



## Section 31 Partnership Agreement

7 February 2006

Report to the City Council

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# Partnership Agreement under Section 31 of the Health Act (1999) between Birmingham City Council and the Birmingham and Solihull Mental Health NHS Trust



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## Section 31 Partnership Agreement

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## Section 31 Partnership Agreement

# Preface

**By Councillor Len Clark**

Chairman, Social Care Overview and Scrutiny Committee



Where the City Council is involved in partnership working with external bodies, it is vital that these partnerships are reviewed and assessed to ensure we are receiving the best outcomes in terms of value for money and service delivery. It was in this spirit that my review group and I set out to assess the efficacy of the current partnership agreement as set out under Section 31 of the Health Act (1999) between the City Council and the Birmingham and Solihull Mental Health NHS Trust.

With the current partnership agreement approaching the end of its tenure, this review provided an opportunity to re-think and recommend how better to distribute and align our resources toward more effective management and achieve positive outcomes for service users. Early in this review it became apparent that there remained key issues outstanding from when the current partnership agreement was first put in place, such as the pooling of budgets and staff secondments. In addition, there was the need for a representative and robust governance structure to be established.

It was also an opportune time, as my committee was also engaged in an in-depth review of Day Services for adults across the city that had commenced in May 2005; to accelerate the Mental Health strand of the Day Services Review so that it ran parallel to this review and would report its findings at the same time. This enabled us to observe the workings of the current partnership agreement and consider implications for the future of day services in Birmingham at the same time. Consequently, the recommendations in this review dovetail with those of the Mental Health Day Services Scrutiny Review and will reinforce each other. The outcome of this review is a continuation of the partnerships agreement, with a new and revised Section 31 Agreement.

I am thankful to the review group for their endurance during the long meetings and their probing consideration of complex matters. We also benefited from the support of various officers from the Social Care and Health Directorate, Scrutiny Office, Committee Services and the Birmingham and Solihull Mental Health NHS Trust, in particular Catherine Underwood and Peter Davidson who were present at all of our meetings.

A handwritten signature in black ink, appearing to read 'Len Clark'.



## Section 31 Partnership Agreement

# 1 Summary

- 1.1.1 The Social Care Overview and Scrutiny Committee received a copy of the joint Annual Report of the Section 31 Partnership between Birmingham City Council and Birmingham and Solihull Mental Health NHS Trust, which was presented to the Birmingham and Solihull Mental Health NHS Trust (BSMHT) Board in April 2005. This report raised questions about the current Section 31 Health Act Partnership arrangements. As a result, the Committee undertook this review to assess the effectiveness of the partnership between the City Council and the Trust.
- 1.1.2 This Review covers the Partnership Agreement between Birmingham City Council and Birmingham and Solihull Mental Health Trust that governs the delivery of mental health services for adults of working age i.e. 18- 64 years. Services focus on providing support for people who have severe and enduring mental health problems.
- 1.1.3 The areas of the Partnership Agreement that the Committee focussed upon were:
- Organisational arrangements for staff seconded to the BSMHT
  - Financial arrangements and monitoring
  - Governance arrangements
- 1.1.4 The outcomes expected from the review were to:
- Review the existing partnership agreement and the proposed amendment to the Partnership Agreement.
  - Confirm the proposed Governance model and composition of the membership of the Governance Board.
  - Propose an employee solution i.e. review the secondment model and future financial implications.
- 1.1.5 The Committee received evidence from both the Social Care and Health Directorate and the Birmingham and Solihull Mental Health Trust. Officers provided information in the form of reports and verbal presentations about various elements of the partnership arrangement.
- 1.1.6 The Scrutiny Committee also received a copy of the Audit Report commissioned by Birmingham City Council, which examined the Section 31 Partnership Agreement. (See Appendix 5)



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- 1.1.7 The Committee wishes to acknowledge the support and assistance from the Birmingham and Solihull Mental Health Trust without whom this joint review could not have been successfully completed.
- 1.1.8 The general findings of the Scrutiny Committee are:
- The Partnership Agreement should be revised to reflect future arrangements including pooled budgets and TUPE (Transfer of Undertakings – Protection of Employment) transfer of employees.
  - Budgets need to be pooled within a transparent financial and performance management framework.
  - Services provided by the BSMHT need to be determined through the Social Care and Health commissioning framework.
  - All staff with the exception of Approved Social Workers (ASWs) need to be directly employed and managed by the BSMHT.
  - Effective governance arrangements need to be in place to strengthen member, user and carer engagement.
- 1.1.9 The Committee makes recommendations in the following areas:
- Staffing arrangements
  - Financial and performance management frameworks
  - Governance arrangements
  - Amendments to the Partnership Agreement
- 1.1.10 A glossary of terms is attached as Appendix 6.



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# 2 Summary of Recommendations

	Recommendation	Responsibility	Completion Date
<b>Staffing Arrangements</b>			
R1	TUPE transfer should be completed by April 2007 for employees under the Partnership Agreement (with the exception of staff detailed in Recommendation 2).	Cabinet Member for Social Care and Health  Cabinet Member for Human Resources and Equalities	April 2007
R2	Appropriate interim arrangements for the transfer of social workers approved under the Mental Health Act should be introduced.	Cabinet Member for Social Care and Health	April 2006
<b>Financial Arrangements</b>			
R3	Clear and transparent financial frameworks and schemes of delegation should be in place to support the Partnership.	Cabinet Member for Social Care and Health	August 2006
R4	The Social Care and Health Directorate should reach agreement with BSMHT to implement pooled budgets as far as it supports the phased integration of services.	Cabinet Member for Social Care and Health	April 2007
<b>Governance Arrangements</b>			
R5	Governance of the Partnership should be strengthened by the development of a Non-Executive Governance Forum as outlined in the paper attached as Appendix 4.  (see the addition of Recommendation 6)	Cabinet Member for Social Care and Health	April 2006
R6	A service user representative member and a non-staff carer representative member must be appointed to the Non-Executive Governance Forum.	Cabinet Member for Social Care and Health	April 2006
<b>Partnership Agreement</b>			
R7	The Partnership Agreement should be revised to reflect future arrangements including pooled budgets and TUPE transfer of employees.	Cabinet Member for Social Care and Health	September 2006
R8	The new Partnership Agreement (as in recommendation 7) should be aligned with the financial year and should become a three-year rolling agreement.	Cabinet Member for Social Care and Health	September 2006



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R9	A Mental Health Commissioning Strategy should be implemented, setting the provision of the Partnership Agreement in the context of the wider commissioning framework. The strategy must address the issues identified in this report.	Cabinet Member for Social Care and Health	September 2006
R10	Progress towards achievement of these recommendations should be reported to the Social Care Overview and Scrutiny Committee in July 2006.  The Committee will schedule subsequent progress reports thereafter, until all recommendations are implemented.	Cabinet Member for Social Care and Health	July 2006

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# 3 Terms of Reference

## 3.1 Reasons for the Review

- 3.1.1 The review was conducted in order to assess the effectiveness of the current Section 31 Health Act Agreement between the City Council and the Birmingham and Solihull Mental Health Trust. Concerns had been raised about some elements of the Partnership Agreement such as the secondment arrangements for staff.

## 3.2 The Committee and its Terms of Reference

- 3.2.1 The full terms of reference agreed by the Co-ordinating Overview and Scrutiny Committee in May 2005 are attached as Appendix 1.

- 3.2.2 The review group consisted of Councillors currently serving on the Social Care Overview and Scrutiny Committee. The Members who were appointed to the review group were:

- Councillor Len Clark (Chairman)
- Councillor Abdul Aziz
- Councillor Lynda Clinton
- Councillor Bill Evans
- Councillor Chauhdry Rashid

However, during the review all members of the Social Care Overview and Scrutiny Committee were invited to join the review group. As a result, Councillor Barbara Dring joined the review team.

- 3.2.3 The work plan for the review is attached as Appendix 2.





