

Report to: Exec Cabinet Member Deputy
Leader's Portfolio

Date: 30 June 2014

Report of: Director of Children's and Adult
Services

**Report
No:**

Contact Officer: John Livesey – Assistant Director
for Children and Adult Services

Tel No: 2130

Report Title: **Revised adult care home framework agreement**

Non Confidential: This report does not contain information which warrants its
consideration in the absence of the press or members of the public

Purpose: To request approval for the revised adult care home agreement to
progress to formal approval by the Executive Member and Deputy
Leader

Recommendations: Recommended to approve that this draft agreement is presented
for formal approval and implementation as soon as possible

**Background
Doc(s):**

- National Assistance Act 1948
- NHS Community Care Act 1990 and subsequent
amendments
- The DH Directions on Choice 2004
- Mental Capacity Act 2005
- Health and Social Care Act 2008
- DH Ordinary Residence guidance 2013

1. Background

- 1.1 DMT approved formal consultation on the draft care home agreement earlier in 2014. As a result the owners of all care homes within Bolton were sent a copy of the draft along with a feedback form.
- 1.2 The consultation commenced on 6th March 2014 with a closing date of 4th April 2014. Any home manager receiving the form was asked to ensure that it was passed on to the owners, directors or their senior regional managers, as appropriate.
- 1.3 It was explained that any comments would be duly considered and once formally approved the final version would be issued. The new agreement will remain in use until superseded by the implementation of relevant parts of the Care Bill. This may be in 2016.
- 1.4 Appendix 2 still needs some finalisation by the Corporate Information Team but this will not materially impact on the agreement.

2 Responses received

- 2.1 Only one response was received by the end of the consultation period. This did not lead to any need to change the draft
- 2.2 Therefore, it is now proposed that the revised agreement is presented to the Executive Member for formal approval and implementation. .

3 Financial and human resource implications

- 3.1 There are no financial or human resource implications from the amended agreement proposals

4 Recommendations

- 4.1 DMT is recommended to approve that this draft agreement is presented for formal approval and implementation as soon as possible

**Framework agreement
relating to adults placed
in care homes and care
homes with nursing**



TABLE OF CONTENTS

Clause	Title
1.	<u>DEFINITIONS & INTERPRETATION</u>
2.	<u>TERM OF AGREEMENT</u>
3.	<u>THE CARE FEES</u>
4.	<u>THE SERVICES</u>
5.	<u>WARRANTIES AND REPRESENTATIONS</u>
6.	<u>HEALTH & SAFETY</u>
7.	<u>STAFF</u>
8.	<u>AUDIT AND RECORD KEEPING</u>
9.	<u>DISCRIMINATION AND THE PROMOTION OF EQUALITY</u>
10.	<u>SAFEGUARDING AND PROMOTING WELFARE</u>
11.	<u>FRAUD AND PROHIBITED ACTS</u>
12.	<u>CORPORATE REQUIREMENTS</u>
13.	<u>COMPLAINTS</u>
14.	<u>DATA PROTECTION</u>
15.	<u>FOIA, EIR AND CONFIDENTIALITY</u>
16.	<u>INTELLECTUAL PROPERTY RIGHTS</u>
17.	<u>DISPUTE RESOLUTION</u>
18.	SUSPENSION AND <u>TERMINATION OF AGREEMENT</u>
19.	<u>CONSEQUENCES OF TERMINATION</u>
20.	<u>INDEMNITY AND LIMITATION OF LIABILITY</u>
21.	<u>ACTIONS UNDER CONTRACT</u>
22.	<u>FORCE MAJEURE</u>
23.	<u>VARIATION</u>
24.	<u>ASSIGNMENT AND SUB-CONTRACTING</u>
25.	<u>CHANGE OF CONTROL</u>
26.	<u>PARTNERSHIP</u>
27.	<u>AGENCY</u>
28.	<u>WAIVER</u>
29.	<u>NOTICES</u>
30.	<u>THIRD PARTIES</u>
31.	<u>SURVIVAL OF TERMS</u>
32.	<u>ENTIRE AGREEMENT</u>
33.	<u>LAW & JURISDICTION</u>

THIS AGREEMENT is made the day of

20

BETWEEN:

- (1) THE BOROUGH COUNCIL OF BOLTON of Town Hall Bolton BL1 1RU (hereinafter called "the Authority")
- (2) [INSERT PROVIDER] of [insert address] (Registered Company Number: [insert if relevant]) (hereinafter called the "Provider")

WHEREAS:

- (1) The Provider and the Authority have agreed that:
 - (i) as and when required by the Authority, the Provider shall deliver care home and care home with nursing services to those individuals nominated by the Authority and
 - (ii) all care home services and care home with nursing services will be provided in accordance with the terms of this Agreement.
- (2) Nothing shall require the Authority to purchase a particular volume of care home services.

IT IS NOW AGREED as follows:-

1. DEFINITIONS & INTERPRETATION

- 1.1 In these terms and conditions the following expressions shall have the following meanings: -

"Agreement" shall mean the terms and conditions herein including any documentation specified as forming part of this agreement and documentation agreed between the Authority and the Provider under this agreement together with any Resident Placement Agreement entered into under this agreement

"Agreement Manager" shall mean the person appointed by each of the Authority and the Provider from time to time to manage this Agreement on their behalf

"Agreement Period" shall mean the term commencing on the Commencement Date and, unless terminated earlier in accordance with the terms and conditions of this Agreement, continuing until []

"Bolton Brand" shall mean:

- (a) Bolton Council (registered trade mark number: 2443977)

- (b) Part of the Bolton Family (registered trademark number: 2443967)
- (c) any other phrase which the Authority develops from time to time in relation to the trademarks detailed at (a) and (b) above or in relation to the operation or functions of the Authority

“Business Continuity” shall mean the ability to maintain operations and services in the face of a disruptive event

“Business Continuity Exercise” shall mean an activity in which the Business Continuity Strategy is rehearsed in part or in whole to ensure that the same contains the appropriate information and produces and achieves the desired result when put into effect

“Business Continuity Plan” shall mean a documented collection of procedures and information that is developed, compiled and maintained in readiness for use in an incident to enable the Provider to continue to deliver its critical activities at an acceptable pre-defined level

“Business Continuity Strategy” shall mean the strategy to be developed and implemented by the Provider which details how the Provider will ensure its recovery and continuity in the face of a disaster or other major incident or business disruption

1. “Bribery Act” shall mean the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation

“CCA” shall mean the Civil Contingencies Act 2004

“Care Fees” shall mean the amount payable by the Authority to the Provider in respect of each Resident, as calculated in accordance with the Service Specification.

“Change of Control” shall mean a change in the Control of the Provider or any Key Sub-contractor

“Commencement Date” shall mean [] being the date on which this Agreement commences

2. “Control” shall mean that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise)

3. “Data Protection Legislation” shall mean the Data Protection Act 1998 (**DPA**), the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner

“DBS” shall mean Disclosure and Barring Service

“Effective Date” shall mean the date(s) on which the Services (or any part of the Services), transfer from any Third Party Employer to the Provider or Sub-Contractor,

and a reference to the Effective Date shall be deemed to be the date on which the employees in question transferred or will transfer to the Provider or Sub-Contractor

“EIR” shall mean the Environmental Information Regulations 2004

“Exempt Information” shall mean any information or class of information (including but not limited to any document, report and contract or other material containing information) relating to this Agreement or otherwise relating to the Provider which falls within an exemption to FOIA (as set out therein)

“Existing Intellectual Property Rights” shall mean those Intellectual Property Rights vested in the Authority or the Provider prior to the Commencement Date

“FOIA” shall mean the Freedom of Information Act 2000

“Force Majeure Event” shall mean any cause affecting the performance of the Provider’s obligations under this Agreement arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Provider, the Provider’s Staff or any other failure in the Provider or the Provider’s supply chain

“Improvement Notice” shall mean a written notice served by the Authority on the Provider detailing the improvements which the Authority requires the Provider to make in relation to the delivery of this Agreement

“Intellectual Property Rights” shall mean patents, inventions, trade marks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off

“Key Sub-contractor” shall mean any sub-contractor engaged by the Provider to deliver a material part of the Services under a sub-contract

“Losses” shall include but not be limited to actions claims losses demands proceedings damages costs and expenses

“Material Breach” shall mean a substantial failure to perform any term or condition of this Agreement, as determined at the Authority’s sole discretion

4. “Personal Data” shall have the meaning afforded to it in the Data Protection Act 1998

5. “Prohibited Act” shall mean the following:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or

- (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
- (c) to commit any offence:
 - (i) under the Bribery Act; or
 - (ii) under section 117(2) of the Local Government Act 1972
 - (iii) under legislation creating offences concerning fraudulent acts;
 - (iv) at common law concerning fraudulent acts relating to this Agreement or any other contract with the Authority; or
 - (v) defrauding, attempting to defraud or conspiring to defraud the Authority

“Resident” shall mean an individual in direct receipt of the Services

“Resident Placement Agreement” shall mean a placement agreement entered into between the Provider and the Authority in accordance with the terms of this Agreement, under which the Provider agrees to provide the Services (or any part) to a Resident.

