Complaints Manager to manage the procedures for handling and considering complaints.

5.3 All Directors of the Trust are responsible and accountable for the implementation of this policy and associated procedures within their area of responsibility. They will ensure that all complaints are managed in accordance with the policy and procedure and ensure agreed timeframes are met.

5.4 All members of staff have a responsibility to appraise themselves of the content of the complaints policy and procedure, work within the standards and guidelines and review their practice as a result of any complaint raised or received.

5.5 The Complaints Manager will support the Chief Executive to monitor the progress of each complaint to ensure timescales are observed and that complainants are kept informed of progress.

6.0 Performance Management

6.1 The Trust Board will receive quarterly reports on complaints containing:

- numbers of complaints received
- subject matter of those complaints
- summaries of how they were handled including the outcome of investigations
- identification of any complaints where the recommendations of the Healthcare Commission were not acted upon, giving the reasons why not

6.2 The Trust Board will publish annually a report on complaints handling and send copies to the Strategic Health Authority and the Healthcare Commission. These reports must not breach patient confidentiality.

6.3 The Chair and Non-Executive Directors of the Trust will review and monitor complaints on a regular basis.

6.4 The quarterly report to the Trust Board. This report will include a report on compliments and suggestions received by the Trust, and evidence of patient survey data and improvement action undertaken.

6.5 The NHS Executive will continue to collect statistics on the number and type of complaints made in England. This will be through KO40 that will be revised to take account of the new procedures.

6.6 The Trust will maintain records, for monitoring and evaluation purposes of actions taken to address issues arising from complaints.

6.7 Trends will be monitored and relayed to department managers by the Complaints Manager.

7.0 Independent Review

7.1 After 1 July 2004, complainants may refer their case to the Healthcare Commission where:

- They are not satisfied with the result of the Trust's investigation
- They are not satisfied with the result of an investigation carried out by an independent provider
- The complaint has not been resolved within six months
- The Complaints Manager has decided not to investigate the complaint on the grounds that it was not made with the time limit set out in section 10

7.2 When the Healthcare Commission investigates a complaint it must produce a written report including its conclusions, recommendations and action required within 40 working days of the date on which the terms of reference of the investigation were agreed (or now changed to "as soon as reasonably practicable"). The report will be sent to the complainant, the Trust and the Strategic Health Authority.

7.3 The Healthcare Commission will advise the complainant that if they remain dissatisfied they can refer their complaint to the Health Services Ombudsman.

7.4 A complainant can at any time approach the Health Service Ombudsman with his/her complaint. It is unlikely that the Ombudsman will take up the complaint prior to the completion of the Health Service Complaints Procedure. However, the Ombudsman does have the power to consider complaints that have not been put to the Trust and/ or where the first two stages of the complaints procedure have not been exhausted.

7.5 Any reports from independent reviews conducted by the Healthcare Commission will be used as valuable sources of feedback in relation to practice.

8.0 Policy Reference Information

Corporate Policy No:	CP2
Implementation Date:	01.04.2000
Last Review Date:	10.11.2004
Amendment Date(s):	16.10.2000, 08.01.2001, 13.03.2002, 10.11.2004
Next Review Date:	01.12.2007
Date Approved by Executive Team	10.11.2004
Date Ratified by Trust Board:	December 2004

The Director responsible for reviewing this policy is

the Director of Modernisation and Performance

APPENDIX 2a

INFORMATION SHARING PROTOCOL

SOUTH ESSEX PARTNERSHIP NHS FOUNDATION TRUST

PROTOCOL FOR THE SECURE AND CONFIDENTIAL SHARING OF PERSON IDENTIFIABLE INFORMATION

Controls Assurance Statement

This protocol has been developed to ensure the safe sharing of patient identifiable information in the context of collaborative working across a range of agencies who may be involved in the care and wellbeing of users and staff of the Trust.

1.0 INTRODUCTION AND LEGAL CONTEXT

This protocol applies to the relevant signatories in partnership with SEPT.