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### 3.3 Methodology

- 3.3.1 The Review Team received written evidence in the form of an information folder at the commencement of the review. The folder included:
- Background information about the Partnership Arrangements
  - Information about human resources and structural arrangements
  - Financial information
- 3.3.2 The review group held four sessions. The first provided background and contextual information. The second focussed on the current staffing structure and the secondment of Social Care and Health staff to the Trust. The third session concentrated on the current financial arrangements and discussions around future arrangements including pooled budgets. The current governance arrangements and the development of the partnership were the subject of the final session.
- 3.3.3 Evidence was provided by officers from both Social Care and Health and the Birmingham and Solihull Mental Health NHS Trust. Both parties made information available to Members and entered into open and frank discussions about the limitations of current arrangements and the views of both organisations on the development of the Partnership Arrangements. The Scrutiny Committee also received a copy of the Audit Report commissioned by Birmingham City Council, which examined the Section 31 Partnership Agreement. (See Appendix 5)



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# 4 Background

## 4.1 Background

- 4.1.1 The Scrutiny Review covers the Section 31 Partnership Agreement in place for the provision of mental health services for adults of working age i.e. 18-64 years. Services focus on providing for people who have severe and enduring mental health problems.
- 4.1.2 The National Service Framework (NSF) for mental health was introduced in 1999. A key theme was the provision of 'seamless' services across health and social care. The NSF required various forms of 'functional' community teams to be established - assertive outreach, home treatment, early intervention - which were based on integrated multi-disciplinary working. In Birmingham, joint working had been well established and has formed the basis of elements of national policy i.e. the Mental Health NSF. However, it was felt that joint working needed to be strengthened under a formal Partnership Agreement. Formal partnerships have been enabled and encouraged by national government through legislation and through performance regimes.
- 4.1.3 On the 1<sup>st</sup> April 2000, new powers to enable Health and Local Authority partners to work together more effectively came into force; these were outlined in Section 31 of the 1999 Health Act.
- 4.1.4 The key powers under the legislation were:
- Pooled funds – the ability for partners each to contribute agreed funds to a single pot, to be spent on agreed projects for designated services.
  - Lead Commissioning – the partners can agree to delegate commissioning of a service to one lead organisation.
  - Integrated provision – the partners can join together their staff, resources, and management structures to integrate the provision of a service from managerial level to the front line.
- 4.1.5 In October 2003, a partnership agreement was established between Birmingham City Council and the Birmingham and Solihull Mental Health NHS Trust (BSMHT) under section 31 of the Health Act 1999. The partnership was to focus on integrated service provision, and at the point of signing the Agreement it was envisaged that this would be supported by pooled budgets.



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- 4.1.6 The Partnership was initially established for a period of three years and is subject to revision and/or renewal by the 30<sup>th</sup> September 2006.



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# 5 Current Partnership Arrangement

## 5.1 Introduction

5.1.1 Evidence was received from Officers of the City Council and the Birmingham and Solihull Mental Health NHS Trust regarding the current structural and management arrangements of the Partnership. The evidence presented reflected the three priority areas of the Scrutiny Review, namely finance, staffing and governance.

## 5.2 Financial arrangements:

5.2.1 The Section 31 Partnership Agreement put the full Social Care and Health mental health budget under the Partnership Arrangements. The budget is predominantly spent on employees and residential placements. A proportion of the budget consists of grant funding which is paid to voluntary organisations.

5.2.2 The Social Care and Health budget for mental health services in 2005/06 is as follows:

### Mental Health Budgets - 2005/06

<u>Expenditure Budgets</u>	£	
Employees	7,649,346	Includes £794,000 Management payment
Placements	10,112,585	
Home Support	219,530	
Day Care	59,527	
Direct Payments	5,711	
Other 3rd Party Payments	421,337	
Voluntary Organisations Pymts	910,756	
Rents	187,693	
Other Premises Costs	176,567	
Transport	316,684	



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Supplies and Services	366,682	
Capital Financing	<u>160,430</u>	These budgets are "actual" budgets and cannot be vired
	20,586,848	

<u>Income Budgets</u>	£
Grants	(4,894,105)
Client Charges	(1,132,054)
Legal & Statutory Charges	(737,200)
Other Income	(18,418)
Recharge Income	<u>(2,266,460)</u>
	(9,048,237)
Net Mental Health Budget	11,538,611

### Issues

- 5.2.3 One of the key objectives in the Partnership Agreement was to move to a pooled budget arrangement in line with the National Service Framework for Mental Health and Section 31 Health Act flexibilities. The scrutiny review received evidence that whilst the services are under the management of BSMHT, the budgets have not been pooled and remain under the management of the City Council. The scrutiny review received evidence from both Social Care and Health and BSMHT that it had been established that under the current Partnership Arrangements pooled budgets would not deliver benefits to the partnership. For example, with employees seconded to the Trust, pooling would simply create the requirement for a further recharge arrangement. In addition, a significant amount of work would be required on the financial frameworks necessary to align and effectively manage the budgets under pooled arrangements.
- 5.2.4 The nature of some elements of the funding which has been included in the Partnership has also inhibited pooled budgets. For example, the level of Carers Grant, Mental Health Grant and Supporting People monies are externally determined.
- 5.2.5 The Partnership Agreement was not established under a fully developed formal commissioning framework. Therefore the Agreement lacks clarity in relation to those services to be commissioned from the Trust where cost, service level, quality and performance can be agreed and measured.



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- 5.2.6 The Social Care and Health Directorate remains ultimately responsible for performance against the budget, yet the Trust is responsible for delivery of services which are provided under that budget and the associated management decisions. This arrangement has been managed by the strength of joint working between the senior management teams and current budget constraints have been managed through this effective joint working. However, it remains an arrangement which does not satisfactorily determine the responsibilities of the respective partners – Social Care and Health as a commissioner and the Trust as a provider. More formalised delegated financial responsibility which can assess and manage any financial risk needs to form part of the revised Partnership Agreement defining clearly the partners' respective financial responsibilities and authority.
- 5.2.7 The review identified a number of organisational resources that are shared within the Council and BSMHT which currently do not form part of the Mental Health budget or Partnership Agreement and for which there is no agreed level of entitlement e.g. training, helpdesk and desktop support for I.T. These entitlements need to be determined as part of a revised Partnership Agreement.

### 5.3 Staffing Arrangements

- 5.3.1 Birmingham City Council employees are currently seconded to the Birmingham and Solihull Mental Health Trust, which takes responsibility for the management of an integrated mental health service. The posts seconded include social workers (some Approved Social Workers (ASWs) approved under the Mental Health Act), day service and residential staff, administrative and support staff and management.
- 5.3.2 The Partnership agreement created a new integrated management structure under which team managers would be responsible for all staff who are part of a multi-disciplinary team which includes nurses and social workers.
- 5.3.3 Social Care and Health managers were appointed to posts within this new management structure alongside Trust managers.
- 5.3.4 The structure of services and staffing at the time of the Partnership Agreement was as follows:



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### Social Work Teams

	TM	ATM	SW	SWA	Other	Admin	Sub Total
<b>S/K</b>	1.0	1.0	11.0	1.0	1.0	2.2	<b>17.2</b>
<b>HH/Y</b>	1.0	2.0	17.1	4.0	1.0	3.5	<b>28.6</b>
<b>L/PB</b>	1.0	2.0	26.8	5.0	-	5.8	<b>40.6</b>
<b>SH/SPK</b>	1.0	3.0	21.8	3.0	2.0	4.0	<b>34.8</b>
<b>E/N</b>	1.0	1.0	14.6	3.2	-	2.9	<b>22.7</b>
<b>HG/SO</b>	1.0	1.0	17.6	6.0	-	1.9	<b>27.5</b>
<b>RSD *</b>	1.0	1.0	14.0	-	1.0	-	<b>17.0</b>
<b>HLS</b>	-	1.0	6.0	-	2.0	1.0	<b>10.0</b>
<b>TOTALS</b>	<b>7.0</b>	<b>12.0</b>	<b>128.9</b>	<b>22.2</b>	<b>7.0</b>	<b>21.3</b>	<b>198.4</b>

\* Includes out-posted within Prison In-Reach Service & Ardenleigh

### Key to Constituencies:

S/K:	Sutton & Kingstanding
E/N:	Edgbaston & Northfield
HH/Y:	Hodge Hill & Yardley
HG/SO:	Hall Green & Selly Oak
L/PB:	Ladywood & Perry Barr
RSD:	Reaside
SH/SPK:	Small Heath & Sparkbrook
HLS:	Homeless Team

### Provider Services

	Managers	Social Care	Other	Admin	Sub Totals
<b>Team Manager</b>	1.0	-	-	-	<b>1.0</b>
<b>Albert Road</b>	2.0	3.0	-	1.0	<b>6.0</b>
<b>AXIS</b>	-	4.0	-	-	<b>4.0</b>
<b>Community Projects</b>	-	5.5	-	-	<b>5.5</b>
<b>Hawkesley</b>	3.0	14.0	2.0	3.0	<b>22.0</b>
<b>Main Street</b>	2.0	5.0	-	1.0	<b>8.0</b>
<b>Phoenix</b>	1.0	5.0	-	1.0	<b>7.0</b>
<b>The Rowans</b>	2.5	10.0	1.0	2.0	<b>15.5</b>
<b>Community Rehab</b>	1.0	7.5	-	-	<b>8.5</b>
<b>Accommodation Team</b>	1.0	2.0	-	-	<b>3.0</b>
<b>Sahelia House</b>	1.0	2.0	-	-	<b>3.0</b>
<b>Yewcroft</b>	-	1.0	-	-	<b>1.0</b>
<b>TOTALS:</b>	<b>14.5</b>	<b>59.0</b>	<b>3.0</b>	<b>8.0</b>	<b>84.5</b>



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### Management and Commissioning Staff

Operations Manager	Commissioning Manager	Information Officer	Training Officers	Admin/ Secretarial	Totals
1.0	1.0	1.0	2.0	2.0	7.0

5.3.5 In addition, the BSMHT established a Head of Social Care post to support the Partnership Arrangement.

5.3.6 Whilst the provider element of the service has remained largely the same, the social work teams have undergone significant restructuring into functional, rather than paired constituency teams.