“Services” shall mean those services to be delivered to the Authority by the Provider under this Agreement as more particularly described in the Service Specification

“Service Specification” shall mean the specification attached at Appendix 1 to this Agreement

“Staff” shall mean employees, volunteers and agency staff

“SVGA” shall mean Safeguarding Vulnerable Groups Act 2006

“Working Day” shall mean Monday to Friday in any week, excluding public holidays in England

1.2 In this Agreement:

1.2.1 Whenever required by the context the singular includes the plural and vice versa and words importing the masculine shall include the feminine and vice versa;

1.2.2 The headings used in these terms and conditions are for ease of reference only and shall not affect the interpretation or construction of this Agreement;

1.2.3 Unless the context otherwise requires reference to a clause or sub-clause is a reference to a clause or sub-clause of these terms and conditions; and

1.2.4 References to a specific statute include any statutory extension or modification amendment, re-enactment or replacement of such statute and any regulations or orders made under such statute.

1.3 In the event of conflict, the following order of precedence shall apply:

1.3.1 The terms and conditions contained herein

1.3.2 The Service Specification

1.3.3 Any documentation referred to or agreed under the terms and conditions contained herein

1.3.4 The terms and conditions of each Resident Placement Agreement entered into under this Agreement.

2. TERM OF AGREEMENT

This Agreement shall commence on the Commencement Date and continue for the Agreement Period unless terminated earlier in accordance with these terms and conditions.

3. THE CARE FEES

3.1 The Authority shall pay the Care Fees to the Provider in sterling, in accordance with current legislation and the Service Specification.

3.2 Where any monies are or shall become due or recoverable from the Provider by virtue of this Agreement or any other agreement with the Authority the Authority may deduct or offset those monies from the Care Fees payable from time to time. The Authority's rights under this clause 3.3 are without prejudice to any other rights or remedies available to the Authority under this Agreement or otherwise.

4. THE SERVICES

4.1 The Provider warrants that it shall provide the Services to the Authority during the Agreement Period:

4.1.1 In accordance with:

- (i) the terms and conditions contained herein;
- (ii) any document referred to in this Agreement;
- (iii) any document agreed between the Authority and the Provider under this Agreement;
- (iv) the Service Specification; and
- (v) each Resident Placement Agreement entered into.

4.1.2 In accordance with all relevant legislation, statutory requirements, codes of practice and guidance;

- 4.1.3 In compliance with all those reasonable directions and monitoring requirements imposed from time to time by the Authority and those requirements detailed in the Service Specification;
- 4.1.4 In compliance with all guidance relating to the provision of the Services issued by the Authority and other regulatory bodies and
- 4.1.5 Using all the reasonable skill, care and diligence to be expected of a properly qualified and competent person experienced in the provision of services which are similar in nature to the Services
- 4.2 Each and every time the Authority requires the Provider to deliver Services to a Resident it shall enter into a Resident Placement Agreement with the Provider and the Provider agrees that it shall deliver the Services in accordance with the terms of the Resident Placement Agreement, which for the avoidance of doubt will incorporate the terms and conditions contained herein and the provisions contained within Service Specification.
- 4.3 The Provider shall permit the Authority and those authorised by it including but not limited to any regulatory body to observe the Provider's delivery of the Services at any time and to interview those members of the Provider's Staff directly or indirectly involved in the provision of the Services.
- 4.4 The Provider shall attend review meetings with the Authority at such times and at such locations as agreed between the Authority and the Provider to discuss the operation of this Agreement and any other relevant matters.
- 4.5 The Provider shall inform the Authority promptly and in writing of any problems encountered by the Provider in delivering the Services which the Provider is unable to resolve within a reasonable period of time.
- 4.6 In the event that the Authority has concerns regarding the Provider's delivery of or ability to deliver the Services under this Agreement or any Resident Placement Agreement:
 - 4.6.1 The Authority shall be entitled to serve an Improvement Notice on the Provider; and
 - 4.6.2 The Provider shall comply with each Improvement Notice served within the timescales detailed therein

For the avoidance of doubt, if an Improvement Notice has been served in respect of one or more Resident Placement Agreements, the Authority will continue to pay the Care Fees due under the same.

5. WARRANTIES AND REPRESENTATIONS

5.1 The Provider warrants that:

- 5.1.1 it has full capacity and authority and all necessary rights and consents (including but not limited to, where its procedures so require, the consent of its parent company) to enter into and to perform this Agreement and to grant the rights to be granted hereunder and that this Agreement is executed by a duly authorised representative of the Provider;

- 5.1.2 there are no material facts or circumstances in relation to the financial position or operation or constitution of the Provider which have not been fully and fairly disclosed to the Authority in writing and which if so disclosed might reasonably have been expected to affect the decision of the Authority to enter into this Agreement;
- 5.1.3 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under this Agreement;
- 5.1.4 it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Agreement;
- 5.1.5 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Provider or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Provider's assets or revenue; and
- 5.1.6 in the three 3 years prior to the Commencement Date:
- (i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - (ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - (i) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under this Agreement.

6. HEALTH & SAFETY

The Provider shall notify the Authority of any health and safety hazards which may arise in connection with the performance of this Agreement and comply with all reasonable directions from the Authority regarding health and safety.

7. STAFF

- 7.1 The Provider shall ensure that all Staff engaged in the provision of the Services are suitably skilled and experienced.
- 7.2 The Provider shall comply with all the obligations regarding staffing which are detailed in the Service Specification.

8. AUDIT AND RECORD KEEPING

- 8.1 The Provider will at all times and on reasonable notice permit for the purposes of audit the Authority and any nominated auditors access to documentation relating to

the provision of the Services including but not limited to financial information and information relating to the Provider's compliance with legislation, codes of practice, guidance and instructions from the Authority.

- 8.2 The Provider shall at all times during the Agreement Period and for 12 years thereafter, keep and maintain full and detailed records relating to the delivery of the Services delivered under the Agreement and provide copies of the same to the Authority upon request.

9. DISCRIMINATION AND THE PROMOTION OF EQUALITY

- 9.1 The Provider will:

9.1.1 comply with all relevant anti-discrimination legislation, have proper regard to any relevant codes of practice and;

9.1.2 inform the Authority forthwith of any finding of unlawful discrimination against the Provider by any Court, Tribunal, the Equality and Human Rights Commission and as soon as reasonably practicable:

9.1.2.1 take all necessary steps to prevent a reoccurrence of such unlawful discrimination; and,

9.1.2.2 provide to the Authority full details of all steps taken.

- 9.2 The Provider shall not treat a person less favourably than another on grounds of trade union membership or trade union activities, in contravention of The Employment Relations Act 1999 (Blacklists) Regulations 2010) and, in particular, the Provider will not:

9.2.1 compile, supply, sell or use a Prohibited List (as defined in The Employment Relations Act 1999 (Blacklists) Regulations 2010);

9.2.2 refuse employment to a job applicant, to dismiss an employee, or to subject an employee to any other detriment for a reason related to a Prohibited List; and

9.2.3 engage with an employment agency which refuses to provide its services to an individual for a reason related to a Prohibited List.

- 9.3 The Provider shall, on request, provide to the Authority such written evidence as the Authority reasonably requires that the Provider has not breached clause 9.2 above.

- 9.4 The Provider recognises that the Authority is bound to comply with the Human Rights Act 1998 ("HRA") and that those duties imposed on it under the HRA must be met in the delivery of the Services. As a result, the Provider shall comply with the provisions of the HRA as if it were a public authority (as defined under the HRA).

- 9.5 The Provider shall provide all reasonable assistance to the Authority to enable it to meet any duties imposed on it in relation to the prevention of discrimination and the promotion of equality.

10. SAFEGUARDING AND PROMOTING WELFARE

- 10.1 Where required to do so by the Authority or under legislation, the Provider will provide to the Authority written evidence that all Staff delivering the Services (or any part) are:

- 10.1.1 subject to a valid enhanced disclosure check undertaken through the DBS, which check shall at no time during the period in which the Services are being provided be more than 3 years old;
 - 10.1.2 subject to a check against the adults' barred list or the children's barred list, as appropriate; and
 - 10.1.3 monitored to ensure the level and validity of the checks under this clause 10.1.
- 10.2 The Provider shall refer information about any person carrying out the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to any Residents, children or vulnerable adults.
- 10.3 The Provider shall where required by the Authority have and comply with a child protection policy during the Agreement Period and supply a copy of the same to the Authority upon request.
- 10.4 The Provider shall as and when required work with other agencies and share information with the same to ensure the safeguarding and promotion of the welfare of children and vulnerable adults subject always to the duty of the Provider to comply with all relevant laws statutory instruments rules regulations orders or directives.