1.1 Background

1.1.1 Historically, there have been boundaries surrounding the ownership and use of information about individuals that have restricted the ability to share information. Set against this, delivering efficient and effective health and social care for service users requires the different agencies and organisations involved to share information on a need to know basis.

1.1.2 Agencies / organisations providing health and social care for service users (see Definitions, Appendix 1) need to work efficiently and effectively to deliver a service to the general public when and where they need it. This is a requirement of Information for Health - Information Strategy for the NHS.

1.1.3 The boundaries to sharing information have now been defined within requirements laid down in legislation e.g. the Data Protection Act 1998 (see Appendix 2 for the Principles) ensures data controllers (organisations / agencies) have legal responsibility for person identifiable information within their care - and instils legal requirements concerning the use(s) of that information. Hence, ownership becomes paramount and information may not be made available to those who need it, when they need it, to provide care to service users. This has restricted the ability to share information.

1.1.4 The NHS Plan contains the Department of Health Public Service Agreement which aims to change the health and social care system so that it tackles health inequalities and produces faster, fairer services. Part of that drive towards seamless care requires the sharing of information in order to improve the speed and effectiveness with which health, education and social care organisations discharge their responsibilities with regard to the general population.

1.1.5 Different agencies / organisations are collecting and recording identical information about service users which is inefficient and a duplication of keying in information. A single point of entry and access to all relevant information would reduce the time wasted on duplication of effort.

1.1.6 Staff (see Definitions, Appendix 1) from these organisations / agencies have restricted access to systems and information - which could prove detrimental to service users care and treatment. Again, a single point of secure entry and access to all relevant information would increase access to useful information to improve services provided to the service users and all other organisations involved with their care.

1.1.7 The transfer of all confidential person-identifiable information should be governed by clear protocols that satisfy the requirements of law and guidance and regulate working practices in both the disclosing and receiving organisations. Protocols should enable those asked to transfer information to be confident that the highest standards will apply and that information will only be used for agreed and legitimate purposes.

1.2 Legal Requirements

1.2.1 There are a range of legal requirements that must be considered and complied with to ensure individuals' rights are respected and the organisations involved do not breach these requirements. The main pieces of legislation / guidance governing individuals' rights which must be considered are:

- Human Rights Act 1998
- Freedom of Information Act 2000
- Regulation of Investigatory Powers Act 2000
- Data Protection Act 1998
- Crime and Disorder Act 1998
- Computer Misuse Act 1990
- Copyright Designs and Patents Act 1988
- Children's Act 1989
- NHS & Community Care Act 1990
- Mental Health Act 1983
- Carers (Recognition and Service) Act 1995
- Clients Access to Records Act 1987 & Regulations 1989
- Access to Health Records Act 1990
- The Adoption Act 1976
- The Health Act 1999 (Section 31)
- The Health and Social Care Acct 2001
- The Confidentiality Code of Practice
- The Caldicott Principles

1.2.2 There are other Acts which either: a) make it an offence to disclose information or b) make it a legal requirement to disclose information. These are detailed in Appendix 3.

1.3 Scope of the Protocol

1.3.1 This protocol is designed to meet the Caldicott requirement that an agreed, signed protocol must be in place to cover the safe and confidential sharing of service user, carers and staff information between agencies.

1.3.2 This protocol relies on the existing and developing legislation and guidance that relate to safe and secure information handling. Each participating organisation will be legally responsible for ownership of the information within their own organisation, and will implement their own internal confidentiality and security policies, which will ensure compliance with this over-arching protocol.

1.3.3 This protocol applies in all cases, where organisations sign and continue to meet the requirements for the secure and confidential handling of information, except where other protocols / procedures / partnership agreements override it.

1.3.4 Caldicott requirements state that where patient information is to be shared between agencies this can only occur where an agreed signed protocol is in place. This protocol will ensure that the Trust satisfies this requirement.

