



Secondment Policy

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NHS SHETLAND DOCUMENT DEVELOPMENT COVERSHEET

Name of document	Secondment Policy		
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All staff				
Date	Version	Group	Reason	Outcome
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Examples of reasons for presenting to the group	Examples of outcomes following meeting
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Please record details of any changes made to the document on the back of this form
*To be attached to the document under development/review and presented to the relevant group

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1.0 Policy Statement

- 1.1 NHS Shetland strives to be an exemplary employer, with staff who are flexible and adaptable to the service, both locally and nationally. NHS Shetland is, and will continue to be a constantly changing organisation. As services change, the skills needed to deliver services also change. As a learning organisation, NHS Shetland recognises the value of secondment for both employee and organisational development.
- 1.2 By placing employees in different work situations, secondment offers the opportunity for individuals to develop new skills or enhance existing skills, enabling NHS Shetland to develop and retain experienced, skilled and valued employees.
- 1.3 Furthermore, by developing and sharing skills within and across NHS Shetland and partner organisations, it is recognised that secondment helps such organisations to modernise and adjust to service changes, to the overall benefit of NHS Scotland.
- 1.4 This policy has been developed in partnership with local trade union/ professional organisation representatives. It reflects the best practice identified in, and meets the minimum standards set out in, the Secondment Partnership Information Network (PIN) Policy.

2.0 Scope

- 2.1 This policy applies to all employees within NHS Shetland who apply for or subsequently undertake a secondment for a defined period to another role either within NHS Shetland or within another Host Organisation.
- 2.2 While there is no automatic right to secondment, all employees within NHS Shetland should have equal access to this policy in compliance with relevant legislation and no application for secondment will be unreasonably refused.

3.0 Principles & Values

- 3.1 NHS Shetland will ensure that clear arrangements are in place for accessing secondment. Secondment opportunities may arise

through a variety of circumstances, but should ordinarily be advertised in line with the normal recruitment process.

- 3.2 All employees will have equal access to this policy in compliance with relevant legislation.
- 3.3 No application for secondment will be unreasonably refused.
- 3.4 NHS Shetland will ensure that clear arrangements are in place in advance of any secondment commencing, including completion of an appropriate secondment agreement and ensuring that all stakeholders are fully aware of their roles and responsibilities under the secondment.
- 3.5 In order to facilitate the secondment process, central coordination is essential. The Human Resources Department will be responsible for this within NHS Shetland.
- 3.6 NHS Shetland (through use of the Objectives, PDP and Joint Development Review sections of the e-KSF system) will ensure that an evaluation of learning is undertaken following the completion of secondments to ensure that newly developed knowledge or skills can be identified and used to the benefit of the service.
- 3.7 NHS Shetland will, in partnership, monitor applications for and use of secondment on an ongoing basis with a view to ensuring the fair and consistent application of this policy.

NHS Shetland will also ensure that this policy is subject to regular review, in partnership, in order that it remains fit for purpose and to enable the organisation to demonstrate adherence to the Secondment PIN Policy.

4.0 Definitions

4.1 Secondment

This policy defines secondment as follows:

“The temporary loan of an employee to another organisation, or to a different part/post of the same organisation, for a specific purpose and

for a specific time, to the mutual benefit of employees and NHSScotland generally.”

4.2 Types of secondment:

- Internal secondment (i.e. within the same NHS Board);
- Internal secondment within NHSScotland (i.e. to another NHS Board); or
- External secondment (e.g. to Scottish Government, local authority, trade unions, professional organisations and the voluntary sector).

4.3 Suitable secondment opportunities

Secondment appointments may be made on a part-time or full-time basis and can be used in a variety of circumstances, as illustrated below. The examples below should not limit the creativity of employees and/or managers in identifying suitable secondment opportunities:

- Facilitate partnership working ¹;
- Develop individuals or groups of individuals, personally and professionally;
- Provide training/experience and/or skills within another area;
- Increase self-confidence/competence;
- Share expert resources between and within organisations;
- Address the absence of a substantive post holder (e.g. maternity leave or long-term sickness absence);
- Facilitate or enhance a particular project or research;
- Enable an employee, in agreed circumstances, to remain with their employer and retain specific benefits (e.g. remuneration and pension); or
- Assist in succession planning.

Managers should always give consideration as to whether vacancies which arise may be offered on a secondment basis, particularly where such vacancies are fixed-term in nature and therefore such an approach would widen the scope of potential applicants.