11. FRAUD AND PROHIBITED ACTS

- 11.1 The Provider shall notify the Authority immediately where it becomes aware of any instance of suspected fraud or financial irregularity in the delivery of this Agreement including, but not limited to, cases of:
- 11.1.1 collusion with Authority Staff;
 - 11.1.2 computer fraud;
 - 11.1.3 the submission to the Authority of inaccurate, incomplete, misleading or falsified management information; and
 - 11.1.4 fraud involving awarding bodies
- provided that nothing in this clause 11.1 shall require the Provider to do anything which may cause it to infringe any law.
- 11.2 Where the Authority has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of this Agreement and any payments made under this Agreement or in relation to any other agreement made between the Authority and the Provider, the Authority shall have the right:
- 11.2.1 of access to any premises of the Provider at any reasonable time with or without notice to examine and remove or copy all relevant documents and records and to interview any Staff of the Provider engaged to deliver this Agreement; and

- 11.2.2 to suspend payments of the Care Fees or any monies owed under any other agreement made between the Authority and the Provider until such time as the Authority's concerns are abated.
- 11.3 The Provider warrants that no commission has been paid or agreed to be paid by the Provider or on the Provider's behalf or to the Provider's knowledge unless, before this Agreement was made, particulars of any such commission and of the terms and conditions of any agreement for the payment thereof were disclosed in writing to and authorised by the Authority.
- 11.4 The Provider shall not offer nor give nor agree to give any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or performance of this Agreement or any other agreement with the Authority or for showing or forbearing to show favour or disfavour to any person in relation to this Agreement.
- 11.5 The Provider:
- 11.5.1 shall not, and shall procure that any Staff, agents, contractors or sub-contractors of the Provider shall not, in connection with this Agreement commit a Prohibited Act;
- 11.5.2 warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Authority, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Authority before execution of this Agreement.
- 11.5.3 shall, if requested, provide the Authority with any reasonable assistance, at the Authority's reasonable cost, to enable the Authority to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
- 11.5.4 shall have an anti-bribery policy (which shall be disclosed to the Authority upon request) to prevent any Staff, agents, contractors or sub-contractors of the Provider from committing a Prohibited Act and shall enforce it where appropriate.
- 11.6 If any breach of this clause 11 is suspected or known, the Provider shall notify the Authority immediately and respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit books, records and any other relevant documentation.
- 11.7 Despite clause 17 (Dispute Resolutions), any dispute relating to:
- 11.7.1 the interpretation of this clause 11; or
- 11.7.2 the amount or value of any gift, consideration or commission,
- shall be determined by the Authority and its decision shall be final and conclusive.

12. CORPORATE REQUIREMENTS

Corporate Policies

- 12.1 The Authority shall, where appropriate, supply to the Provider details of any relevant policies (including but not limited to any safeguarding policies) and rules and on receipt of the same the Provider shall comply with the policies.

The CCA

- 12.2 The Provider recognises that the Authority is subject to legal duties under the CCA and agrees that, on receipt of a reasonable request from the Authority, it shall assist the Authority in meeting its duties under the CCA, such assistance may include but not be limited to:
- 12.2.1 developing and operating a Business Continuity Strategy during the Agreement Period;
 - 12.2.2 developing and adopting a Business Continuity Plan (taking into account the CCA);
 - 12.2.3 providing the Authority with a copy of those documents referred to at clauses 12.2.1 and 12.2.2;
 - 12.2.4 undertaking regular risk assessments and business impact analysis in relation to this Agreement;
 - 12.2.5 implementing a Business Continuity Exercise on a regular basis (for the avoidance of doubt, the Authority shall be entitled to attend any such test); and
 - 12.2.6 providing the Authority with a written report on request which summarises the results of each Business Continuity Exercise carried out, which summary shall highlight any actions or remedial measures necessary as a result of the said exercises.
- 12.3 The Authority shall have the right to carry out a review of the Provider's Business Continuity arrangements subject to the Authority giving the Provider not less than 24 hours' notice of any such review. The Provider warrants that the Authority shall have unfettered access to and the ability to reproduce and retain any pertinent documentation deemed appropriate by it during such a review.

The Bolton Brand

- 12.4 In the event that the Provider is authorised to use the Bolton Brand it shall comply with all instructions issued from time to time by the Authority. The Provider shall not be entitled to reproduce or copy the Bolton Brand without written consent.

13. COMPLAINTS

- 13.1 The Provider shall at all times operate a complaints procedure and provide details of the same to the Authority upon request.
- 13.2 The Provider shall notify the Authority of all complaints received during the Agreement Period relating in any way to the provision of the Services (including but not limited to complaints relating to any Staff of the Provider engaged in the performance of this Agreement) within two working days of receipt of the complaint by the Provider.

- 13.3 The Provider shall provide to the Authority a written report on each and every reasonable and unduplicated complaint (from whatever source) within 10 Working Days of the receipt or notification of the complaint, giving details of the complainant and on any action taken in respect thereof.

14. DATA PROTECTION

- 14.1 The Provider shall at all times comply with and maintain data in accordance with the Data Protection Legislation and any other relevant legislation, code of practice and guidance issued from time to time during the Agreement Period.
- 14.2 The Provider shall comply with the terms and conditions of the Data Processor Schedule attached at Appendix 2 to this Agreement and any amendments to the same which the Authority notifies the Provider of in writing.
- 14.3 In the event that the Provider is a "Data Controller" (as defined in the DPA) the Provider shall at all times be responsible to third parties for any Personal Data held, including the individuals to whom the Personal Data relates.
- 14.4 When recording Personal Data, in whatever format, each piece of information must contain the date created or recorded and whether it comprises fact, opinion, hypotheses or a mixture of these together with the identity of the person recording the information.
- 14.5 The Provider acknowledges and agrees that the Authority shall be entitled to share any Personal Data supplied by the Provider to the Authority under the Agreement where it has a lawful and legitimate reason for doing so.
- 14.6 The Provider shall indemnify and keep indemnified the Authority against any Losses whatsoever incurred in respect of or in any way arising directly out of a breach by the Provider of this clause 14.

15. FOIA, EIR AND CONFIDENTIALITY

15.1 FOIA & EIR

- 15.1.1 The Provider recognises that the Authority is subject to legal duties which may require the release of information under FOIA or the EIR or any other applicable legislation or codes governing access to information ("Access Duties") and that the Authority may be under an obligation to provide information on request. Such information may include matters arising out of or under this Agreement in any way;
- 15.1.2 In the event that the Authority receives a request for information under its Access Duties, the Authority is entitled to disclose all such information and documentation (in whatever form) as it is obliged to disclose under its Access Duties.
- 15.1.3 The Authority shall not disclose Exempt Information provided always that the Authority shall be responsible for determining at its absolute discretion what information it is obliged to disclose under its Access Duties and what is Exempt Information;
- 15.1.4 The Authority shall not be liable for any loss, damage, harm or other detriment however caused arising from the disclosure of any information

relating to this Agreement which the Authority is obliged to disclose under its Access Duties;

- 15.1.5 The Provider will assist the Authority in complying with the Authority's obligations under its Access Duties. In the event that the Authority receives a request for information under its Access Duties and requires the Provider's assistance in obtaining the information that is subject to such request or otherwise, the Provider will respond to any such request for assistance from the Authority at the Provider's own cost and promptly and in any event within 10 days of receiving the Authority's request.

15.2 Confidentiality

- 15.2.1 The parties acknowledge and agree that the terms and conditions of this Agreement are not confidential and may be made available online during the Agreement Period;

- 15.2.2 Subject to clause 15.1 above and clause 15.2.3 below each party will keep confidential the contents of each Resident Placement Agreement and all information disclosed by one party ("the Disclosing Party") to the other party ("the Receiving Party") in connection with this Agreement;

- 15.2.3 Clause 15.2.2 shall not apply to any disclosure of information:

15.2.3.1 made by the Authority under its Access Duties or any applicable law;

15.2.3.2 that is reasonably required by persons engaged by a party in the performance of such party's obligations under each Resident Placement Agreement;

15.2.3.3 where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 15.2.2;

15.2.3.4 by the Authority of any document to which it is a party and which the parties to each Resident Placement Agreement have agreed contains no commercially sensitive information;

15.2.3.5 to enable a determination to be made under clause 16 below;

15.2.3.6 which is already lawfully in the possession of the receiving party, prior to its disclosure by the Disclosing Party;

15.2.3.7 by the Authority to any other department, office or agency of the Government; and

15.2.3.8 by the Authority where the Provider has given its prior written consent to disclosure.

16. INTELLECTUAL PROPERTY RIGHTS

- 16.1 The parties hereto shall not cause or permit anything which may damage or endanger the Existing Intellectual Property Rights of the other or assist or allow others to do so.

- 16.2 Any Intellectual Property Rights created by the Provider during the Agreement Period in connection with the provision of the Services shall vest in the Authority and the Authority shall be entitled to use and reproduce all materials originated by the Provider (including basic factual data) for any purpose whatsoever whether in connection with this Agreement or otherwise. The Provider shall not be liable in any way for use by the Authority of any materials generated under or in respect of this Agreement for any purpose other than that for which the same was prepared and provided by the Provider.
- 16.3 The Provider warrants to the Authority that to the best of its knowledge the delivery of this Agreement will not infringe, in whole or in part, any third party Intellectual Property Rights and agrees to indemnify the Authority and keep fully and effectually indemnified the Authority its Staff and agents from and against all Losses arising directly or indirectly out of any act of the foregoing, where such act is, or is alleged to be, an infringement of a third party's Intellectual Property Rights.
- 17. DISPUTE RESOLUTION**
- 17.1 The Authority and the Provider shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Agreement within 20 Working Days of either party notifying the other of the dispute and such efforts shall involve the escalation of the dispute ultimately to each party's Agreement Manager (or such other person as he may direct) of each party.
- 17.2 Nothing in this dispute resolution procedure shall prevent the parties from seeking from any court of competent jurisdiction an interim order restraining the other party from doing any act or compelling the other party to do any act.
- 17.3 If the dispute cannot be resolved by the Parties pursuant to clause 17.1 the parties shall refer it to mediation pursuant to the procedure set out in clause 17.5 unless:
- 17.3.1 the Authority considers that the dispute is not suitable for resolution by mediation; or
- 17.3.2 the Provider does not agree to mediation.
- 17.4 The obligations of the parties under this Agreement shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Provider and its Staff shall comply fully with the requirements of this Agreement at all times.
- 17.5 The procedure for mediation and consequential provisions relating to mediation are as follows:
- 17.5.1 A neutral adviser or mediator (the "Mediator") shall be chosen by agreement between the parties, or if they are unable to agree upon a Mediator within 10 Working Days after a request by one party to the other or if the Mediator agreed upon is unable or unwilling to act, either party shall within 10 Working Days from the date of the proposal to appoint a Mediator, or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to a mediation provider to appoint a Mediator;
- 17.5.2 The parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the parties may at any stage seek assistance from a mediation provider to provide guidance on a suitable procedure;

- 17.5.3 Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings;
 - 17.5.4 If the parties reach agreement on the resolution of the dispute, this Agreement shall be recorded in writing and shall be binding on the parties once it is signed by their duly authorised representatives;
 - 17.5.5 Failing agreement, either of the parties may invite the Mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to this Agreement without the prior written consent of both parties;
 - 17.5.6 If the parties fail to reach agreement in the structured negotiations within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts.
- 17.6 Subject to clause 17.2, neither the Authority nor the Provider shall institute court proceedings until the procedures set out in clauses 17.1 and 17.3 have been completed.