1.3.5 This is the overarching protocol to cover the sharing of information and comprises of all the legal requirements and government guidelines governing sharing of identifiable information. This protocol also details and cross-refers to other local policies and procedures governing the use and disclosure of person identifiable information.

1.3.6 Organisations / agencies involved with information sharing will sign to agree to the requirements set out in this protocol (see Appendix 4). All organisations / agencies involved will also abide by their own individual policies and procedures that supplement this protocol and will be fully compliant and consistent with this protocol.

1.3.7 Each organisation will have its own effective procedure to deal with any breaches to this protocol. All incidents will be reported to that organisation through existing incident reporting and management procedures.

2.0 PARTNER AGENCIES

2.1 This protocol requires each participating organisation to have a nominated professional (Caldicott Guardian or equivalent) to be responsible for agreeing who has access to the shared information; amendments to the protocol and ensuring mechanisms are in place to monitor its operation and ensure compliance.

2.2 The initial agencies agreeing to participate in this protocol are listed in Appendix 4. It is intended that this list will be updated to include further agencies in due course and as / when appropriate.

NB: It would be inappropriate for PCT Caldicott Guardians to sign on behalf of individual practices within the PCT unless they are confident that the Caldicott Principles are being fully adhered to. It is recognised that not all practices can sign up[to the protocol immediately, but will use it as a template for improvement.

3.0 OBJECTIVES

3.1 The purpose of this document is to provide an overarching framework which will allow the safe and confidential sharing of service user, carers and staff information between agencies / organisations to enable the provision of the most effective and efficient care and support for the needs of service user(s) without compromising the confidentiality and integrity of personal information.

3.2 The protocol sets out the agreement for regular and routine sharing of information between partner agencies in accordance with, and taking account of, legal and other government agency requirements surrounding the security and confidentiality of person identifiable information.

3.3 Service users of the organisations party to this protocol must be informed of the reasons their information is collected, recorded, used and shared to comply with legal requirements surrounding individual's rights to privacy and confidentiality of their information.

3.4 Expressed consent will be sought where this is practicably possible. However, arrangements will be made to handle objections to information sharing including reasons for over-riding objections and the practical implications of observing an objection (see 5.0, Consent).

4.0 GENERAL PRINCIPLES

4.1 This protocol applies to the sharing of information held in paper and electronic records systems including joint access to common records and shared computer systems.

4.2 Purposes For Which Information Can Be Used

4.2.1 Personal information about service users and their family / relatives can only be used to support or audit the provision of healthcare for an individual and shared for specified justified reasons within that requirement. All other uses of this information can only occur if consent has been gained.

4.2.2 For most cases, this means that information can be collected from service users and their relatives if it is to be used for the conditions specified within the Data Protection Principles (1).

4.3 Service User Conditions

Schedule 2(6)1 of the Data Protection Act 1998 states:

‘The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject’.

Interpretation:

The processing is necessary for the normal purposes of the organisation. Health and social care organisations (and agencies) will require information about a persons health to allow them to provide care and treatment to that individual and their family members. Health and social care information about individuals cannot be used for any other purposes e.g. law enforcement.

4.4 For sensitive information

Scheduled 3(8)1 and (8) 2 of the Data Protection Act 1998 states:

‘The processing is necessary for medical purposes and is undertaken by a) a health professional or b) a person who in the circumstances owes a duty of confidentiality which is equivalent to that which would arise if that person were a health professional.

In this paragraph ‘medical purposes’ includes the purposes of preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of healthcare services’.

Interpretation:

In addition, information held and used for the provision of health and social care must be for a medical purpose and be recorded by a health professional or their support staff. All persons coming into contact with service user information must be bound by their organisation by a confidentiality agreement (normally their contract of employment).

4.5 Staff Information

Schedule 2(2)

The processing is necessary ‘for the performance of a contract to which the data subject is party, or, for the taking of steps at the request of the data subject with a view to entering into a contract’.

Interpretation:

Staff/employee information can be processed if there is a contract between the organisation and their employee to enable this to occur.