### Issues

5.2.7. The scrutiny review established that when the Partnership commenced in October 2003, approximately 270 Social Care and Health Staff were seconded into BSMHT. To date 10 Social Care and Health managers have been appointed to integrated management posts within the structure. They remain employed by Birmingham City Council.

5.2.8. The existing secondment arrangements have enabled the creation of a more fully integrated operational service which was the key purpose of entering into the Partnership. They have allowed the establishment of the integrated management structure which supports this. However, the secondment arrangements create operational complexity which is an obstacle in further developing the Partnership.

5.2.9. Managers currently have to work to both BCC and BSMHT human resource procedures and policies and the matter of budget delegation cannot easily be resolved under these arrangements.

5.2.10. There are further differences in how employee posts are resourced. Staffing budgets in Social Care and Health are not funded 100%. A proportion of the Social Care and Health £1 million efficiency target for reducing sickness levels has been added to the Turnover Allowance. The BSMHT operates a system of fully funded employee budgets. This causes disparity and complexity for operational managers.

5.2.11. Social Care and Health staff funded through the Mental Health Grant give rise to an additional funding pressure as the grant has remained static for the past 2 years.

5.2.12. The secondment of staff has inhibited the harmonisation of pay and conditions of service across the integrated service.





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- 5.2.13. Significant progress has been made under the Partnership to identify the differences in existing terms and conditions of service and a review of policies and procedures has started to facilitate harmonisation with Birmingham City Council policies and procedures. Further work is required to facilitate transferring Social Care and Health staff to the Trust under TUPE (Transfer of Undertaking for Protected Employment) arrangements.
- 5.2.14. The secondment arrangement also risks Council employees failing to be fully recognised in either organisation. For example, Council-wide initiatives are not always appropriately rolled out across the Mental Health Service and there have also been instances where Council employees have been “overlooked” in the cascading of information.

### 5.4 Current Governance Arrangements

- 5.4.1 The governance framework is outlined in the existing Partnership Agreement (See Appendix 3) and contains the following reporting arrangements:

5.4.2 Reporting to the Council and to the Trust Board

The Integration Development Board prepares an annual report on the Partnership, which is presented to the Cabinet Member for Social Care and Health and to the Trust Board. Interim reports are submitted every 6 months. In addition, there is the facility for exception reporting, for example in relation to significant events. The Strategic and Performance Manager attends the Trust Board when reporting takes place on the Partnership.

5.4.3 Integration Development Board

This is the senior officer group, which has lead responsibility for overseeing the operation of the Partnership. It is alternately chaired by Birmingham City Council (BCC) and BSMHT. The Board has established a set of working groups to address key partnership issues, which report into the Board: finance, human resources, communication and support services. The Mental Health Performance Board and the Approved Social Work Steering Group also make reports to the Board. The Board presents an annual report to the Council and to the Trust Board alongside interim reporting.

5.4.4 Mental Health Performance Board

The Mental Health Performance Board reflects a standard process for all service areas in Social Care and Health. The Area Director for Heart of Birmingham who has operational responsibility for mental health chairs this Board. The Performance Board agenda covers current performance, significant variations, risks, action plans and matters to report to the Directorate Management Team (DMT). The Performance Board reports to DMT and the minutes are taken to the Integration Development Board.



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### 5.4.5 Finance Group

The finance group considers the strategic development of finance arrangements in the Partnership. The Finance Group identifies the pattern of spend of the budget, advises the Board on the financial performance and requirements of delivering to targets. It advises the Board on budget requirements and on action required in respect of control of the social care budget. The Finance Group reports to the Integration Development Board.

### 5.4.6 Human Resource Group

The Human Resources Group considers the strategic development of human resources and staffing issues in the Partnership. It addresses Human Resources policy and practice in the partnership, considering the working arrangements of staff in respect of integration and advising the Board on staff issues including skills and availability of staff.

### **Issues**

- 5.4.7 The governance arrangements have been established to provide a structure to ensure the robust management of the Partnership. This has delivered significant progress, but has also relied on the strong commitment of both parties to collaborative joint working. However, based on the experience of the partners, areas for improvement are now clearly identified.
- 5.4.8 Trust and Council auditors have recently undertaken a joint audit of the partnership. Whilst recognising that significant progress has been made, the audit does highlight requirements to strengthen the governance of the partnership (see Appendix 5).
- 5.4.9 The BCC and BSMHT recent joint review of the governance arrangements highlighted two areas that need to be strengthened. Firstly, it is recognised that no shared member forum exists. This means that there is no forum of non-executive members from across the partner organisations which focuses solely on the progress of the Partnership. This is a significant gap in terms of oversight and support.
- 5.4.10 Secondly, users and carers engagement also needs to be strengthened. Good practice would suggest that users and carers should be involved in organisations at all levels of functioning. The oversight of the Partnership is a significant task in the delivery of mental health services in Birmingham and it is important that users and carers are fully engaged.



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# 6 Conclusions and Recommendations

### 6.1 Finance

- 6.1.1 A clear financial framework needs to be put in place to ensure that Birmingham City Council and Birmingham and Solihull Mental Health NHS Trust can assess and manage any financial risk associated with the development of the current and future Partnership Agreement.
- 6.1.2 More formalised delegated financial responsibility needs to form part of the revised Partnership Agreement.
- 6.1.3 There should be a formal commissioning framework, which clearly identifies those services which are to be commissioned from the trust where cost, service level quality and performance can be agreed and measured.
- 6.1.4 There needs to be a greater understanding of resources that are shared by the Council and BSMHT which currently do not form part of the Mental Health budget or Partnership Agreement and for which there is no agreed level of entitlement i.e. training, helpdesk and desktop support for I.T.
- 6.1.5 The Partnership Agreement should also include clear commitments from Birmingham City Council around the use and level of funding from citywide grants e.g. the Carers Grant. The lack of a guaranteed level of funding has inhibited pooled budgets and the development of more integrated services.
- 6.1.6 Pooled budgets provide a framework under which many of these issues can be addressed.

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R3	Clear and transparent financial frameworks and schemes of delegation should be in place to support the Partnership.	Cabinet Member for Social Care and Health	August 2006
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R4	The Social Care and Health Directorate should reach agreement with BSMHT to implement pooled budgets as far as it supports the phased integration of services.	Cabinet Member for Social Care and Health	April 2007
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### 6.2 Staffing

- 6.2.1 The secondment arrangements have enabled the integration of operational services, yet they remain a constraint on efficient organisational functioning. The revised Partnership Agreement should include detailed plans to transfer under TUPE all those existing staff who are currently seconded to the BSMHT. The exception being those Approved Social Workers (ASWs) who must remain in the employment of the Local Authority as required by current legislation.
- 6.2.2 The Scrutiny Review identified a shortfall in the Social Care and Health Mental Health staff budgets. The shortfall in employee's turnover costs and the reduction in the Mental Health Support Grant and Supporting People monies will need to be resolved before TUPE arrangements can be put in place for all remaining qualifying staff.

R1	TUPE transfer should be completed by April 2007 for employees under the Partnership Agreement (with the exception of staff detailed in Recommendation 2).	Cabinet Member for Social Care and Health  Cabinet Member for Human Resources and Equalities	April 2007
R2	Appropriate interim arrangements for the transfer of social workers approved under the Mental Health Act should be introduced.	Cabinet Member for Social Care and Health	April 2006

### 6.3 Governance Framework

- 6.3.1 BSMHT and Council auditors have recently undertaken a joint audit of the Partnership. Whilst recognising that significant progress has been made, the audit does highlight requirements to strengthen the governance of the partnership. An action plan has been set based on priorities agreed with the auditors – see appendix 5.
- 6.3.2 The BCC and BSMHT recent joint review of the governance arrangements highlighted two areas that need to be strengthened. Firstly, it is recognised that no shared member forum exists. Secondly, users and carers engagement also needs to be strengthened.
- 6.3.3 A non-executive governance forum should be established on which members of the Council and Board sit jointly to consider the progress of the Partnership. Service user and carer representatives should be members of the forum. Group members would feed back to the full Council and Board respectively. A protocol for the establishment and operations of such a Governance Committee will be reported separately.



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R5	Governance of the partnership should be strengthened by the development of a Non-Executive Governance Forum as outlined in the paper attached as Appendix 4.  (see the addition of Recommendation 6)	Cabinet Member for Social Care and Health	April 2006
R6	A service user representative member and a non-staff carer representative member must be appointed to the Non-Executive Governance Forum.	Cabinet Member for Social Care and Health	April 2006

### 6.4 Overall Conclusion

6.4.1 In conclusion the existing Partnership Agreement has facilitated the development of parallel and complementary services. However, if the objective to achieve a fully integrated mental health service is to be met the existing Partnership Agreement should be revised.