18. SUSPENSION AND TERMINATION

- 18.1 In the event that the Authority has concerns regarding the Provider's delivery of or ability to deliver the Services it shall, in addition to its right to serve an Improvement Notice under clause 4.6 above, be entitled to:
- 18.1.1 suspend the provisions of clause 4.2 above; and / or
 - 18.1.2 suspend a Resident Placement Agreement
- for such period as the Authority deems reasonably necessary and take such other action as the Authority deems reasonably necessary to investigate or address its concerns. For the avoidance of doubt, if a Resident Placement Agreement is suspended under this clause 18.1 the Authority shall not pay any Care Fees due to the Provider under the Agreement during the period of suspension.
- 18.2 The Authority shall be entitled to terminate this Agreement and any Resident Placement Agreement forthwith in writing in the event of one or more of the following:
- 18.2.1 a material misrepresentation by the Provider during the process leading up to its appointment is discovered;
 - 18.2.2 the Provider commits a Material Breach of this Agreement or any Resident Placement Agreement;
 - 18.2.3 the Provider persistently breaches this Agreement or any Resident Placement Agreement;
 - 18.2.4 the Provider fails to comply in any respect with an Improvement Notice served by the Authority under section 4.6 above;

- 18.2.5 the Provider is in breach of clause 9, clause 10, clause 12.2 or clause 14 above;
- 18.2.6 the Authority has suspended the Services under clause 18.1 above:
- 18.2.6.1 on 3 or more occasions during the Agreement Period; and /or
- 18.2.6.2 a suspension has remained in place for a continuous period of 6 months
- 18.2.7 the Provider fails to comply with any relevant legislation relating to the provision of the Services;
- 18.2.8 (i) the Provider becomes unable to pay its debts (within the meaning of Section 123 of the Insolvency Act 1986), admits its inability to pay its debts or becomes insolvent
- (ii) a petition is presented, an order made or a resolution passed for the liquidation (otherwise than for the purpose of a solvent amalgamation or reconstruction), administration, bankruptcy or dissolution of the Provider
- (iii) an administrative or other receiver, manager, trustee, liquidator, administrator or similar person or officer is appointed to the Provider and over all or any part of the assets of the Provider
- (iv) the Provider enters into or proposes any composition or arrangement concerning its debts with its creditors (or any class of its creditors) generally
- (v) anything equivalent to any of the events or circumstances stated in clauses 18.2.8(i) to 18.2.8(iv) inclusive occurs in any applicable jurisdiction
- 18.3 The Authority may terminate this Agreement or any Resident Placement Agreement by written notice with immediate effect if the Provider or any Staff, agents, contractors or sub-contractors of the Provider (in all cases whether or not acting with the Provider's knowledge) breaches clauses 9 (Discrimination and the promotion of Equality), 10 (Safeguarding and Promoting Welfare or 11 (Fraud and Prohibited Acts).
- 18.4 The Authority may terminate this Agreement by written notice without penalty if there is a Change of Control to which the Authority reasonably objects, having regard to the identity, trading interests, financial standing and intentions of the new controller or potential new controller, having afforded the Provider a reasonable opportunity to make representations in this respect and having given such representations reasonable consideration except where:
- 18.4.1 the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
- 18.4.2 the Authority has not served its notice within six months of the later of the date the Change of Control took place or the date on which the Authority was given notice of the Change of Control; or

- 18.4.3 there is a bona fide reorganisation within the Contractor group which results in a Change of Control.
- 18.5 The Provider is entitled to terminate this Agreement or any Resident Placement Agreement forthwith in writing if:
- 18.5.1 the Authority fails to make any payment within 30 days of the Provider notifying the Authority in writing that payment of the Care Fees is overdue;
- 18.5.2 the Authority commits any other breach of this Agreement or a Resident Placement Agreement (and fails to remedy the breach within a reasonable period of it having been requested to do so) which in the reasonable opinion of the Provider justifies termination of the same.
- 18.6 Either party shall have the right to terminate this Agreement without consequence (financial or otherwise):
- 18.6.1 On three (3) months' written notice to the other;
- 18.6.2 If, in the reasonable opinion of the party wishing to terminate this Agreement, the conduct of the other party is having or may have a negative or adverse effect on the reputation of the party wishing to terminate.
- 18.7 The parties shall be entitled to terminate a Resident Placement Agreement in those circumstances detailed in the Service Specification

19. CONSEQUENCES OF TERMINATION

- 19.1 Upon termination in accordance with clause 18 above and in addition to such consequences as are set out in other provisions of this Agreement: -
- 19.1.1 the Provider shall forthwith cease to provide the Services under this Agreement and, if relevant, under a terminated Resident Placement Agreement;
- 19.1.2 the Authority shall be under no obligation to make any further payment to the Provider and shall be entitled to retain any payment which may have fallen due to the Provider before termination until the Provider has paid in full to the Authority all sums due or arising under this Agreement, any Resident Placement Agreement or any other agreement between the parties;
- 19.1.3 the Provider shall forthwith release and handover to the Authority any and all property belonging to the Authority which may be in the Provider's possession or under its control including but not limited to records whether in the form of documents computer data or other material in any medium.
- 19.2 Upon termination in accordance with clause 18.1 above and in addition to such consequences as are set out in other provisions of this Agreement the Provider shall fully and promptly indemnify and compensate the Authority in respect of:

19.2.1 any Losses suffered by the Authority as a result of any event giving rise to the right to terminate under clause 18; and

19.2.2 the cost of causing to be provided such part of this Agreement as would have been provided had this Agreement not been terminated.

19.3 Termination shall be without prejudice to the accrued rights and remedies of either party.

20. INDEMNITY AND LIMITATION OF LIABILITY

20.1 The Provider shall indemnify on behalf of itself and its sub-contractors and keep fully and effectually indemnified the Authority its Staff and agents from and against all Losses whatsoever incurred in respect of or in any way arising directly out of the negligence or breach by the Provider and its sub-contractors of this Agreement except to the extent that such Losses may arise out of the act default or negligence of the Authority provided always that the Provider shall not be liable for any indirect or consequential losses.

20.2 Neither nor the Authority nor the Provider shall be liable for any statement, representation, promise, inducement or understanding made in respect of a proposed resident placement agreement unless expressly incorporated into a Resident Placement Agreement.

20.3 The Provider shall take out and maintain during the Agreement Period and for a period of 12 years following expiry of the last Resident Placement Agreement entered into under this Agreement sufficient insurance to meet its obligations under this Agreement as detailed in the Service Specification or as specified from time to time by the Authority.

20.4 The Provider shall supply to the Authority on request certified copies of insurance policies, cover notes, premiums, receipts and other documents deemed by the Authority to be necessary to comply with clause 20.2 above.

21. ACTIONS UNDER CONTRACT

The Provider shall pay to the Authority on an indemnity basis all costs, fees, Care Fees, disbursements and expenses including, without prejudice to the generality of the above, those payable to counsel, solicitors, surveyors and bailiffs properly incurred by the Authority in relation to or incidental to the recovery of any outstanding monies due to the Authority under the terms of this Agreement.

22. FORCE MAJEURE

22.1 Neither party will be liable for any delay in performing or failure to perform any of its obligations under this Agreement due to a Force Majeure Event.

22.2 Any delay or failure caused by a Force Majeure Event will not constitute a breach of this Agreement and the time for performance of the affected obligation shall be extended by such period as is reasonable. As regards any delay or stoppage:

22.2.1 any costs arising from the delay or stoppage shall be borne by the party incurring those costs;

- 22.2.2 either party may if the delay or stoppage continues for more than 28 days terminate this Agreement with immediate effect on giving written notice to the other party, and neither party shall be liable for such termination; and
- 22.2.3 the party claiming the Force Majeure Event will take all necessary steps to bring the event to a close or to find a solution by which this Agreement may be performed despite the Force Majeure Event.

23. VARIATION

- 23.1 No variations or additions to this Agreement may be made without the written consent of both parties.
- 23.2 Any variations in the terms of this Agreement shall be in writing and signed by both parties.