4.6 If the above conditions are met, the organisation processing the information can usually do so for those specific purposes without informed / expressed consent. It will not permit sharing with other organisations unless there is an overriding legal requirement to do so (see 5.0, Consent).

4.7 Defined Purposes

4.7.1 The partners to this protocol may share information for healthcare, medical and social care, as follows:

- *Healthcare* – this includes all activities that directly contribute to the diagnosis, care and treatment of an individual and the audit / assurance of the quality of the healthcare provided. It does not include research, teaching, financial audit or other management activity.
- *Medical* – this includes but it wider than healthcare purposes. It includes preventative medicine, medical research, financial audit and management of healthcare services. The Health and Social Care Act 2001 explicitly broadened the definition to include social care.
- *Social care* – is the support provided for vulnerable people of all ages, including those with learning disabilities. It excludes 'pure' health care and community care but may include such issues as respite care. There is therefore no demarcation line between health and social care. This category may also cover services provided by others, i.e. those commissioned by CSSRs (Councils with Social Care responsibilities).

5.0 CONSENT

5.1 What is Consent?

5.1.1 Taken from the 'Draft' Cambridge Informatics document 'Confidentiality Guidance – Consent to Disclose Personal Information'

Consent	Agreement, either express or implied, to an action based on knowledge of what the action involves, its likely consequences and the option of saying no (GMC)
Express Consent	Consent which is expressed verbally or in writing (except where service users (patients) cannot write or speak, when other forms or communication may be sufficient) (GMC)
Implied Consent	Consent which is inferred from a person's conduct in the light of facts and matters which they are aware of, including the option of saying no.

5.1.2 Consent will be required from all persons whose information is to be shared with other organisations (see 5.7). This will apply to service users, their family/relatives and in some cases employees.

5.1.3 The information will be used / processed for the purpose of providing care and treatment to the service user and / or their family / relatives. The organisations using the information will be those which have agreed and signed up to this agreement. Other users requiring access to, or those who wish to use the information, will be assessed on a need basis by the Health & Clinical Records Committee.

5.2 Consent to Use Anonymised Information

5.2.1 Some information will be used in an anonymised format and therefore consent may not be applicable.

5.3 Requirements of User(s) of the information

5.3.1 All staff using service user and other organisations employee information are bound by a duty of confidence through their contract of employment and, for health and social care professionals also in the terms of their professional body membership.

5.3.2 Any user of the information who is found to have breached a service user or employee's confidence by unauthorised use / disclosure of their information will face disciplinary action by their employer.

5.4 Current Working Practice

5.4.1 The documents detailed at the front of this document outline current working practice and where appropriate multi-agency working practice documentation.

5.5 Consent

5.5.1 Each participating organisation will have their own policy for information confidentiality and security (for the Trust, i.e. Records Management Policy). This policy will detail the way person identifiable information (service user and staff) is transferred within their own organisation and to other organisations and agencies where a need to exchange and share information is identified.

5.5.2 Consent of an individual will always be required to share information on an individual episode of care basis. There may be circumstances where consent cannot be sought or should not be sought and these will be detailed within the policies. An outline of the requirements is listed in this protocol and further information can be found within the policies of partner organisations.

5.6 Where will Consent be Required

5.6.1 Service users will be provided with sufficient information to ensure they are aware of all the uses and potential uses/disclosures of their personal information.

5.6.2 Information leaflets and posters will also be distributed throughout the organisations for service users and their representatives/carers to read.

5.6.3 In addition, each service user, or their legal representative, will be requested at the first point of contact at each episode of care, to read a leaflet outlining the uses of their information and they will be able to highlight who they do not want their information shared with.

5.6.4 Staff will be trained to ensure they give the service user all the information they require to make an informed decision. Service users will also be given the opportunity to opt out of ‘extra’ uses of their information but also to be made aware that they may not opt out of all uses as it may impact on their care and treatment.