R7	The Partnership Agreement should be revised to reflect future arrangements including pooled budgets and TUPE transfer of employees.	Cabinet Member for Social Care and Health	September 2006
R8	The new Partnership Agreement (as in recommendation 7) should be aligned with the financial year and should become a three-year rolling agreement.	Cabinet Member for Social Care and Health	September 2006
R9	A Mental Health Commissioning Strategy should be implemented, setting the provision of the Partnership Agreement in the context of the wider commissioning framework. The strategy must address the issues identified in this report.	Cabinet Member for Social Care and Health	September 2006



Section 31 Partnership Agreement

# Appendix 1 Review Terms of Reference

## Partnership Agreement under Section 31 of the Health Act 1999 between Birmingham City Council and the Birmingham and Solihull Mental Health NHS Trust

### 1. Review Outline

Subject of review	Partnership Agreement Under Section 31 of the Health Act 1999 between Birmingham City Council and the Birmingham and Solihull Mental Health NHS Trust
Overview and Scrutiny Committee	Social Care

### Reasons for Conducting the Review

Reasons for conducting this review	<p>The Social Care Overview and Scrutiny Committee received a copy of the Annual Report from the Birmingham and Solihull Mental Health NHS Trust which raised questions about the current partnership arrangements.</p> <p>As a result, this review assesses the effectiveness of the Partnership Agreement with Birmingham and Solihull Mental Health NHS Trust.</p>
Objectives of review / Areas for investigation	<ul style="list-style-type: none"> <li>• Governance Framework</li> <li>• Review organisational arrangements of staff seconded to the Trust</li> <li>• Review the monitoring arrangements for the budget</li> </ul>
Outcomes expected from conducting this work	<p>Review the existing partnership agreement and the proposed amendment to the Partnership Agreement. Confirm the new partnership agreement</p> <ul style="list-style-type: none"> <li>• Confirm the Governance model and composition of the membership of the Governance Board</li> <li>• Confirm the employee solution i.e. review the secondment model and future financial implication</li> <li>• Consider the recent Audit Report on the Partnership Agreement</li> </ul>

### 2. Project Plan and Resourcing

<b>Member Involvement</b>	
Lead Member	Cllr Len Clark
Other Members involved	Cllr Abdul Aziz, Cllr Lynda Clinton, Cllr Bill Evans, Cllr Chaudhry Rashid,  *Please note that the Membership of the group altered during the period of the Review
Are all parties on the Overview and Scrutiny Committee involved?	



# Section 31 Partnership Agreement

Key Cabinet Member/Decision Maker	Cabinet Member for Social Care and Health
Other Cabinet portfolios covered	None

### Officer and External Involvement

Link Officer	Lesley Heale
Lead Review Officer	Lesley Heale / Natalie Borman

### Council Departments Expected to Contribute

Contact / Department	Contribution Expected
Social Care and Health	Alison Waller – Area Director Heart of Birmingham Catherine Underwood – Mental Health Services Rukhsana Ahmed / Sarah Dunlavy –Resources, Heart of Birmingham
Birmingham Audit	Dave Prentice

### External Organisations Expected to Contribute

Contact / Organisation	Contribution Expected
Birmingham and Solihull Mental Health Trust	Peter Davidson – Head of Social Care, Birmingham and Solihull Mental Health NHS Trust Nette Carder – Executive Director of Operations, Birmingham and Solihull Mental Health NHS Trust

### Publicity and Awareness of the Review

Publicity activities to be undertaken	<ul style="list-style-type: none"> <li>Review to be publicised on the City Council's website.</li> </ul>
---------------------------------------	--

### Time Frame for Core Phases of Review

Phase	Time Required	Completion Date
Meetings and evidence gathering sessions	6 meetings 1- Considering the Terms of Reference of the Review. Provision of background information to members. 2- Governance Arrangements. 3- Social Care and Health Staff seconded to the Trust. 4- Financial arrangements and monitoring. 5 Consideration of evidence and considering areas for recommendations. 6- Informal meeting to consider the draft report.	To commence in June 2005
Drafting the report		
Consideration of draft report by Committee		
8-Day Rule: Executive Comment		
Reporting to Committee		



# Section 31 Partnership Agreement

Reporting to the City Council

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**Specific Costs Identified**

Anticipated call on Scrutiny Budget

None anticipated
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**Signed Approval**

**Signed:**

(By Chair on behalf of Overview and Scrutiny Committee)

Councillor Len Clark

**Date Agreed:**

(By Overview and Scrutiny Committee)

18 May 2005

**Approved:**

(Chairman, Co-ordinating Overview and Scrutiny Committee)

**Date Approved:**

(By Co-ordinating Overview and Scrutiny Committee)





## **Section 31 Partnership Agreement**



# Section 31 Partnership Agreement

## Appendix 2 Work Plan

Proposed Scrutiny Review for Social Care Overview and Scrutiny Committee  
Partnership Agreement under Section 31 of the Health Act 1999 for the Birmingham and Solihull Mental Health Trust –  
Work Plan

The proposed method of conducting this Review is to arrange a series of themed meetings, each considering a major issue relating to the partnership agreement. The sessions would include a mixture of presentations, information exchange and discussions.

Theme	Proposed Agenda	Method	Background information	Lead Officers	Date
<b>Meeting 1 - Background and Introduction</b> Purpose: To go through the terms of reference and the proposed work programme in detail, provide an overview of the Partnership Arrangements and provide members with an initial information pack.	1. The objectives of the review.	Presentation	None	Lesley Heale	14 October 2005 from 10am - Noon
	2. The proposed work programme.	Presentation / discussion	None	Lesley Heale	
	3. Current Partnership Arrangements	Presentation	Documents in information pack	Catherine Underwood / Peter Davidson	
	4. Information packs	Information Packs	Various documents (e.g. reports about the Section 31 agreement, structure diagrams, financial information, recent audit report)  NB - The information pack will contain information which will be referred to in each meeting - members will need to bring the pack to every meeting.	Lesley Heale / Catherine Underwood	



# Section 31 Partnership Agreement

## Proposed Scrutiny Review for Social Care Overview and Scrutiny Committee Partnership Agreement under Section 31 of the Health Act 1999 for the Birmingham and Solihull Mental Health Trust – Work Plan

Theme	Proposed Agenda	Method	Background information	Lead Officers	Date
<b>Meeting 2</b> <b>Session 1</b> <b>Social Care and Health Staff – Secondment Arrangements</b> Purpose: To provide details about the current staffing structure, including the secondment of Social Care staff.	<ol style="list-style-type: none"> <li>1. Details of the current secondment arrangements</li> <li>2. Financial implications of the current arrangements.</li> <li>3. Future staffing / funding requirements</li> <li>4. Alternative solutions to the current staffing arrangements</li> </ol>	Presentation / Discussion	Structure chart  Costings for the current arrangements  Human Resources Information	Catherine Underwood Sarah Dunlavy (Finance - Social Care) Paul Chew (Finance - The Trust) Peter Davidson / Nette Carder  Melanie Wood (HR - Social Care) Karen Martin (HR - The Trust)	3 <sup>rd</sup> November 2005 from 10.00-12.30 Venue - Committee Room 2, Council House
<b>Session 2</b> <b>Financial Arrangements and Monitoring</b> Purpose: To provide details about the current financial arrangements and discuss future arrangements such as pooled budgets.	<ol style="list-style-type: none"> <li>1. Current Financial Arrangements</li> <li>2. Financial monitoring arrangements</li> </ol>	Presentation / Discussion	Financial Information	Catherine Underwood/ Margaret Bradley Peter Davidson/ Nette Carder	Lunch  13.00 -15.30