24. ASSIGNMENT AND SUB-CONTRACTING

- 24.1 The Provider shall not be entitled to assign this Agreement or any part thereof without the previous written consent of the Authority which consent shall not be unreasonably withheld.
- 24.2 The Provider shall not be entitled to sub-contract the provision of the Services or any part thereof without the previous written consent of the Authority which consent shall not be unreasonably withheld.
- 24.3 In the event that any part of this Agreement is sub-contracted the Provider hereby warrants that it:
 - 24.3.1 it shall pay all invoices issued to it by its sub-contractor(s) within 30 days of receipt of a valid invoice; and
 - 24.3.2 it will make it a term of any contract entered into with a sub-contractor that the sub-contractor complies with the terms of this Agreement.

25. CHANGE OF CONTROL

The Provider shall notify the Authority in writing as soon as possible and within no more than 5 Working Days of any Change of Control taking place.

26. PARTNERSHIP

Nothing in this Agreement will create any joint venture or partnership between the Authority and the Provider, and the Authority shall not be liable for any actions, costs, proceedings, claims or demands arising out of delivery of this Agreement.

27. AGENCY

Neither the Provider nor its employees shall in any circumstances hold itself or themselves out as being the agent or servant of the Authority otherwise than in circumstances expressly permitted by this Agreement.

28. WAIVER

Failure by the Authority at any time to enforce the provisions of this Agreement or require performance by the Provider of any of the provisions of this Agreement shall

not be construed as a waiver or any such provision and shall not affect the validity of this Agreement or any part thereof or the right of the Authority to enforce any provision in accordance with its terms.

29. NOTICES

- 28.1 Any notice under this Agreement must be in writing and can only be sent by recorded delivery post or personal delivery to the addresses at the head of this Agreement.
- 28.2 Any other communication under this Agreement must be in writing and can only be sent by recorded delivery post, personal delivery, fax or electronic mail.

30. THIRD PARTIES

Save where expressed to the contrary, the Contract (Rights of third Parties) Act 1999 shall not apply to this Agreement.

31. SURVIVAL OF TERMS

Clauses 5, 8, 11, 14, 15, 16, 17, 19, 20, 21 and 33 shall survive the expiry or early termination of this Agreement.

32. ENTIRE AGREEMENT

This Agreement supersedes all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement between the parties (save that neither party seeks to exclude liability for any fraudulent pre-contractual misrepresentation upon which the other party can be shown to have relied).

33. LAW & JURISDICTION

This Agreement shall be governed by and shall be construed in accordance with English law; and be subject to the exclusive jurisdiction of the Courts of England and Wales, to which both parties submit.

IN WITNESS whereof the Authority and the Provider have executed this Agreement as a Deed the day and year first before written

Executed as a deed by THE
BOROUGH COUNCIL OF
BOLTON affixing its Common
Seal in the presence of:

Authorised Sealing Officer

Executed by []
acting by

.....
Director

.....
Director/Secretary/Witness

.....
Witness Name:

.....
Witness Address:

DRAFT

Appendix 1: Service Specification

6. The scope of this Service Specification

- 6.1. This Service Specification relates to the purchase by the Authority of placements in residential Care Homes and Care Homes with nursing
- 6.2. The Authority intends to purchase the Services as and when required through Resident Placement Agreements which shall at all times incorporate the terms and conditions of the Agreement. This Service Specification will cover all placements made by the Authority in any Care Home owned by the Provider provided that it and the Care Home(s) are properly registered with the Care Quality Commission (CQC) or any successor body. However, in accepting a potential Resident the Provider must ensure that the Statement of purpose relating to the Care Home or part of the Care Home relating to the intended placement fully complies with the CQC requirements relevant to the needs of the intended Resident.
- 6.3. There is no guarantee that any particular volume of purchasing, including any at all, will be made by the Authority. This section explains how work will be ordered and associated expectations.

7. Additional definitions and interpretation

7.1. The following additional definitions relate to this Service Specification.

- 7.1.1. **“Authority Supplement”** shall mean any payment in addition to the Standard Authority Rate that the Authority makes to a Provider which is set at a specific rate for an individual Resident or a consistent rate applicable to any Resident placed in a particular home
- 7.1.2. **“Care Home”** shall mean a care home located in England or Wales and registered as a residential care home or care home with nursing under the provisions of the Health and Social Care Act 2008
- 7.1.3. **“Fair Access to Care Services (LAC (2002) 13)” (FACS)** means the guidance issued from time to time by the Department of Health which provides a framework for determining eligibility for adult social support and subsequent review. The guidance will cover how the Authority will carry out assessments, reviews, and how the Authority will support individuals through these processes. It can be found at www.dh.gov.uk
- 7.1.4. **“Host Local Authority”** shall mean the local authority with adult social care duties and within which the care home is situated”
- 7.1.5. **“Movement Form”** shall mean the form entitled “FIN 8” which form shall detail all admissions and departures of Residents funded by the Authority. The Provider shall issue the Movement Form to the Authority no later than the appropriate deadlines as detailed on the payment timetable which the Authority shall issue to the Provider at the commencement of each Financial Year. In the event that the Provider does not have any relevant admissions or departures to report, it will not be necessary to submit a Movement Form

- 7.1.6. **“NHS Contribution”** shall mean any contribution which the Authority has agreed to make on behalf of any Clinical Commissioning Group (CCG) or any legal successor.
- 7.1.7. **“Nursing Care”** shall mean the provision of care to Residents residing in Care Homes which is a service provided by the relevant NHS body under section 2 of the National Health Service Act 1977
- 7.1.8. **“Resident’s Contribution”** shall mean the financial contribution payable by the Resident for the Services, as determined following a financial assessment carried out by the Authority in line with the Charging for Residential Accommodation Guidance document which will be provided to the Provider on request
- 7.1.9. **“Payment Schedule”** means the schedule issued by the Authority from time to time and made available to the Provider detailing the dates by which the Provider must submit information to the Authority relating to admission, discharge and temporary absence from the home of residents funded by the Authority
- 7.1.10. **“Standard Authority Rate”** shall mean the standard weekly sum determined by the Authority or by a Host Local Authority which rate shall be payable by the Authority to the Provider in respect of each Resident in receipt of the Services together with any Resident’s Contribution. For the financial years 2013/14 and 2014/15 the Standard Authority Rate payable by the Authority in respect of Care Homes located in the Bolton Borough is:

Room Type	Prices from 08/04/2013	Prices from 07/04/2014
Shared Room	£352.31	£352.31
Shared Room + IIP	£358.05	£358.05
Single Room	£386.25	£386.25
Single Room + IIP	£391.99	£391.99
Single Room + Ensuite	£391.53	£391.53
Single Room + Ensuite + IIP	£397.27	£397.27
EMI Premium	£43.58	£43.58

- 7.1.11. **“Third Party Top Up”** shall mean the sum which a third party has agreed with the Authority to pay to the Provider as part of the Fee payable by the Authority. For the avoidance of doubt a Resident cannot pay a Third Party Top Up save in circumstances permitted by the Department of Health circular LAC (2004)20 (or such other document which may replace this circular) and Third Party Top Ups shall not be payable unless agreed by the Authority in writing prior to the commencement of a Resident’s Placement in the Provider’s Care Home.

8. The context

8.1. The Provider must:

8.1.1. Be currently and appropriately registered by the Care Quality Commission (CQC) or any successor body; and

8.1.2. Be fully compliant with CQC's essential standards of quality and safety and all necessary registration requirements and regulatory requirements set by it or other regulatory body in so far as they relate to the Services provided under this Agreement; and

8.1.3. Notify the Authority as soon as reasonably possible of any notices served by any regulatory body in relation to the Health and Social Care Act 2008. Any failure to remain registered or fully compliant with these essential standards of quality and safety may lead to termination of this agreement.

8.1.4. Following an assessment the Resident may, if the Authority agrees, be placed by the Authority within a Care Home. Placements will be made by the Authority in line with its statutory powers and taking account of Circular LAC(2004)20 (Directions on Choice)

9. Ordering arrangements and the Care Fees

9.1. All new placements will be confirmed by the Authority issuing a Resident Placement Agreement to the Provider ahead of the start of the placement. Each Resident's Resident Risk Assessment and Care or Support Plan Summary shall form part of their Resident Placement Agreement.

9.2. The Provider shall comply with all the terms and conditions of this Agreement and each Resident Placement Agreement when delivering the Services to Residents

9.3. In consideration of the Provider delivering the Services to Residents under Resident Placement Agreements, the Authority shall pay the Care Fees to the Provider. The Care Fees payable in respect of each Resident shall be specified in each Resident Placement Agreement and calculated in accordance with the Schedule to this Service Specification.

10. The Provider's obligations

10.1. The Provider shall for the term of this Agreement provide the Services to Residents under any Resident Placement Agreement as and when required in accordance with the terms and conditions contained herein.

10.2. The Provider shall provide the Services in any Care Home owned by the Provider and registered with the CQC or its successor body.

10.3. The Provider shall immediately notify the Authority of any regulatory authority's enforcement actions, recommendations or requirements that are material to the delivery of the Service.

10.4. The Provider shall ensure that the Services shall at all times include residential accommodation and personal care to be provided in the Care Home listed in each Resident Placement Agreement. Nursing care shall only be provided to a Resident if specified in the relevant Resident Placement Agreement and in line with CQC registration.

10.5. The Provider shall take out and maintain for the term of this Agreement:

10.5.1. Employer's Liability Insurance to a minimum value of £10 million for any one occurrence within the limit of indemnity

10.5.2. Public Liability Insurance to a minimum value of £10 million for any one occurrence within the limit of indemnity

10.5.3. Motor Insurance in respect of any transport used by its Staff and its sub-contractor(s) under this Agreement

10.5.4. Any other insurance reasonably deemed necessary by us

10.6. The Provider shall ensure that Resident's personal belongings are either included in its contents insurance cover at no additional charge to us or the Resident, or shall advise each Resident on admission of their need to take out and maintain appropriate insurance cover in respect of their personal belongings

What is to be provided?