5.7 How will Consent be Gained

5.7.1 Service users and/or their representatives will be given a leaflet outlining current and potential use/s of their information and they will have an opportunity to object to some of the uses of their information, and, where appropriate, highlighting where they do not want their information disclosed. They will be given the leaflet by an employee of the relevant organisation who will explain what the leaflet is, why it is needed and that a service user can gain more information (if required) if they are not sure they understand or need further information.

5.8 How will Consent be Recorded

5.8.1 Service users will be requested to ‘sign’ for consent as part of any initial assessment when entering Trust services. The information leaflets (5.7.1) will also contain a signatory section for service users to ‘sign off’ consent to share information. Whichever of these documents is used to record consent, will be retained in the service user’s patient record.

5.9 How Will Consent be Kept Up-to-Date

5.9.1 It is the organisations responsibility to keep personal information accurate and up-to-date. This applies to staff and service user information, in computer records, manual files and all other media. Consent for use/s of service user information should be kept up-to-date by requiring the issue of consent to be addressed for each new episode of care, or when circumstances change, or if the service user changes his/her view.

5.9.2 This will be achieved by asking for the assistance of the service user. Details will be in the ‘service user’ information leaflet.

5.10 What if Consent is not Available (Service User not Capable of Providing)

5.10.1 If it is not possible to gain consent from the service user, guidance must be made by the appropriate health and social care professional regarding the use/s of their information in line with appropriate professional codes of conduct.

5.11 What is Consent is Not Given

5.11.1 In very rare circumstances an individual or their representative may refuse to give consent for any use/s of their information. It should be explained to them the potential problems they may encounter with their, or their relatives, care and/or treatment if they do not allow their information to be shared.

5.12 Where Consent is Not Required

5.12.1 The legislation below requires the disclosure of personal identifiable information. This means that an individual's consent is not required as there is an overriding legal requirement to make the disclosure.

5.12.2 However, it must be noted that not all of the service user record would need to be disclosed, as only certain data items are covered by legislation:

- Public Health (Control of Diseases Act 1984 & Public Health (Infectious Diseases) Regulations 1985
- Education Act 1944 (for immunisations and vaccinations to NHS Trusts from schools)
- Births and Deaths Act 1984
- Police and Criminal Evidence Act 1984

5.12.3 Other disclosures which can occur without consent:

- Where consent already exists
- With Court Order
- For the prevention and detection of crime

5.13 Deceased Persons

5.13.1 Although the Data Protection Act 1998 does not apply to records of deceased persons, the Common Law of Confidentiality does apply. If a service user has requested that their information is not disclosed after their death this must be respected unless an exception occurs.

6.0 MANAGEMENT OF THE PROTOCOL

6.1 The responsibility for keeping the document up to date to take account of changes to legislation, guidance issued by the government and professional bodies and as the result of relevant case law will lie with the Health and Clinical Records Committee.

6.2 This document will be reviewed in line with Trust policy and national guidance, annually / every three years or sooner to take account of any national / local legislation / guidance.

6.3 Each organisation will need to ensure they have a current up to date version of this document. It will be the responsibility of each organisation's Caldicott Guardian/Group to monitor that this is occurring.

6.4 There will be a need to monitor compliance with the requirements of this document. This could occur in a variety of ways but an internal audit and/or external audit of the documents requirements and how they are being complied with will probably be undertaken by auditors of one or more of the organisations involved.

6.5 A register should be produced and maintained of who has been granted access to identifiable information. It should include details of the person, the purpose for which they need access and date(s) access is granted. This register should be held along with signed agreements by the Caldicott Guardian.

6.6 The document will need to be agreed to and signed by authorised person(s) within each organisation. This should be the Caldicott Guardian or equivalent.

6.7 If a breach of the protocol occurs each organisation must log the incident and investigate in line with local investigation procedures. All incidents must be reported to the Health and Clinical Records Committee. All incidents must be reviewed and monitored to ensure compliance in the future. Incidents will be categorised to highlight why they have occurred e.g. 'lack of training', misunderstanding of requirements, or problems with technology and action plans to address improvements will be developed.