¹ Please note that the terms and conditions applicable to ‘planned release’, as defined under the Facilities Arrangements for Trade Unions and Professional Organisations PIN Policy, may differ from those set out within this PIN policy.

4.4 Secondee

An employee of NHS Shetland who is seconded to a different role either within NHS Shetland or with a Host Organisation (which may or may not be another NHSScotland Board).

4.5 Accountable Manager

The Accountable Manager within NHS Shetland may be the substantive line manager of the Secondee or may be at a higher level where the substantive line manager is not the budget holder. The Accountable Manager may assign certain of the responsibilities detailed within this policy to the line manager (where this is a different individual). However, the Accountable Manager will have overall responsibility for ensuring that such responsibilities are carried out appropriately.

The Accountable Manager within NHS Shetland will retain responsibility for the ongoing management of the Secondee's contract of employment during the period of the secondment in line with the secondment agreement.

4.6 Host Manager

The Host Manager is the manager who will be responsible for management of the secondment role itself. The Host Manager may be from within NHS Shetland or within a separate Host Organisation, depending on whether the secondment is to a role within NHS Shetland or not.

4.7 Host Organisation

'Host Organisation' is the term used within this policy to identify the organisation to which a Secondee has been seconded, where this secondment is to a different organisation than NHS Shetland. The Host Organisation may or may not be another NHSScotland Board.

5.0 Roles & Responsibilities

5.1 Secondee

- To ensure that authorisation has been provided by their Accountable Manager prior to accepting a secondment opportunity;

- To adhere to their obligations as set out in the secondment agreement, including keeping in touch with their Accountable Manager to allow for exchange of information and how they perceive the secondment to be working out for them; and
- To participate in an evaluation of learning following completion of the secondment to ensure that newly developed knowledge or skills can be identified and used to the benefit of the service.

5.2 Accountable Manager

- To consider all secondment requests and only refuse a request if there are clear, demonstrable business reasons why it is not practicable. Reasons for refusal should be communicated to the employee in writing and a record of refusal and its reasons sent to the Human Resources Department;
- To liaise with HR to ensure that the employee is fully aware of the circumstances as outlined in NHS Shetland's local policy developed in line with the Fixed Term Contracts PIN Policy, in circumstances where a secondment is refused and the employee seeks to undertake the opportunity on a fixed term contract basis;
- To ensure that, prior to commencement of a secondment, the appropriate secondment agreement has been completed, and the following points have been taken into account:
 - Clear reasons identified for the secondment (including identification of the benefits for the individual and the organisation);
 - Replacement costs and arrangements for cover (if necessary);
 - Clear agreement on the start and finish dates (secondments vary in length, usually between three months and two years, depending upon the circumstances. However the period of secondment must be agreed and clearly defined in the secondment agreement);
 - In circumstances where the employee's substantive role may not be available for their return, then this must be understood and agreed by the Accountable Manager and the Seconded prior to the commencement of the secondment, or at the time of any

subsequent proposed extension. In such cases, or where the substantive post is subsequently subject to change during the secondment, relevant organisational change provisions will apply. In all cases the Accountable Manager should seek guidance from HR;

- That the employee fully understands any terms and conditions implications;
 - Training needs during and following a period of secondment;
 - Arrangements for appraisal/PDP&R completion during the secondment;
 - Relevant statutory requirements for maintenance of professional registration;
 - Arrangements to keep in touch with the Secondee on a regular basis and to consult them on any proposed changes to their substantive post during the term of the secondment; and
 - Clear arrangements for return of the Secondee to their substantive post or a suitable alternative (where it is agreed, as above, that they will not return to their substantive post), or as otherwise determined under 9.9 below.
- To fulfil their agreed obligations under the secondment agreement, including:
 - Keeping in touch with the Secondee during the secondment; and
 - Informing the Host Organisation (or the relevant line manager where the secondment remains within NHS Shetland) where there is a need to terminate the secondment earlier than agreed.
 - To keep in touch with the Human Resources Department on a regular basis to inform them of any changes or terminations to the secondment;
 - To ensure that a return to work interview takes place with the Secondee; and

- To ensure that an evaluation of learning is undertaken following completion of the secondment in order that newly developed knowledge or skills can be identified and used to the benefit of the service.