10.7. The Provider shall ensure that:

10.7.1. It always complies with minimum CQC standards;

10.7.2. The Care Home premises and all equipment used in providing the Services are always fit for this purpose safe, clean and in good condition with all required maintenance and servicing carried out and that documentation to evidence this is available to the Authority;

10.7.3. The Care Home's environment is clean; safe, suitable, sufficient, adequate, functional, accessible, effective and odour-free with reasonable adjustments made where required;

10.7.4. A single bedroom is always available, unless a shared room is specifically requested or needed;

10.7.5. Suitable varied meals (taking account of dietary and nutritional needs and eating abilities) and drinks/beverages with all necessary support are provided for the Resident;

10.7.6. There is always a suitable clean bed mattress and clean and appropriate bed linen and towels available for the Resident;

10.7.7. The Resident shall be given the opportunity to bring a range of their own possessions and furniture into the Care Home. Within two (2) weeks of each Resident's admission to the Care Home the Provider shall complete a written inventory of the Resident's belongings, including valuables and significant items such as jewellery, bank or building society pass books, share certificates, furniture and antiques and the Provider shall update the inventory as and when required.

10.7.8. There is adequate and appropriate clothes storage within the Resident's room;

- 10.7.9. There is access to hot and cold water at appropriate and safe temperatures and a clean wash basin, bath or shower and toilet in order to provide adequate sanitary and bathing facilities;
- 10.7.10. The Resident's clothes are regularly laundered, to appropriate standards and in line with current guidance, maintained and not lost or damaged. Providers using ozone washing machines must ensure that the washing cycle is fully completed each time the machine is used.
- 10.7.11. Resident's personal possessions can be kept secure with lockable rooms and lockable storage space within their room and access to secure storage in a safe when required;
- 10.7.12. Toiletries are provided if required in an emergency for individual use by a Resident;
- 10.7.13. Necessary level of care and support is always provided as recorded in initial and subsequent care/support plans;
- 10.7.14. Referrals are made as necessary to other agencies to provide assessment and care for services not expected to be provided by the Care Home and that recommendations for care and support are then implemented.
- 10.7.15. The Care Home is equipped to provide appropriate services to each Resident in line with the relevant local policy for the provision of aids to daily living and equipment; continence and other supplies.
- 10.7.16. In the event that the Authority informs the Provider that it has a lead commissioning arrangement with a Clinical Commissioning Group (or successor body) relevant to the Care Home then Provider shall provide the general nursing services to Residents which the Authority informs the Provider are required.
- 10.7.17. It will provide to the Authority on request a copy of the Provider's written occupancy agreement and/or statement of purpose relating to its Care Home and shall ensure that nothing in that agreement shall contradict or conflict with the terms of this Agreement.
- 10.7.18. Residents shall be put at the centre of decisions about how they are supported and Services are provided so that they feel involved, secure and confident in the support provided.
- 10.7.19. Whenever possible it will provide services aimed at the promotion of independence of Residents. The ethos of the Provider's approach should be to always seek to maximise the degree of independence whenever and for as long as possible. This may involve any of the following depending on the needs of the person as identified in their care plan, and their situation. It will ensure that all Staff are adequately trained to encourage and maximise independent living.
- 10.7.20. The Resident will be supported, where possible, to learn or re-learn daily living skills; have greater choice and control of how they use support services; improve their self-esteem;

- 10.7.21. It will work collaboratively with Residents, families and key personnel from other relevant agencies. This will mean managing and using detailed support plans and programmes and ensuring such plans/programmes respond to the changing needs and the progress made by Residents;
- 10.7.22. It will undertake regular monitoring, reviewing support, giving feedback and encouragement to Residents to help them regain confidence and skills;
- 10.7.23. It will provide suitable supportive equipment for daily living, including Telecare and assistive technology;

General issues relating to Residents

- 10.7.24. The Provider is expected to manage the care and related issues of the Resident and to inform the Authority and next of kin or other identified persons of any significant change in a Resident's physical, medical or mental condition or of any significant change in their need for Services, such notification to take place within one Working Day of the Provider becoming aware of the change.
- 10.7.25. The Provider will make a written record of any Resident's admissions to hospital on their individual file and make this available to the Authority on request.

Residents' health issues

- 10.7.26. The Provider shall provide all required information regarding the Resident to the National Health Service and any other relevant care agencies using the relevant prescribed form.
- 10.7.27. The Provider must ensure that whenever a Resident requests assistance to obtain medical attention or appears unwell and is unable to make such a request or declines medical attention, then the most appropriate form of medical assistance is obtained as quickly as possible, having taken account of any legally authorised care preferences. This may include, but is not confined to, contacting their General Practitioner (GP) or an ambulance. The next of kin or other identified person must be notified of this as soon as possible.
- 10.7.28. The Provider should ensure that effective procedures relating to infection control and to prevent the spread of infectious diseases are always followed and that all Staff are adequately trained in respect of and compliant with these. These procedures should be subject to regular audit and evidence of compliance should be available on request.
- 10.7.29. In the event of an outbreak and for the purposes of outbreak management and the avoidance of onward transmission of infection, Residents may be isolated, with appropriate consent. In such cases Residents should be informed of the reasons for isolation and an estimate of the period of time isolation should apply given.
- 10.7.30. The Provider shall use its best endeavours to ensure that, when necessary, Residents are accompanied by a relevant person on journeys to a hospital or GP appointment or personal care services. The relevant person may be a member of staff, or family or friend or voluntary organisation or legal

representative.

10.7.31. The Provider is expected to recognise the importance of seasonal flu vaccination among staff, for the following reasons:

10.7.31.1. Infection control (preventing onward transmission of the flu virus from staff to clients)

10.7.31.2. Business continuity (preventing sickness absence among staff)

10.7.31.3. Occupational health (protecting staff from infection)

10.7.32. The Provider will:

10.7.32.1. Identify priority groups for vaccination, including, though not necessarily limited to:

10.7.32.1.1. Front-line staff who are in close contact with clients;

10.7.32.1.2. Staff whose sickness absence could compromise business continuity;

10.7.32.1.3. Ensure the vaccination is promoted to priority groups;

10.7.32.1.4. Ensure the vaccine is made available free of charge to priority groups:

10.7.32.2. Record uptake among priority groups and report this to the Authority at least annually.

Medicine management

10.7.33. Providers with Care Homes situated within Bolton shall:

10.7.33.1. Liaise with Bolton Clinical Commissioning Group's (CCG) Medicines Optimisation Team to ensure that the National Institute for Clinical Excellence's (NICE) guidance "Managing medicines in care homes" is adhered to.

10.7.33.2. Complete Bolton CCG's "Medicines management checklist" on an annual basis and liaise with Bolton Medicines Optimisation Team regarding any action required.

10.7.33.3. Have a Medicines Management Policy agreed with Bolton CCGs Medicines Optimisation Team.

Residents' rooms

10.7.34. Once a Resident has been allocated a bedroom at the Care Home the Provider shall not move that Resident to another room without the Authority's prior written consent save for in cases of emergency. The authority will respond within five (5) working days to any request for permission to move a resident. In the event of a room change in an emergency the Provider shall inform the

Authority of the change no later than the next Working Day.

- 10.7.35. The Provider shall not use any Resident's allocated bedroom for respite or short term care placements if a Resident is absent from the Care Home for any reason nor shall it place a Resident in a bedroom reserved for or usually occupied by another person or persons.

Safeguarding Residents' property and valuables

- 10.7.36. The Provider shall treat every item of a Resident's property with care and respect. Any item belonging to a Resident can only be disposed of with the permission of the Resident (if they have mental capacity to make such decisions) or an appropriately authorised person if the Resident lacks capacity. Any loss of a Resident's money/benefit books/swipe-cards, property etc (or breakage of property) must be reported to the Authority as soon as possible in line with the relevant local safeguarding policy, and where required, the police must be immediately informed of any relevant issue.
- 10.7.37. Where the Care Home manages the finances of a Resident, the Care Home must ensure that there is a separate personal account in which only the named Resident's funds are held.

Residents' reviews

- 10.7.38. The Authority will regularly review the needs of each Resident in accordance with its requirements under "Fair Access to Care Services" and the Provider shall use all reasonable endeavours to co-operate with this process.