6.8 Each organisation will also inform such regulatory bodies as need to know of any breaches (e.g. NHS Information Authority).

7.0 REFERENCE OTHER DOCUMENTATION

7.1 Each organisation/agency will need to ensure that they have mechanisms in place to enable them to address the issues of physical security, security awareness and training, service user access to information, security management, confidentiality management, systems development, site-specific information system procedures and system specific procedures.

7.2 Trust policies and procedures are contained within the 'SEPT Procedures Manuals' that are maintained by the Performance Management Department. The manuals are available to all staff via the Trust Intranet and all managers /teams have individual sets (hard copy versions).

7.3 To be a signatory to this protocol, each organisation will need to provide evidence that they have the following / equivalent and current documentation:

Required Documentation (Policies and Procedures) and Actions
Data Protection Registrations
Information Security Policy i.e.: BS7799
System Security Policy i.e.; BS7799
Information leaflets for Service Users Regarding the Use/s of their Information
‘Consent to use Information’ forms for Service Users to agree and sign
Training for staff in the subject of information security and confidentiality
Disposal of confidential waste (non-clinical) policy
Retention of Records Policy/Procedure (to comply with requirements of Public Records Act 1958)

7.4 Appendix 3 lists other reference documents which should be considered when implementing this protocol.

8.0 PROTOCOL REFERENCE INFORMATION

Protocol No:	Tbc
Implementation Date:	
Last Review Date:	
Amendment Date(s):	
Next Review Date:	
Date Approved by Executive Team	
Date Ratified by Trust Board:	

The Director responsible for monitoring and reviewing this protocol is:

The Director of Information

APPENDIX 1

DEFINITIONS

Anonymised information/data	Data from which the service users (patients) (employee) cannot be identified by the recipient of the information. The name, address and full postcode must be removed together with any other information (e.g.NHS number) which, in conjunction with other data held by or disclosed to the recipient, could identify the service users (patients) (employees) (GMC)
BS7799	British Standard for IT security
Carer	A recognised person (carer/relative) who provides substantial and regular care for the service user
Caldicott	Initially and NHS initiative to improve the security and confidentiality of patient identifiable information. This has now been adopted by Social Services as well
Consent	Agreement to an action based on knowledge of what the action involves and its likely consequences (GMC)
Consent (Express Consent)	Consent which is expressed orally or in writing (except where service users (patient/s) cannot write or speak, when other forms of communication may be sufficient) (GMC) If consent is gained orally a written record should be made.
Healthcare Purposes	These include all activities that directly contribute to the diagnosis, care and treatment of an individual and the audit/assurance of the quality of the healthcare provided. They do not include research, teaching, financial audit, and other management activities.
Health & Social Care Professional	A doctor, nurse and other care staff who are bound by a professional body, e.g. GMC, UKCC

Service Users	Competent patients and parents of, or those with parental responsibility for, children who lack maturity to make decisions for themselves. (Adult service users (patients) who lack the capacity to consent have the right to have their confidentiality respected (GMC)
Person Identifiable Information	Any information which can identify an individual by name and/or number e.g. date of birth and full postcode or if the recipient has access to look up the tables – the NHS number will make the information identifiable
Personal Information	Information about people which doctors learn in a professional capacity and from which individuals can be identified (GMC)
Service User	This will refer to an NHS patient, a Social Services end user/client
Staff/Employee	People who are given access by the organisation to the organisation's information system. This will include health professionals and administrative and clerical workers who support the role of the health professional providing care and treatment to the service user and their relatives/carers

APPENDIX 2

THE DATA PROTECTION PRINCIPLES

The first principle of the Act is the most important when considering information sharing. The principle states that 'fair processing' of information must occur.

Personal data is defined as 'data which relate to a living individual who can be identified:-

- from those data, or
- from those data and other information which is in the possession of, or like to come into the possession of, the data controller
- and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual'.