# Section 31 Partnership Agreement

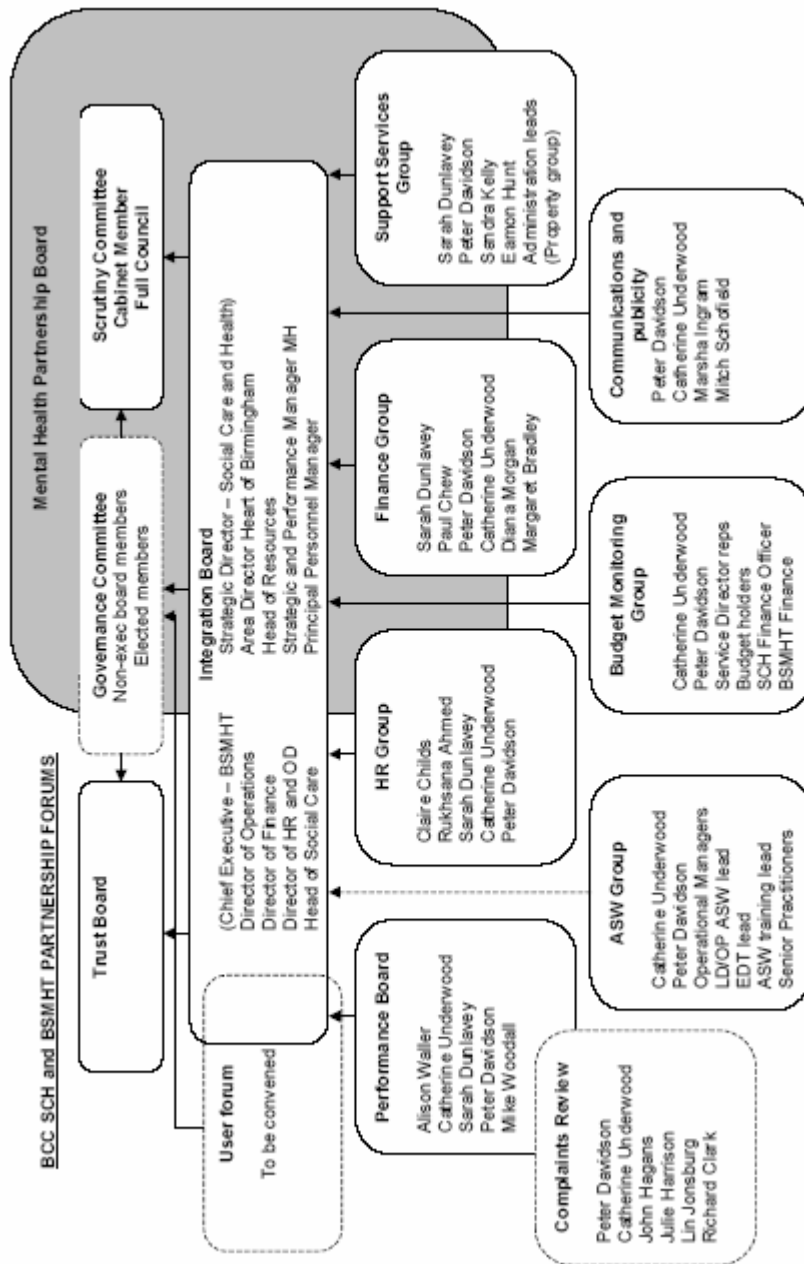
**Proposed Scrutiny Review for Social Care Overview and Scrutiny Committee**  
**Partnership Agreement under Section 31 of the Health Act 1999 for the Birmingham and Solihull Mental Health Trust –**  
**Work Plan**

Theme	Proposed Agenda	Method	Background information	Lead Officers	Date
<b>Meeting 3 – Governance Arrangements</b> Purpose: To provide details on the current governance arrangements and discuss any difficulties/issues with the current arrangements	<ol style="list-style-type: none"> <li>The current governance arrangements – to include the governance model, membership of the Governance Board</li> <li>The recent audit of the Partnership Agreement.</li> </ol>	Presentation / Discussion	<p>Introduction for members about governance</p> <p>Background reports about the governance arrangements</p> <p>Structure chart</p> <p>Audit report</p>	<p>Catherine Underwood</p> <p>Nette Carder</p> <p>Dave Prentice/Margaret Bradley (Finance Social Care)</p>	<p><b>10<sup>th</sup> November 2005</b> from 10.00 – 12.30</p> <p>Venue- VIP Room, Council House</p>
<b>Meeting 4- Conclusions / recommendations / key issues for Scrutiny</b>	<ol style="list-style-type: none"> <li>Development of Scrutiny Review recommendations</li> </ol>	Discussion	List of possible areas for the recommendations	<p>Alison Waller</p> <p>Catherine Underwood</p> <p>Peter Davidson/ Nette Carder</p>	<p><b>18<sup>th</sup> November 2005</b> from 3-5pm</p> <p>Venue: Committee Rm 2 Council House</p>
<b>Meeting 6 – Informal meeting to consider the draft report</b>				<p>Members of the Review Group</p> <p>Lesley Heale</p> <p>Catherine Underwood</p> <p>Peter Davidson</p>	<p><b>5<sup>th</sup> December 2005</b> From 10.00 Room 3/4 Council House</p>
<b>Report to City Council</b>					<b>7 February 2006</b>



Section 31 Partnership Agreement

# Appendix 3 Current Governance Arrangements





# Appendix 4 Governance Report

BIRMINGHAM CITY COUNCIL

-And-

BIRMINGHAM AND SOLIHULL MENTAL HEALTH NHS TRUST

**ESTABLISHMENT OF AN INTEGRATED MENTAL HEALTH  
SERVICE GOVERNANCE COMMITTEE TO OVERSEE AND  
SUPPORT THE IMPLEMENTATION OF THE INTEGRATED  
MENTAL HEALTH SERVICES PARTNERSHIP AGREEMENT  
BETWEEN THE TWO BODIES**



## Section 31 Partnership Agreement

### A PROTOCOL FOR THE ESTABLISHMENT OF A GOVERNANCE COMMITTEE

This protocol is agreed between

Birmingham City Council, Birmingham and Birmingham and Solihull Mental Health NHS Trust

#### **1. BACKGROUND AND FRAMEWORK**

- 1.1.** Part I of the Health Act 1999 makes provision regarding arrangements and payments between Health Service Bodies and Local Authorities with respect to health and health-related functions;
- 1.2.** The Council and the Mental Health Trust are committed to developing an integrated health and social care service in Mental Health for working age adults based on Section 31 of the Health Act 1999 which will deliver better outcomes and best value for patients, users, carers and the public;
- 1.3.** Operational service integration has been initiated by the Agreement between the Mental Health Trust and the City Council through an Agreement dated 1<sup>st</sup> October 2003.
- 1.4.** The Council and the Birmingham and Solihull Mental Health Trust have considered options to achieve integrated services and have separately agreed at formally constituted bodies of their respective Authorities to establish an Integrated Service Governance Committee to build on the Partnership Agreement and to ensure formal engagement of Non-Executive Members of the Trust and elected Members of the Council.

#### **2. OBJECTS AND OUTCOMES**

- 2.1.** The objects of the Protocol shall be to:
  - (a) To ensure the development of effective integrated health and social care services for people of working age with mental health problems in Birmingham.
  - (b) To receive performance information on matters requested by the Board and to comment on performance against targets, providing



## Section 31 Partnership Agreement

such comments to the Mental Health Trust and to the Commissioners of the service.

- (c) To consider service change and development proposals and to give joint advice to the constituent bodies on matters affecting integrated service delivery in Birmingham.
- (d) Ensure that integrated services for service users and carers are delivered in accordance with agreed standards and quality.
- (e) To advise, analyse and provide information and influence strategic direction, in order to create understanding of the challenges of modernisation. Promoting best practice in integrated mental health services to the area served.
- (f) To ensure the involvement of service users and their carers in the planning and monitoring of integrated mental health services.
- (g) To produce an annual report on the work of the Committee for the City Council Cabinet and the Trust Board.

### **2.2.** The outcomes sought are:

- (a) An annual review of services to guide the commissioning of integrated mental health services for Birmingham;
- (b) Enhanced understanding and ownership of arrangements for pooling resources, monitoring spending and delivery of improved outcomes for integrated services;
- (c) A forum for open discussion of work to secure the best integrated services which offer the best quality and best value for users, carers, and patients;
- (d) Firm foundations on which to deliver integrated health and social care services for local people within the parameters of the Partnership Agreement.

### **3. DURATION**

#### **3.1.** It is intended that these Protocols and the Governance Committee will apply from ..... 2005 and will continue after that date unless determined as follows:

- (a) The Governance Committee will continue as long as the Partnership Agreement is in place.
- (b) The parties may determine this agreement on not less than three months written notice to the other in the event that there is any change in law or guidance which materially affects the arrangements set out in this protocol;





## Section 31 Partnership Agreement

- (c) The parties agree to review this Protocol after one year of operation.

#### **4. CONSULTATION IN RESPECT OF THE QUALITY AND DEVELOPMENT OF MENTAL HEALTH SERVICES FOR BIRMINGHAM**

- 4.1.** The Parties will ensure engagement and involvement of the following, both groups and individuals, including:

- (a) Users, carers and voluntary and support groups representing the interests of the users and carers;
- (b) Staff and their professional bodies and organisations;
- (c) Providers, including NHS Trusts, voluntary and independent providers;
- (d) Other relevant agencies;
- (e) The general public.

#### **5. GOVERNANCE COMMITTEE**

The Parties shall establish a Governance Committee as set out in the attached Protocol and will ensure appropriate links to other partnership bodies.

- 5.1.** The Head of Social Care of the Trust will support the Governance Committee and communicate to the appropriate bodies any views expressed by the Committee.

#### **FINANCES**

##### **6. FINANCIAL REVIEW**

- 6.1.** The Parties shall comment on:

- (a) The allocation and deployment of the Council's expenditure on adult mental health services;
- (b) Exploration of possibilities for additional funding;
- (c) Views on the audit of expenditure;
- (d) Planned programmes of review designed to secure efficiency gains and savings.