Providing palliative and End of Life Care (EoLC)

- 10.7.39. For many Residents Palliative and End of Life Care (EoLC) will be applicable and this may include offering some degree of support to families and/or those close to the Resident.
- 10.7.40. EoLC is care and support that helps all those with advanced, progressive, incurable illness to live as well as possible until they die. It enables the supportive and palliative care needs of both Resident and family to be identified and met throughout the last phase of life and into bereavement.
- 10.7.41. To ensure that needs are met in a timely manner a proactive approach to care and support is essential, anticipating needs at the different stages which the individual will enter as their illness progresses. The NHS North West EoLC model provides a pathway along which services and care should be delivered and is inclusive of recognising the choices individuals may have.
- 10.7.42. The National EoLC Strategy is very clear what individuals and their carers should expect as part of their EoLC. It is essential that Personnel are competent to deliver EoLC regardless of their role or the setting in which care is being delivered.
- 10.7.43. Care should be well planned and coordinated with quality assurance of being delivered to a high standard. Therefore the specific requirements of the Provider are to:

- 10.7.43.1. Operate within a multi-agency provision in line with the National End of Life Care Strategy and implement relevant aspects of the Social Care Framework which aims to address the social care aspect of changing the culture of death & dying ("Supporting people to live and die well: a framework for social care at the end of life" which can be found here: <http://www.nhs.uk/resource-search/publications/sharing-successful-strategies-for-implementing-%E2%80%98supporting-people-to-live-and-die-well.aspx>).
- 10.7.43.2. Ensure that Personnel are aware of and understand the principles of care involved in looking after those in the last few days of their life ensuring they receive high quality care, tailored to their needs and wishes and delivered with compassion and competence.
- 10.7.43.3. Enable a Resident to die within the Care Home if it is their preference and it is possible to achieve;
- 10.7.43.4. Ensure that Personnel have received specific training which links with the National EoLC core competencies;
- 10.7.43.5. Be aware of the NHS NW EoLC model and how the Provider's service is provided along this pathway or the appropriate local model;
- 10.7.43.6. Ensure that Personnel are able to recognise/identify when a Resident is moving along the pathway and therefore their EoLC needs will need to be reviewed/re-assessed;
- 10.7.43.7. Ensure that Residents are able to discuss their needs and preferences with a support worker who is competent and confident in having those discussions whilst also being aware of their own limitations and when to refer on to other services for additional support;
- 10.7.43.8. Ensure the needs of carers are recognised and included in the overall approach to care delivery.

Providing physical intervention

- 10.7.44. Where Support Plans comprise of a physical intervention plan the Staff must be appropriately trained in a non-aversive model of physical intervention. Any restraint including planned physical intervention contained within a Resident's Support Plan must be compliant with the Mental Capacity Act 2005 (i.e. the restraint used is reasonable and proportionate to the danger the Resident might encounter if the physical intervention were not used, physical intervention must only be used if it is the least restrictive intervention available and the duration of any physical intervention should be as short as is reasonably possible to maintain the safety of the person and/or others).
- 10.7.45. The Provider must follow the Authority's restrictive physical intervention pathway and any physical interventions used out of necessity/emergency must be reported to a point of contact within the Authority. Planned physical interventions must be in accordance with the Authority's policy and be agreed by a representative of the Authority.

- 10.7.46. The Provider is expected to adhere to models of best practice in supporting Residents who present behaviours that are challenging to manage.

Having tolerance of behaviour and attitude

- 10.7.47. At times Residents or their family members may display behaviour or attitudes that could be regarded as offensive, such as dis-inhibited behaviour related to their condition. The Provider is required to prepare and support their Staff for this in continuing to offer a service to such Residents.
- 10.7.48. If such behaviour or attitude could be considered illegal or to present a risk to Staff or others then The Provider should report this immediately to the appropriate authorities as well as this Authority in order to reach an agreement about how to proceed.

Understanding the Mental Capacity Act 2005

- 10.7.49. Some Residents will fall within the provisions of the Mental Capacity Act and The Provider is required to understand the implications of this in relation to these Services.

Deprivation of Liberty Safeguards 2008

- 10.7.50. The Provider must work in accordance with Deprivation of Liberty Safeguards Code of Practice and Bolton Authority's Multi Agency Mental Capacity Act 2005 and Deprivation of Liberty Safeguards Policy and Procedural Guide or the relevant local area guidance. The Provider must adhere to their responsibilities as a Managing Authority (as defined by the above mentioned Act) and providers must follow the local policy and procedural guide on DoLS and provide details of how they should make a request i.e. contacting the DoLS lead (see Schedule 2).

Treating Residents as individuals and with dignity and respect:

- 10.7.51. The Provider should comply with the Department of Health's Dignity Challenge Initiative and ten point dignity challenge.
- 10.7.52. Residents should define how they wish to be addressed by all of the Provider's staff.
- 10.7.53. Staff should be suitably aware of and trained in various methods of communicating with Residents with sensory disability and/or dementia and use these skills appropriately.
- 10.7.54. Staff should understand that conversations with Residents and Carers are vital in helping to meet their social and emotional needs. This includes not ignoring the Resident in any conversations; not using mobile telephones whilst providing support; and maintaining appropriate confidentiality about other Residents, Staff and the Provider as their employer.
- 10.7.55. Staff must be familiar with any special requirements of the Resident and Carer e.g. hair care, dress, toileting needs, particularly critical preferences, spiritual and cultural needs.

10.7.56. The Provider should ensure that Residents are consulted on all matters concerning their support, treatment and general welfare and, where appropriate, options should be offered and explained.

10.7.57. The Provider should ensure they arrange regular collective residents and/or relatives meetings a minimum of three (3) times annually. These meetings will be recorded with a copy of the minutes available to the Authority when requested.

10.7.58. The Provider should ensure that Residents' nutritional needs and choices are addressed and meal times protected. Where necessary, Residents should be assisted at meal times. All care tasks should be conducted in a manner that protects each Resident's dignity.

10.7.59. The Provider should ensure that no photographic, visual or audio images are made of Residents without their informed written consent (or the written consent of someone legally able to give such written consent) and that there is no use of any images of Residents without their express written consent (or the written consent of someone legally able to give such written consent)

Providing social and emotional support and meeting cultural diversity

10.7.60. The Provider is expected to support Residents in having their emotional and spiritual needs recognised within all Services provided. Residents' individual emotional needs should be identified, accepted and receive a sensitive response from all Staff

Providing support with issues related to Residents' sexuality

10.7.61. All Residents should be supported by Providers to have the same opportunities as any citizen in relation to their own sexuality and personal relationships. This may include promotion and provision of information at a level suitable to the individual on sex, sexual health and personal relationships. However, this must also include safeguards to ensure Residents are not put into vulnerable situations, for example undertaking activities that are not specified on the Resident's Support Plan. The Provider will also ensure that Staff have guidelines for recognising and responding to the abuse and exploitation of Residents and will have a risk management approach in relation to any individual who could be regarded as vulnerable, or abusive to others.

Residents' satisfaction

10.7.62. It is expected that the Provider will always attempt to address all concerns, potential and actual complaints as early and fully as possible and in ways that minimise the opportunities for escalation and continuing dissatisfaction

Dealing with other parties involved with the Resident

10.7.63. The Provider is expected to liaise with and encourage the involvement of relatives with Residents in the Services they receive. The only exception is where this is in conflict with the needs of the Resident as identified in the Authority's assessment and their own wishes.

- 10.7.64. The Provider should be familiar with the roles and expected functions being undertaken by other service providers and others contributing to the Services, and work proactively and positively with all other agencies in the best interest of the Resident. The Provider should inform the Authority of any situation where another party is failing to undertake their expected role or function.

Absences and deaths of residents

- 10.7.65. The Provider shall notify the Authority immediately if a Resident is absent from the Care Home for an unplanned period and the Authority shall discuss with the Provider the viability of continuing with the relevant Resident Placement Agreement. In the event that the relevant Resident Placement Agreement is not terminated the Standard Rate payable under that agreement will be reduced after twenty eight (28) nights of absence to 80%
- 10.7.66. The Provider shall notify the Authority as soon as reasonably possible but within no more than eight (8) hours of a Resident being absent from the Care Home without explanation. Out of usual business hours the Provider must contact the Authority's Emergency Duty Team (EDT)
- 10.7.67. The Provider shall notify the Authority of a Resident's death no later than the next Working Day following death. If a Resident dies outside normal working hours and has no next of kin the Provider may arrange to move the Resident's body to the Authority's nominated undertaker (provided that the Resident has not made alternative arrangements prior to death). For the avoidance of doubt nothing in this clause 5.49 shall oblige either party to meet any funeral expenses.

11. Staffing

requirements

- 11.1. The Provider must have, use and be able to demonstrate if requested, appropriate management arrangements for meeting its obligations under this Service Specification.
- 11.2. The Provider shall ensure that:
- 11.2.1. It has adequate staffing levels to meet the needs of the Service.
- 11.2.2. It must follow safe recruitment practices, and robustly examine the identity, right to work, competence, experience, references, full employment history (including the last employer) and qualifications and current registration of all potential staff.
- 11.2.3. It must have and execute clear programmes of induction and training relevant to these Services. All Staff must satisfactorily complete an induction programme within the first twelve weeks of employment in line with the recommendations relating to the Common Induction Standards set by the Skills for Care (or any successor body) and requirements of the CQC (or any successor body). Staff must also not undertake unsupervised tasks for which they require specific training. All training due and received should be fully and clearly recorded for every member of staff. The following educational updates are recommended on an annual basis and, ideally should be mandatory:

Fire safety
Moving & Handling
Infection Prevention & Control
Safeguarding
Medicines Management

11.2.4. The Provider must ensure that it has and implements specific policies to safeguard the privacy and rights of Residents, Carers and its Staff in respect of photographs, recordings and use of the internet and mobile phones at work.

11.2.5. Any suspected misconduct, dishonesty or behaviour, which is detrimental to the welfare or well-being of Residents, is thoroughly investigated having regard to the Authority's Safeguarding of Vulnerable Adults policy. The Provider must notify the Authority as soon as it becomes aware of any improper conduct by Staff or other staff in connection to these Services.