Processing is defined as 'obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data, including:-

- organisation, adaptation or alteration of the information or data
- retrieval, consultation or use of the information or data
- disclosure of the information or data by transmission, dissemination or otherwise making available, or
- alignment, combination, blocking, erasure or destruction of the information or data

All information must be processed by at least one condition set out in schedule 2 of the DPA. For service user information the condition which applies is schedule 2(6)1 'The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests or the data subject'. This has been agreed by the Information Commissioners and the Department of Health.

In addition, for sensitive information as defined within the data protection legislation at least one condition in schedule 3 of the DPA must also apply.

Sensitive personal data is defined as:

- the racial or ethnic origin of the data subject
- their political opinions
- their religious beliefs or other beliefs or a similar nature
- whether they are a member of a trade union
- their physical or mental health or condition
- their sexual life
- the commission or alleged commission by them of an offence, or
- any proceedings for any offence committed or alleged to have been committed by them, the disposal of such proceedings or the sentence of any court in such proceedings

For service user information scheduled 3(8)1 and (8)2 apply 'The processing is necessary for medical purposes and is undertaken by a) a health professional or b) a person who in the circumstances owes a duty of confidentiality which is equivalent to that which would arise if that person were a health professional. In this paragraph 'medical purposes' include the purposes of preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of healthcare services'.

The key components of 'fair processing' are as follows:

- how was the data obtained
- was the data subject provided with the following information:
    - the identify of the data controller
    - the purpose for which the data are to be processed
    - any further information, e.g. who will have access to the data and for what purpose/s
- was the data subject aware of all the purpose/s their information are to be processed, the likely consequences of such processing and whether particular disclosures can be reasonable envisaged

The second principle concerns the notification of information held on electronic equipment that can be processed (refer to definition) by automatic means. The organisation (data controller) who holds the information is legally bound to notify the Information Commissioner's Office (previously Data Protection Commissioner's Office) of the purpose/s for holding the information, details of the type of information held and to whom (organisation/agency) the information may be disclosed.

It should be noted that although it is no longer a legal requirement to notify the Information Commissioner of information sources an individual has a right to know from whom an organisation receives information about them.

The third principle states that information must be adequate, relevant and not excessive. This requires that information collected must be for a justified purpose and this may need to occur on a data item by data item case. Each organisation/agency must be able to justify why they need each data item they request access to (see section 5 purposes).

The fourth principle requires that the information must be kept accurate and up to date. (In some cases, data will be routed to move to more than one system ensuring consistency).

The fifth principle requires that the information must only be kept for as long as necessary.

The sixth principle gives rights to individual's whose information is held by an organisation in respect of their own person information. These are:

- right of subject access
- right to prevent processing likely to cause harm or distress
- right to prevent processing for the purposes of direct marketing
- right in relation to automated decision taking
- right to take action for compensation if the individual suffers damage
- right to take action to rectify, block, erase or destroy inaccurate data
- right to make a request to the Information Commissioner for an assessment to be made as to whether any provision of the Act has been contravened

The seventh principle governs security and confidentiality of information.

Compliance with BS7799 IT Industry Standards for Information Security apply

(see section 5 ‘access and security’

The eighth principle puts constraints and controls on any electronic person identifiable information which may be or planned to be disclosed to a country outside of the EEA (where the DPA requirements may not be enforced).

If personal information is required to be disclosed in electronic format to countries outside the EEA, advice MUST be sought from the Office of the Information Commissioner.