## Section 31 Partnership Agreement

### **7. GOVERNANCE**

- 7.1.** The Governance Committee will provide an account to the Trust Board and the Council Cabinet of:
- (a) Performance in respect of the aims and outcomes of this Agreement;
  - (b) Operational objectives and priorities;
  - (c) Proper and efficient use of public money;
  - (d) The quality of the services provided.

### **8. QUALITY ASSURANCE**

- 8.1.** The Governance Committee will monitor integrated services to standards of service quality;
- 8.2.** The service standards identify four main components:
- (a) Clear lines of responsibility and accountability for overall quality of care;
  - (b) A comprehensive programme of quality improvement activities;
  - (c) Clear policies aimed at managing risk;
  - (d) Procedure for all professional groups to identify and remedy poor performance.

### **9. BEST VALUE**

- 9.1.** The Council is subject to the duty of Best Value under the Local Government Act 1999, the integrated service will therefore be subjected to:
- (a) Challenge;
  - (b) Consultation;
  - (c) Comparison; and,
  - (d) Competition.



## Section 31 Partnership Agreement

**9.2.** The integrated services that fall within the remit of this Protocol will be subject to the requirements that the duty of best value places upon the Council.

### **10. INFORMATION SHARING**

**10.1.** The Governance Committee follows and complies with all Legislation, Regulations and Guidance on Information Sharing produced by the Government.

### **11. COMPLAINTS**

**11.1.** The Governance Committee will receive information about all complaints received by either of the constituted bodies in respect of mental health services and the resolution of the complaint in respect of the services covered by the Partnership Agreement.

### **12. ELIGIBILITY CRITERIA AND ASSESSMENTS AND PRIORITIES**

**12.1.** The Governance Committee will review any eligibility criteria and assessment in respect of those services that fall within the remit of this Protocol and will recommend to the Board and Cabinet any changes considered necessary to provide an effective mental health services for Birmingham.

### **REVIEW, DISPUTES AND TERMINATION**

#### **13. PERIODIC REVIEW**

**13.1.** The Parties shall review the operation of this agreement at appropriate intervals and not less than annually to ensure that the matters mentioned above are being achieved.

#### **14. STATUTORY COMPLIANCE**

**14.1.** The Parties may review the operation of this agreement on the coming into force of any relevant statutory or other legislation or guidance affecting the working arrangements.

#### **15. VARIATION**

**15.1.** The parties may agree in writing any changes to this Agreement provided such changes are consistent with the aims and objects of the Governance Committee and are lawful including changes to the composition of the Governance Committee.

#### **16. DISPUTES**



# Section 31 Partnership Agreement

**16.1.** If a dispute arises between the Parties as to the operation or intended operation of this Agreement then senior representatives of the Parties shall meet in a good faith to attempt to resolve such a dispute. If the Parties are unable to resolve the dispute following such a meeting the matter shall be reported to the Cabinet of the Council and the Boards of the Primary Care Trusts and the Board of the Mental Health Trust which shall make a recommendation as to the action to be taken.

Protocol is duly executed the day and year stated above

*SIGNED FOR AND ON BEHALF OF THE BIRMINGHAM CITY COUNCIL*

Name (Printed): \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

*SIGNED FOR AND ON BEHALF OF THE BIRMINGHAM AND SOLIHULL MENTAL HEALTH TRUST*

Name (Printed): \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



## Section 31 Partnership Agreement

### PROTOCOL FOR THE OPERATION OF THE HEALTH AND SOCIAL CARE GOVERNANCE COMMITTEE

The Governance Committee shall be responsible for carry out all functions as described in Section 2 of the Agreement.

#### 1. Establishment of the Governance Committee

The Parties shall establish a Governance Committee as set out below:

#### 2. Work Programme

- 2.1. The Parties shall agree those areas of work which will be the work programme of the Committee.

#### 3. TERMS OF REFERENCE

- 3.1. Within the overall policy direction and resources of the Trust and the Council and the agreed areas for consultation:

- (a) To discuss and recommend direct policies strategies objectives and investments for mental health services where integration will lead to best value and effective delivery of services.
- (b) To recommend integration of services to meet the agreed strategies and objectives including oversight of delivery.
- (c) To provide an annual report to the Executive Member of the Council and the Mental health Trust Board on the activities of the Committee.

#### 4. COMPOSITION

- 4.1. The Governance Committee will comprise the following members:

##### **The Council:**

2 Members of the Council one of who shall be the Cabinet Member for Social Care and Health  
Corporate Director of Social Care and Health (Section 6 officer) or representative.

##### **Mental Health Trust:**

2 non-executive Directors  
Chief Executive or representative

##### **Supporting Group:**

Service Director  
Finance Director  
City finance staff



## Section 31 Partnership Agreement

Head of Social Care BSMHT  
Lead Officer Mental Health (City Council)

**4.2.** Members of the Committee may send to meetings a suitable substitute

### **5. CONDUCT OF BUSINESS**

**5.1.** The Chair and Vice-Chair will be appointed by the members on an annual rotational basis.

**5.2.** The Committee shall meet not less than quarterly.

**5.3.** The parties will agree the rules applicable to the procedure and conduct of meetings and members including notice of meetings, quorum, decision-making and conflicts of interest arrangements.

The structure and conduct of meetings will:

- (a) Enable clarity regarding its terms of reference and associated functions and tasks.
- (b) Maintain focus upon its functions and tasks.
- (c) Enable discussion with a view to carrying out its functions and tasks on a consensual basis wherever possible.
- (d) Demonstrate transparency in its transactions.
- (e) Act with trust and probity.



## **Section 31 Partnership Agreement**



## Appendix 5 Audit Report

### FINAL REPORT

**Directorate of Social Care & Health  
(Birmingham City Council) and Birmingham  
and Solihull Mental Health Trust**

**Mental Health Integration Partnership**

**Report No. SCHRS01830501 (BCC)  
BSM05-101 (BSMHT)**

Distribution within BSMHT:

Nette Carder, Director of Operations  
Peter Davidson, Head of Social Care  
Paul Chew, Finance Director  
Clare Bryce-Stephen, Deputy Director of Finance

Sue Turner, Chief Executive  
Mark Cooke, Deputy Chief Executive  
Andrew Nicholls, Chair Audit Committee  
Paul Evans, External Auditors

**Auditors: Dave Prentice (BA)  
Diane Cartwright  
(WMIAC)**

**Date: 4 March 2005**





## Section 31 Partnership Agreement

### 1 Introduction

- 1.1 The Health Act 1999 came into force on 1st April 2000 and Section 31 introduces new powers to enable health and local authorities to work together for the benefit of service users by using "pooled budgets" and the delegation of functions. These powers are underpinned by the NHS Bodies and Local Authorities Partnership Regulations SI 2000 No. 617. Under this legislation Partnership Arrangements allow each partner to make a contribution to the budget and retain statutory responsibility for their own services.

The Birmingham and Solihull Mental Health Trust and Birmingham City Council have been working together for some time to fully integrate health and social care staff under a unified management system, within the provisions of Section 31. A section 31 agreement can be based on any one of the following 3 elements

- Pooled budgets
- Integrated services
- Commissioning

It was originally proposed that the integration would be supported by fully pooled budgets made up of budgets held by the Trust and several funding sources (e.g. Mental Health Grant, Neighbourhood Renewal Fund and Supporting People) held by the Local Authority. The total budget to be transferred by the City Council is approximately £17 million, the largest two elements of the budget relating to Placements and Staffing.

The first stage of the integration took place on 13 October 2003 with the secondment of 270 staff from the City Council, pending the pooling of budgets from 1 April 2004. The delay in pooling budgets was to allow further discussions on the practical issues of operating pooled budgets, to facilitate the full integration of services. To date budgets have not been pooled and there has been limited exchange of detailed budgetary information. The agreement was for a 'Host Partner' to be designated and to establish an account that was to be the 'Pooled Fund'. A 'Pool Manager' responsible for the pooled budget was also to be designated. The Council was to provide financial and legal services to the trust in accordance with Service Level Agreements. Little progress has been made.

We undertook a review near the end of the last financial year based on the proposed partnership agreement. This highlighted that considerable changes had recently been made to key aspects of the partnership. There were some fundamental areas that were either not covered by the Partnership Agreement or were areas of concern. An Action Plan was agreed to address the issues raised. Progress against the action plan has been followed up as part of this audit.

This review was undertaken as a joint review between the respective internal audit sections of the Mental Health Trust and the City Council and



## Section 31 Partnership Agreement

based on the Partnership Agreement, which was signed on 13 October 2003.

### 2 Objective of the Audit & Methodology

- 2.1 To undertake a review of activities relating to the primary business and operational functions of the Mental Health Integration Partnership. To identify main areas of risk which could prevent achievement of the partnership's objective to perform these functions effectively and efficiently and to identify and test the controls in operation to manage those risks. This included following up the recommendations made in our previous report SOCRS01830406R001 (BCC), BSM04-101 (BSMHT).
- 2.2 There are a number of risks associated with the Mental Health Integration Partnership. However there is currently no risk register that identifies either the operational or financial risks associated with the partnership. In the absence of this we have reviewed a number of key control objectives (these are detailed below). We established the expected controls in place around the key control objectives reviewed, established the systems in place and drafted a work programme that we used to overview the existing procedures to identify the actual controls in place. We evaluated them to establish their completeness and effectiveness. We identified any potential areas for development and where necessary we have made recommendations to improve control.