11.2.6. If it has a home within Bolton, it is registered with the Bolton Care Training Partnership, if possible.

11.3. In the event that the Authority of the reasonable opinion at any time during the Agreement Period that any member of the Provider's Staff is unable or unfit to deliver the Services or any part of the Services the Provider will upon request:

11.3.1. Provide written details of the issue or issues to the Authority;

11.3.2. Deliver to the Authority a written action plan detailing the way in which the Provider proposes to deal with the issue or issues; and

11.3.3. Comply with any reasonable guidance or instructions issued by the Authority in relation to the action plan; and

11.3.4. Comply with the action plan and any timescales detailed therein.

11.3.5. The National Minimum data set for social care (NMDS – SC)

11.3.6. The Provider must register with the Skills for Care NMDS-SC and complete the following:

11.3.6.1. The NMDS-SC Organisational record and update this data at least once per financial year.

11.3.6.2. Fully complete the NMDS-SC individual worker records for a minimum of 90% of the Workers, including updating these records at least once per financial year.

12. Transport

12.1. If requested by the Authority under a Resident's Placement Agreement or if provided as a part of the general Services offered, the Provider may provide appropriate transport to Residents subject always to safe operating procedures being in place which procedures shall include but not be limited to providing escorts for Residents where necessary.

- 12.2. The Provider will ensure that any vehicle utilised in the provision of transport complies with the necessary legislation, the manufacturer's recommendations and licensing arrangements required in respect of the vehicle and its use and it will ensure that any driver of such transport has an appropriate current licence in respect of the vehicle being used.

13. Termination of Resident Placement Agreements

- 13.1. A Resident Placement Agreement shall terminate forthwith without notice on the death of the Resident to which it relates and in that event the Fee shall be payable up to the date of death plus three (3) extra nights following death.

- 13.2. The Authority may terminate a Resident Placement Agreement on no less than fourteen (14) nights' notice for any reason. During the period of notice the Provider is expected to continue to provide the Services as specified in the Resident Placement Agreement.

- 13.3. The Authority may terminate a Resident Placement Agreement forthwith if:

13.3.1. The Resident's assessed financial contribution and/or any agreed or required Third Party Top Up becomes more than six (6) weeks in arrears;

13.3.2. The Resident's financial circumstances become such that the Resident's placement at the Provider's Care Home ceases to be eligible for financial support by the Authority

- 13.4. The Authority may terminate a Resident Placement Agreement on no less than one (1) nights' notice for the following reasons:

13.4.1. The Resident's placement at the Provider's Care Home is no longer appropriate to meet the Resident's assessed needs;

13.4.2. The Authority discovers that it has been induced to enter into a Resident Placement Agreement as a result of misrepresentation by the Resident or his representative, advocate or guardian of the Resident's needs, condition and/or financial circumstances;

13.4.3. The Provider fails to comply with a Default Notice served by the Authority on the Provider;

13.4.4. The Provider persistently breaches its obligations relating to a Resident under a Resident Placement Agreement;

13.4.5. A Resident no longer wishes to reside at the Provider's Care Home (for the avoidance of doubt a Resident's wishes may, where relevant be expressed by their formal advocate);

13.4.6. The Care Home is closing or its registration status has or is scheduled to change.

- 13.5. The Provider may terminate a Resident Placement Agreement by giving not less than seven (7) nights' written notice if in its opinion, as confirmed by the Resident's General Practitioner (or another General Practitioner if the Resident's General Practitioner's is the registered proprietor of the Care Home), the Resident's

physical and/or mental condition has deteriorated to a point where long term care is needed at a level which the Provider is unable to meet having regard to the Care Home's statement of purpose. In this event the Resident Placement Agreement shall terminate on the expiry of the said notice or on the date that the Resident is moved into more suitable accommodation whichever shall be the later.

- 13.6. The Provider may terminate a Resident Placement Agreement by giving not less than fourteen (14) nights' written notice to the Authority if in the Provider's reasonable opinion a Resident's behaviour is a danger to the Care Home, the Provider's Staff or other residents or if a Resident persistently seriously affects the well-being of other residents, provided that:

13.6.1. The Provider has contacted the Resident's Care Manager or Review Officer, as detailed in the Resident Placement Agreement, giving reasonable notice for the same to consider the issues and, where deemed appropriate, arrange for further assessment of the Resident's needs; and

13.6.2. A meeting has been held between the Resident's Care Manager or Review Officer, as detailed in the Resident Placement Agreement, and the Provider and, where appropriate, the Resident's representative and an action plan has been agreed; and

13.6.3. The agreed action plan has been implemented but has failed and a further meeting has taken place between the Resident's Care Manager's or Review Officer's team leader and at this meeting it was agreed that there is no other option but to remove the Resident from the Care Home; and

13.6.4. The said Care Manager or Review Officer has confirmed to the Provider that suitable alternative accommodation for the Resident is available

14. Self funding Residents (these clauses only applies to homes situated within Bolton)

- 14.1. Prior to accepting a resident on a privately funded basis, the Provider shall, where possible:

14.1.1. carry out financial checks to determine how long the privately funded resident will be financially able to meet the Total Care Home Price; and

14.1.2. obtain the privately funded resident's consent to inform the Authority when it anticipates the said resident will cease to be able to meet the Total Care Home Price and become financially eligible for local authority financial support.

- 14.2. In the event that the Provider agrees to accommodate an individual on a privately funded basis and it is later discovered that the individual would have been eligible to receive Services funded by the Authority from either the commencement of their stay or later:

14.2.1. the Provider shall refund to the individual all fees paid from the date that the Authority informs the Provider that the individual became eligible to receive Services funded by the Authority; and

- 14.2.2. the Authority shall pay to the Provider the Care Fees which would have been payable had the individual's placement been made under this Agreement. Under no circumstances shall the Authority pay to the Provider the amount which the individual had agreed to pay on a privately funded basis (including any top ups agreed).

DRAFT

Schedule 1 to the Service Specification

The Care Fees

1. The Authority shall calculate the Care Fees payable under each Resident Placement Agreement on a case by case basis taking into account the following:
 - 1.1. Standard Authority rate
 - 1.2. Authority Supplement
 - 1.3. NHS contribution
 - 1.4. Third Party Top Up
2. Some Residents have very specific needs requiring regular additional and exclusive Services. The Provider must demonstrate and agree with the Authority such additional specific regular costs before the commencement of the placement. Such costs will then be reflected in the Authority Supplement.
3. The Authority will set the Standard Authority Rate each financial year in accordance with relevant legislation and, where appropriate, it shall consider any relevant guidance.
4. Once the Standard Authority Rate for any financial year is confirmed, then the Provider may, within the following six weeks, make a request to the Authority to amend any existing Third Party Top Up no less than eight weeks' prior to the proposed change taking effect. Each request will be considered on a case by case basis. In the event that the Authority agrees to amend the Third Party Top Up, the change will take effect on a Monday

Schedule 2 to the Service Agreement: DoLs

This schedule only applies to homes situated within Bolton

For the Urgent Attention of all Registered Residential Care Home Managers

Re: requirement to inform Coroner of the death of a resident under subject to a Standard Authorisation to deprive them of their liberty

Bolton Council (Supervisory Body) has agreed the following protocol with Bolton Coroner for the reporting the death of a resident who is subject to a Deprivation of Liberty Standard Authorisation.

- The registered manager must inform the Coroner immediately upon the death of a resident who was subject to a Deprivation of Liberty Standard Authorisation.
- The Coroner must be informed before a doctor has signed the death certificate
- The Supervisory Body must be informed

How to inform the Coroner

- In such circumstances, within Office hours (8.30am – 4pm / Mon-Fri) an attending Doctor should report the death directly to the Coroner's Office by calling, Tel; 01024-338799.
- At all other times and in the absence of an attending Doctor a responsible person of the Residential Care Home should report the death to Greater Manchester Police on Tel; 0161-872-5050. A Police Officer will attend at the scene and part of the Officers investigation will entail a report of the death to H.M Coroner as per the agreed protocol.

How to inform the Supervisory Body

- The Supervisory Body will be informed by telephone in the office hours of 8.45 – 5.00pm Monday to Friday.

John Baulcombe DOLS Lead Bolton Council 01204 333891
/ 07919 565 047 john.baulcombe@bolton.gov.uk

Or

Linda Evans DOLS Administrator 01204 333891
linda.evans@bolton.gov.uk

- Once phone contact has been made the Managing Authority must complete the "Notification to Coroner" Form and fax or email to:

FAX The Safeguarding Adults Team 01204 333779

Email john.baulcombe@bolton.gov.uk

Or

linda.evans@bolton.gov.uk

Advice to family members

- **The Coroner**

When a death occurs in the following circumstances it will be referred to the Coroner:

- The death is sudden and unexpected
- The Cause of Death is industrially related
- The cause of death is unknown
- There are suspicious circumstances surrounding the death
- When a doctor has explained that he/she is unable to issue a medical certificate of cause of death
- Death of a person subject to a Deprivation of Liberty Authorisation

Deaths reported to the Coroner

The coroner will investigate the circumstances of the death and do one of the following:

- Issue a certificate allowing the death to be registered
- Arrange a post mortem and when it is complete issue a cause of death certificate allowing the death to be registered
- Arrange a post mortem and hold an inquest. The coroner will then arrange for the death to be registered after the inquest has taken place

Further Information

Bolton Coroners Service

<http://www.bolton.gov.uk/website/pages/CoronersSuddenDeathInvestigations.aspx>

Bolton Council Supervisory Body

Safeguarding Adults Team 01204 33891

John.baulcombe@bolton.gov.uk