LEGISLATION TO RESTRICT/REQUIRE, DISCLOSURE WITHOUT CONSENT OF THE INDIVIDUAL

Legislation to Restrict Disclosure of Personal Identifiable Information

Human Fertilisation and Embryology (Disclosure of Information) Act 1992

Venereal Disease Act 1917 and Venereal Diseases Regulations of 1974 and 1992

Abortion Act 1967

The Adoption Act 1976

Legislation Requiring Disclosure of Personal Identifiable Information

Public Health (Control of Diseases) Act 1984 and Public Health (Infectious Diseases) Regulations 1985

Education Act 1944 (for immunisations and vaccinations to NHS Trusts from schools)

Births and Deaths Act 1984

Police and Criminal Evidence Act 1984

OTHER GUIDANCE – NHS, SOCIAL SERVICES,
PROFESSIONAL BODIES

HSC1999/012 CALDICOTT RECOMMENDATIONS

Further information about Caldicott issues:

NHS:	www.doh.gov.uk/confiden
Social Services:	www.doh.gov.uk/jointunit/info.htm

HEALTH AND SOCIAL SERVICES CIRCULARS

HSC2000/009	Data Protection Act 1998: Protection and Use of Patient Information
HSC1998/203	Health Records Requests for Access by Patients and their Representatives
HSG(96)18	The Protection and Use of Patient Information
LASSL(2000)2	Data Protection Act 1998: Guidance
LASSL(99)16	Data Protection Act 1998: Draft Guidance
LASSL(98)16	Data Protection Act 1998

LASSL(96)5	The Protection and Use of Patient Information
MISC(97)52	Faxing of Safe Haven Amendments Go Live
HSC1999/053	For The Record (Preservation, Retention & Destruction of Records Under the Public Records Act 1958) and Records Management Strategy
HSC1998/217	Preservation, Retention and Destruction of GP General Medical Services Records Relating to Patients
HSG(91)6	Access to Health Records Act – A Guide for the NHS
IMGE 5498	A Guide to Implementing an Awareness Programme (The Information Security Resource Pack)
HSG(96)15	The NHS IM&T Security Manual
HSG(96)18	The Protection and Use of Patient Information
HSC1998/168	Information for Health – An Information Strategy for the Modern NHS 1998 – 2005

USEFUL REFERENCE MATERIAL

Free Publications from: General Medical Council, 178 Great Portland Street, London W1N 6JE. Telephone: 0207 5807642

i.e.; Duties of a doctor; Confidentiality: Protecting and Providing Information; Seeking Patients' Consent: The Ethical Considerations; Good Medical Practice;

Serious Communicable Diseases; Advertising; HIV & AIDS The Ethical Considerations

Further information: www.gmc-uk.org

PUI PROJECT ON PRIVACY AND DATABASING

Further information: www.cabinet-office.gov.uk/innivation

BMA

Further information: www.bma.org.uk

Information Commissioner (previously Data Protection Commissioner)

Further information: www.dataprotection.gov.uk

APPENDIX 4

AGREEMENT TEMPLATE

Agreement to Share Information with South Essex Partnership NHS Foundation Trust

We, the undersigned, accept that the procedures laid down in this document will provide a secure framework for the sharing of information between partner organisations / agencies participating in this project, in a manner compliant with their statutory and professional responsibilities.

As such, we undertake to:

- implement and adhere to the procedures and structures set out in this protocol
- ensure that all policies / procedures established between organisations / agencies for the sharing of information are consistent with this protocol
- ensure that where these procedures are adopted, then no restriction will be placed on the sharing of information other than those specified in other policies / procedures (detailed at the beginning of document).

This document must be agreed to and signed by the following to validate the agreement:

Caldicott Guardian:

Name: …………………………………………………..

Signature: …………………………………. Date:…………….

For South Essex Partnership NHS Foundation Trust

Caldicott Guardian:

Name: …………………………………………………..

Signature: …………………………………. Date:…………….

For *A N OTHER* NHS Trust

APPENDIX 5

PARTNER AGENCIES PARTICIPATING IN INFORMATION SHARING PROTOCOL

NB: Original Agreements (signed) are kept independently by the Caldicott Guardian

Agency	Purpose	Title (Caldicott Guardian / Other)	Name
	Single Assessment Process (SAP)		
	Single Assessment Process (SAP)		
	Single Assessment Process (SAP)		
Thurrock Borough Council	All		
Essex County Council	All		
South West Essex PCT	All		
South East Essex PCT	All		