#### Key control objectives reviewed

- A formal framework exists covering the operation of the partnership
- Robust governance arrangements are in place including a defined structure and strategy
- Commissioning responsibilities and obligations are clearly defined and arrangements are in place to ensure that these are adequately discharged
- Appropriate risk management arrangements are in place to ensure that risks are being identified, evaluated and effectively managed
- Robust financial management arrangements are in place
- Adequate arrangements are in place for the management and continuous professional development of the staff working within the partnership
- Adequate arrangements exist to monitor service delivery outcomes against objectives, including compliance with regulatory requirements.
- To follow up on the recommendations made in our previous report (BCC - SOCRS01830406R001, BSM04-101)

#### 2.3 Timetable

- Discussion Draft report issued: 10<sup>th</sup> January 2005
- Draft Report presented to MH Integration Development Board 20<sup>th</sup> January 2005
- Amended Draft Report issued: 28<sup>th</sup> January 2005



## Section 31 Partnership Agreement

- Client Comments Received/Agreed: 25<sup>th</sup> February 2005
- Final Report issued:

### 3 Key Findings for Management

- 3.1 Our key findings are based on interviews held with and information/evidence provided by senior management from within both the Mental Health Trust and Birmingham City Council Social Care & Health Directorate. From our review it is clear that there is a strong commitment and willingness from both parties to ensure the integration is successful. However the progress of the integration has not developed as much as expected since our previous review. A number of factors have contributed to this but primarily the simultaneous merging of the North and South Birmingham Mental Health Trusts along with the integration plus a reorganisation within the BCC Social Care and Health Directorate resulted in priorities being compromised to some extent. As a result, resources were fully stretched and this, combined with changes in and a lack of very senior staff, were major factors in limiting the pace of progress. Given these factors the level of progress that has been achieved is commendable.
- 3.2 Our work has highlighted a number of positive areas in the implementation of the Mental Health Integration Partnership. These include:
- Integrated service embedded operationally
  - The appointment by Birmingham & Solihull Mental Health Trust of a Head of Social Care (Peter Davidson) to drive the partnership forward
  - Willingness and desire to make the partnership work and shared goodwill
  - Appointment of Team Managers
  - Single IT information system
  - Agreement of management fee arrangement in the absence of pooled budgets
- 3.3 There are however a number of significant areas where further development is required to ensure that an effective system of internal control is operating. The key issues relate to:
- Utilising the Partnership Agreement as a working document
  - The Governance framework and arrangements
  - Defining and discharging commissioning responsibilities
  - Identifying, evaluating and effectively managing risk
  - Financial management arrangements
  - The management and professional development of staff working within the Mental Health Integration partnership
  - Monitoring service delivery outcomes against objectives

A detailed action plan containing our recommendations to address the development of the control environment is included with this report.



## Section 31 Partnership Agreement

- 3.4 Although some progress has been made on the recommendations made in our previous report this has been limited due to a loss of impetus and senior staffing continuity that occurred after the signing of the agreement. Where appropriate outstanding previous recommendations have been restated in the Action Plan for this report.
- 3.5 Based on the work we have done we are only able to give limited assurance that the control environment surrounding the procedures reviewed can be relied upon to ensure that the integration partnership is being effectively managed (see Appendix A). The implementation of the recommendations made in this report will strengthen the control environment and enhance the level of assurance in the systems operated within the partnership.

### Contact details:

#### BCC

Keith Jones, Group Auditor, 303 - 2583

Dave Prentice, Principal Auditor, 303 – 4043

#### WMIAC

Tim Sadler, Chief Internal Auditor, 01902 444404

Diane Cartwright, Auditor, 07816 460609



# Section 31 Partnership Agreement

## ACTION PLAN

### KEY TO PRIORITY RATING:

Actions have been given a priority rating of high, medium or low to assist in their implementation. These ratings are based on an overall assessment of the potential risks to your organisation.

01. Control Objective: A formal framework exists covering the operation of the partnership				
No	Recommended Action	Priority Rating	Client Comments	Officer Responsible and Implementation Date
01	The partnership agreement does meet the control objective however it should be used as a working document, which should evolve and develop as the integration progresses.	High	A formal report is to be submitted to the Trust Board updating on progress during the year and detailing developments to the partnership agreement.	Officer Responsible: Nette Carder, Director of Operations (NHS)  Agreed implementation date: 30 April 2005
02	It is important that Social Care and Health elected members as well as employees are involved in the governance of the partnership and are represented at Trust Board meetings.	High	Catherine Underwood (Birmingham City Council) will be invited to the Trust Board to establish better links between the City council and the Trust	Officer Responsible: Peter Davidson, Head of Social Care (NHS)  Agreed implementation date: 31 March 2005



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02. Control Objective: Robust governance arrangements are in place including a defined structure and strategy				
No	Recommended Action	Priority Rating	Client Comments	Officer Responsible and Implementation Date
01	The management structure has only recently been defined. This must be clearly embedded in the culture of the partnership and appropriately cascaded.	High	The structure has now been defined and will be included in the formal report being compiled for the Trust Board. The structure will be appropriately cascaded	Officer Responsible: Nette Carder, Peter Davidson  Agreed implementation date: 30 April 2005
02	Delegated powers must be explicitly defined. Operational power lies with the Health Service Clinical Governance Committee. The proposal of the Partnership Development Board (DB) (formally the Integration Project Board) to establish its own governance committee should be reviewed to ensure there is no unnecessary duplication.	High	The establishment of the Development Board Governance Committee will support a joint governance approach and establish better links between the City Council and the Trust	Officer Responsible: Catherine Underwood, Strategic Performance Manager, Peter Davidson  Agreed implementation date: 31 March 2005
03	The Development Board should monitor the partnership but Birmingham City Council staff must monitor the performance of the agreement and report regularly at a senior level.	High	A Monitoring and Communications Committee exists and Catherine Underwood will regularly report on the performance of the partnership agreement	Officer Responsible: Catherine Underwood  Agreed implementation date: 30 April 2005
04	Decision making at a very senior level is defined but the cascading of powers throughout the management structure must be	High	Agreed. The new Team Managers are in post and delegation of powers will be undertaken	Officer Responsible: Peter Davidson, Catherine Underwood



## Section 31 Partnership Agreement

	completed.				Agreed implementation date: 1 April 2005
05	The Development Board is scheduled to meet quarterly. The frequency of meetings may need to increase to facilitate timely management decision making and monitoring of the sub-group activities.	Medium		Agreed to meet six-weekly for the next twelve months and then review	Officer Responsible: Nette Carder, Alison Waller, Area Director Heart of Birmingham  Agreed implementation date: 1 April 2005
06	A protocol is in place for dealing with complaints. The Partnership Agreement defines the process to be adopted for disputes. There is however no evidence of a policy or procedure in place for incident reporting. Robust governance / risk arrangements must be implemented to ensure that all these issues are being appropriately managed.	High		A formal exchange of letters agreeing to the use of the Trust's Serious Incident Reporting system is to be actioned. Peter Davidson and Catherine Underwood are to agree a form of words. This will be appended to the Partnership Agreement.  Catherine Underwood to formally report to the City Council on issues relating to serious incidents and lessons learnt.	Officer Responsible: Nette Carder, Alison Waller, Peter Davidson, Catherine Underwood  Agreed implementation date: 30 April 2005
07	Standing Orders and Financial Regulations / Instructions need to be defined documented and cascaded to all managers and appropriate staff	High		Only appropriate where a pooled budget is operated. A Scheme of Delegation agreement is to be documented to formally support and clarify the use of each organisation's individual SO's/SFI's	Officer Responsible: Paul Chew, Director of Finance (NHS), Sarah Dunlavy, Head of Resources Heart of Birmingham.  Agreed implementation date: 1 April 2005





# Section 31 Partnership Agreement

03. Control Objective: Commissioning responsibilities and obligations are clearly defined and arrangements are in place to ensure that these are adequately discharged				
No	Recommended Action	Priority Rating	Client Comments	Officer Responsible and Implementation Date
01	There are no Partnership specific Service Level Agreements (SLAs) in place. Operational SLAs must be developed through the sub-groups which define responsibilities, expectations and obligations. For each SLA a manager must be appointed to oversee performance. Reporting lines must be clearly defined and outcomes must be effectively monitored to ensure compliance with SLAs. SLAs must be subject to regular review.	Medium	SLAs are internal only (eg Information Technology SLA). Clear Partnership working agreements / protocols will be established	Officer Responsible: Peter Davidson, Catherine Underwood  Agreed implementation date: Ongoing





