

DATE

2016

- (1) Sheffield Teaching Hospitals NHS Foundation Trust
- (2) Sheffield Health and Social Care NHS Foundation Trust
- (3) Sheffield Children's NHS Foundation Trust
- (4) Sheffield Hospitals Charity

Memorandum of Understanding

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DATED

2016

PARTIES

(1) **Sheffield Teaching Hospitals NHS Foundation Trust** of [];

(2) **Sheffield Health and Social Care NHS Foundation Trust** of [];

(3) **Sheffield Children's NHS Foundation Trust** of [];

(each a '**NHS Body**' and together the '**NHS Bodies**'); and

(4) **Sheffield Hospitals Charity**, a charitable company limited by guarantee with company number [] and charity number [], whose address is [] (the '**New Charity**').

Introduction

The Government Response to the consultation concerning the regulation and governance of NHS Charities published on 14 March 2014 outlined a process by which the trustees of an NHS charity may resolve to transfer the undertaking of the NHS charity to a new independent charity, and the parties have agreed to do so.

The Department of Health's stipulations, so far as the NHS Bodies are concerned, in that response, as amplified in the guidance issued by the Department of Health in November 2014 and updated in April 2015, are satisfied by:

- (a) the commitment set out between the New Charity and each of the NHS Bodies in separate deeds (the '**Deeds**') copies of which are set out at the Appendix to this memorandum and which are to be executed by the parties on the same date as this memorandum; and
- (b) the ongoing input of the NHS Bodies into the governance of the New Charity

The parties recognise, however, the importance of recording, at this time of transition, the guiding principles which they intend will apply to the future relationship between the NHS Bodies and the New Charity, and so have prepared this memorandum of understanding for this purpose.

For the avoidance of doubt, it is not intended that this memorandum of understanding be legally binding.

Terms used in this memorandum have the same meaning as the terms defined in the Deeds (where this makes sense in the context).

Timing

The assignment will take place on 1 April 2017 and the guiding principles set out below shall apply as between the NHS Bodies and the New Charity from the date of the assignment.

Guiding principles

The NHS Bodies and the New Charity shall abide as far as reasonably possible by the following guiding principles:

- 3.0 The mutual over-riding intention of each of the NHS Bodies and the New Charity is that they will put in place suitably co-operative and collaborative arrangements between themselves to ensure benefit to the NHS patients who are the New Charity's beneficiaries.
- 3.1 The New Charity acknowledges the importance of understanding the strategic objectives of each of the NHS Bodies, and the NHS Bodies also each acknowledge the importance of understanding the New Charity's strategic objectives. The NHS Bodies recognise that the New Charity is committed to supporting all three of them, which may, on occasion, require understanding and co-

operation on their part in light of potentially competing priorities (for instance, in relation to fundraising initiatives). The NHS Bodies will work with the New Charity, and it with each of them, to achieve a mutually supportive relationship (to the extent compatible with their respective legal obligations).

- 3.2 The NHS Bodies and the New Charity recognise the importance of regular communication with a view to ensuring that these guiding principles are made a reality and drive success, and will maintain a number of bilateral and multilateral relationships at executive and non-executive level to ensure effective working relations and communication between themselves. *[Insert specific examples if required – for instance, details of specific contacts in each organisation; observer status at board meetings etc.]*
- 3.3 In particular, in the interests of the New Charity understanding the priorities of each NHS Body, the NHS Bodies will ensure that the New Charity's trustees are fully briefed, including where relevant by clinical leaders, on any significant projects.
- 3.4 The New Charity will give special attention and resources, as capacity allows, to the encouragement and solicitation of grant applications from the NHS Bodies.
- 3.5 The NHS Bodies will actively promote and support the New Charity (including within their hospitals, centres and other locations) and give special attention to the promotion of funding opportunities and the co-ordination of emerging proposals.
- 3.6 Where the New Charity receives Gifts from one of the NHS Bodies the New Charity will abide by any restrictions on the purpose for which such a Gift may be applied. The New Charity recognises that any unrestricted Gifts it receives from one of the NHS Bodies are likely to relate to donors' desire to recognise that NHS Body's work and to provide benefit to the NHS patients it serves, and the New Charity will have due regard to this when considering grant applications.
- 3.7 The New Charity and the NHS Bodies will cause to be prepared and will enter into any necessary licence agreements in order to allow the New Charity to use *[insert IP]* and to allow the NHS Bodies to use *[insert IP]*. *[Note: this provision may not be required, but is included just in case.]*
- 3.8 *[If existing staff are not TUPEing across to New Charity]:* The New Charity and Sheffield Teaching Hospitals NHS Foundation Trust will cause to be prepared and enter into an agreement for the secondment of Trust staff to the New Charity. The agreement is intended as a transitional arrangement and will apply only to Trust staff who carry out functions for, or in relation to, Sheffield Hospitals Charitable Trust and Related Charities (the '**Existing Charity**') at the date of the Assignment. New staff employed by the New Charity after the date of the Assignment will be employed by the New Charity directly. Confirmation on this aspect has been given to the Department of Health.

Review and amendment

This memorandum will only be varied by written agreement of the NHS Bodies and the New Charity, but all parties recognise that it is a living document and that it will need to adapt to changing circumstances.

On that basis, the NHS Bodies and the New Charity will conduct an annual review of the guiding principles set out in this memorandum and of their relationship in order to ensure they continue to work effectively together, and will make amendments to this memorandum under this clause 4 as agreed.

In particular, one or two of the NHS Bodies may wish to agree a change with the New Charity which relates to it alone or to both of them (rather than to all NHS Bodies). Provided the other(s) is/are notified, and a copy of the change sent to the other(s) and annexed to each copy of this memorandum by way of record, it shall be possible for such a change to be made.

Dispute Resolution

Any dispute or disagreement between the NHS Bodies and the New Charity shall be referred in the first instance for resolution by the Chief Executive Officers of the three organisations. If the Chief Executive Officers are not able to resolve the dispute or disagreement themselves, the Chairmen of the three organisations shall meet to attempt a resolution, engaging the services of a mediator if they deem it beneficial.

Signed on behalf of SHEFFIELD HOSPITALS NHS FOUNDATION TRUST)
	Director

Signed on behalf of SHEFFIELD HEALTH AND SOCIAL CARE NHS FOUNDATION TRUST)
	Director

Signed on behalf of SHEFFIELD CHILDREN'S NHS FOUNDATION TRUST)
	Director

Signed by SHEFFIELD HOSPITALS CHARITY
	Trustee

Appendix – Deeds