## Section 31 Partnership Agreement

04. Control Objective: Appropriate risk management arrangements are in place to ensure that risks are being identified, evaluated and effectively managed				
No	Recommended Action	Priority Rating	Client Comments	Officer Responsible and Implementation Date
01	A risk assessment has been produced by the Partnership Development Board detailing areas of priority and nominated lead officers but this is an overview and not sufficiently detailed. A defined strategy must be developed to ensure that all risks are evaluated and effectively managed. Risk Registers should be developed and reporting mechanisms established to ensure all risks have been effectively managed.	High	Agreed. A Risk Register is being developed and risks entered. Identified risks and proposed mitigating actions and controls will be documented, discussed and monitored by the Development Board	Officer Responsible: Peter Davidson  Agreed implementation date: 1 April 2005



## Section 31 Partnership Agreement

05. Control Objective: Robust financial management arrangements are in place				
No	Recommended Action	Priority Rating	Client Comments	Officer Responsible and Implementation Date
01	The Agreement specifies that the responsibility for the maintenance of financial records rests with Birmingham City Council (BCC). To date financial data is not being cascaded to budget holders or reported to the Development Board. Adequate arrangements for monitoring budgets and addressing under/overspending must be in place. Financial activity must be reported to the Development Board and ultimately the Trust Board and BCC Cabinet.	High	Agreed. Current financial data is unsatisfactory and the Development Board will assure themselves that they understand the budgetary position. This will enable them to provide accurate and relevant information to senior line / operational management	Officer Responsible: Sarah Dunlavy, Paul Chew  Agreed implementation date: 1 April 2005
02	Interim financial arrangements are currently in place but they are based on co-operation rather than integration. Joint accounting procedures should be developed and appropriately cascaded.	Medium	Agreed. The existing arrangements will be clarified and subject to formal agreement	Officer Responsible: Sarah Dunlavy, Paul Chew  Agreed implementation date: 1 April 2005



## Section 31 Partnership Agreement

06. Control Objective: Adequate arrangements are in place for the management and continuous professional development of the staff working within the partnership				
No	Recommended Action	Priority Rating	Client Comments	Officer Responsible and Implementation Date
01	Processes should be put in place to support the identification of seconded personnel in terms of where they are working and to whom they report.	High	Agreed. The Human Resources Group will determine the current position and develop a system to support the integration process	Officer Responsible: Peter Davidson, Catherine Underwood, HR Group  Agreed implementation date: 1 April 2005
02	A training needs analysis should be produced for all staff groups. This should include integration / specific mandatory training / organisational development	Medium	Agreed	Officer Responsible: Peter Davidson, Catherine Underwood  Agreed implementation date: 1 April 2005
03	All staff should undertake a Personal Development Review (PDR).	Medium	Agreed	Officer Responsible: Peter Davidson, Catherine Underwood  Agreed implementation date: 1 April 2005
04	The Training Programme should be developed in order to provide effective training to all staff groups.	Medium	Agreed	Officer Responsible: Peter Davidson, Catherine Underwood  Agreed implementation date: 1 April 2005



## Section 31 Partnership Agreement

07. Control Objective: Adequate arrangements exist to monitor service delivery outcomes against objectives, including compliance with regulatory requirements.					
No	Recommended Action	Priority Rating	Client Comments	Officer Responsible and Implementation Date	
01	Aims and values are defined in the agreement however we would recommend that the objectives of the partnership are clearly defined.	High	Agreed	Officer Responsible: Peter Davidson, Catherine Underwood Agreed implementation date: 1 April 2005	
02	Key Performance Indicators (KPI's) relevant to the partnership are defined within the agreement but each organisation is currently using its own. Appropriate KPI's relating to the specific needs of the partnership must be developed. Arrangements must be put in place to monitor and report to the Development Board on the achievement of performance indicators/targets for service delivery.	High	Agreed	Officer Responsible: Peter Davidson, Catherine Underwood Agreed implementation date: 1 April 2005	
03	For dealing with poor performance a review mechanism should be established to define appropriate managerial action and subsequent review processes.	Medium	Agreed	Officer Responsible: Peter Davidson, Catherine Underwood Agreed implementation date: 1 April 2005	
04	A mechanism should be established for management review and reporting on compliance with the Section 31 Agreement.	Medium	Agreed	Officer Responsible: Peter Davidson, Catherine Underwood Agreed implementation date: 1 April 2005	



## Section 31 Partnership Agreement

08. Outstanding recommendations from previous audit report

No	Recommended Action	Priority Rating	Client Comments	Officer Responsible and Implementation Date
01	Monitoring arrangements should be defined within the Partnership Agreement relating to the achievement of the NHS Standards for Better Health	Medium	Once objectives are defined these will be linked to Standards for Better Health and monitoring will take place	Officer Responsible: Peter Davidson, Catherine Underwood Agreed implementation date: 1 April 2005
02	The partnership should agree and implement a protocol for recording declarations of conflicts of interest for all staff working within the project.	Medium	This will be reviewed and a decision made on whether this should apply to all staff. The decision will be formally documented and a process defined	Officer Responsible: Rukshana Ahmend, Head of Human Resources, Heart of Birmingham, Sarah Dunlavy Agreed implementation date: 30 April 2005
03	The arrangements covering the internal audit of the financial and non-financial aspects of the partnership must be established and recorded in the Partnership Agreement.	Medium	Agreed. Will be included as part of the Partnership Agreement review	Officer Responsible: Nette Carder Agreed implementation date: 30 April 2005
04	Counter fraud arrangements should be specified within the Partnership Agreement, and must include: <ul style="list-style-type: none"> <li>The pro-active arrangements,</li> </ul>	High	Agreed. As above	Officer Responsible: Paul Chew, Sarah Dunlavy Agreed implementation date: 30 April 2005



# Section 31 Partnership Agreement

05	<p>including the evaluation of preventative controls and fraud awareness training.</p> <ul style="list-style-type: none"> <li>The nominated, accredited officer(s) for carrying out fraud investigations.</li> </ul> <p>VAT accounting and recovery arrangements need to comply with C&amp;E/DofH guidance on the VAT position of this category of partnership arrangement.</p>	High	Only applicable where a pooled budget is in place but the implications will be considered	<p>Officer Responsible: Paul Chew, Sarah Dunlavey</p> <p>Agreed implementation date: 30 April 2005</p>
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# Section 31 Partnership Agreement

## CONTROL OBJECTIVE OPINION STATEMENT

CONTROL OBJECTIVE	CONCLUSION	CONTROL OBJECTIVE IS MET/NOT MET
01. A formal framework exists covering the operation of the partnership	Development required	Partially met
02. Robust governance arrangements are in place including a defined structure and strategy	Development required	Partially met
03. Commissioning responsibilities and obligations are clearly defined and arrangements are in place to ensure that these are adequately discharged	Development required	Not met
04. Appropriate risk management arrangements are in place to ensure that risks are being identified, evaluated and effectively managed	Significant development required	Not met
05. Robust financial management arrangements are in place	Development required	Partially met
06. Adequate arrangements are in place for the management and continuous professional development of the staff working within the partnership	Development required	Partially met
07. Adequate arrangements exist to monitor service delivery outcomes against objectives, including compliance with regulatory requirements.	Significant development required	Partially met

**OVERALL AUDIT OPINION: Limited assurance**



## Section 31 Partnership Agreement

# Appendix 6 Glossary of Terms

<b>ASW</b>	<b>Approved Social Worker</b> A social worker with specific extra training in mental health who is approved by the Local Authority to undertake specific duties under the Mental Health Act 1983 including application to compulsorily detain (or "section") people.
<b>CMHT</b>	<b>Community Mental Health Team</b> A locally based team that provides support to people with mental distress living in the community and their carers.
<b>CSIP</b>	<b>Care Services Improvement Partnership</b> The overarching body of which NIMHE (see below) is a part. An arms length body of the Department of Health.
<b>CSCI</b>	<b>Commission for Social Care Inspection</b> Launched in April 2004, CSCI is the single, independent inspectorate for all social care services in England.
<b>MHG</b>	<b>Mental Health Grant</b>
<b>NIMHE</b>	<b>National Institute for Mental Health in England</b> responsible for supporting the implementation of the National Service Framework and developing good practice in mental health services. Part of the CSIP (see above), there are eight regional development centers through which the majority of its work is delivered.
<b>NSF for Mental Health</b>	<b>National Service Framework for Mental Health</b> Launched in 1999, a ten year strategy for Mental Health services in England, which introduced a number of new structures to the NHS.
<b>Supporting People</b>	<b>Supporting People</b> Launched on 1 April 2003 by the Office of the Deputy Prime Minister (ODPM). A programme which provides housing related support to prevent hospitalisation, institutional care or homelessness. It is a working partnership of local government, probation, health, voluntary organisations, housing associations, support agencies and service users.





## Section 31 Partnership Agreement

TUPE

**The Transfer of Undertakings (Protection of Employment) Regulations 1981** – safeguard employees' rights where businesses change hands between employers.