5.3 Host Manager

- To fulfil their agreed obligations under the secondment agreement, including:
 - Liaising with the Secondee's Accountable Manager in order to have input to any appraisal outcomes/performance issues; and
 - Liaising with the Secondee's Accountable Manager on any proposal to change, terminate or extend the secondment.

5.4 Human Resources Department – Monitoring Arrangements

Essential to the success of the policy is the need for central coordination which will be administered by the Human Resources Department. The Human Resources Department will be responsible for the following:

- Creating and maintaining a record of Secondees. This record will include, as a minimum, details of the Secondee, their substantive post and Accountable Manager, and also details of the secondment;
- Developing relationships with the Accountable Managers of Secondees to ensure consistency of approach;
- Keeping a record of the number of employees accessing secondment arrangements, the evaluation of learning (the Accountable Manager to inform Staff Development and Human Resources when this has taken place) and the subsequent retention of Secondees within NHSScotland following the completion of secondment; and
- Keeping a record of refused applications for secondment.

6.0 Secondment Agreements

6.1 Secondment agreements must be completed and authorised by the necessary parties in advance of the secondment commencing, as detailed below.

6.1.1 In the case of a secondment to a Host Organisation:

- A secondment agreement between NHS Shetland and the Host Organisation should be completed and signed by both parties (the Agreement); and
- A secondment agreement between NHS Shetland and the Secondee should be completed and signed by both parties (the Schedule).

6.1.2 In the case of secondment which remains within NHS Shetland:

- A secondment agreement between the Accountable Manager, the Host Manager and the Secondee should be completed and signed by all parties.
- There are fewer legal issues to consider with secondments which remain within NHS Shetland. However, there may be changes to the employee's terms and conditions of employment for the duration of the secondment (e.g. changes in their usual place of work and duties during the secondment).

7.0 Keeping in Touch

7.1 Keeping in touch with Secondees throughout the period of secondment is essential. Arrangements for this should be clearly documented within the secondment agreement. The responsibility for this will be mutual, where both the Secondee and their Accountable Manager will be responsible for keeping in touch. The Accountable Manager will act as the contact point and keep the Secondee up to date with developments with regard to their substantive role (and with NHS Shetland where the secondment is to a Host Organisation).

7.2 Account must be taken of individual requirements, including:

- Appraisal;

- Maintaining professional registration;
- Consulting on restructuring or proposed departmental change; and
- Retraining requirements on return to the substantive post.

7.3 Examples of keeping in touch might include:

- Mailing lists – remaining on the list for team communications; and
- Attendance at regular team meetings.

7.4 For longer-term secondments, account must be taken of the potential for skills lost, skills gained, changing work practice, changing cultures and new technology. Successful keeping in touch will minimise the impact of these matters.

8.0 Appraisal/PDP&R Arrangements

8.1 Appraisal/PDP&R arrangements must be explicit within the secondment agreement, taking into account individual occupational groups' terms and conditions.

8.2 Performance Management for Executive and Senior Manager Pay

In addition to the above, there is a specific requirement in relation to performance management arrangements for executives and senior managers with regard to pay, which must be followed in accordance with the relevant Circular(s) in operation at the time of the Secondment.

8.3 It is the responsibility of NHS Shetland's Remuneration Committee to ensure that, for Executive and Senior Management Cohorts, performance objectives are set and agreed in a systematic manner with proper records maintained. In addition, it is the responsibility of NHS Shetland's Remuneration Committee to ensure that the performance of all such Secondees is formally assessed at the end of the performance period. In order for NHS Shetland's Remuneration Committee to discharge its responsibilities, it is essential that the Seconding Organisation ensures that the performance management process has been applied for the

Secondee, and it is the responsibility of the Host Organisation to inform the Seconding Organisation of the outcome.

- 8.4** If the Secondee is a member of the Executive Cohort, their performance appraisal will be treated as provisional until the National Performance Management Committee (NPMC) has considered and reported on the overall pattern of performance for all staff in the cohort.

9.0 Terms & Conditions of Employment

- 9.1** In circumstances where NHS Shetland seeks to second an employee, that Secondee is entitled to maintain their terms and conditions of employment except where mutually agreed otherwise.
- 9.2** In circumstances where an employee seeks a secondment opportunity, the advertised terms and conditions will apply. The employee should be made aware of any changes this may mean for their pay or terms and conditions.
- 9.3** Where the terms and conditions for the secondment opportunity are more generous than those applying to the Secondee's substantive post the terms and conditions of the secondment post will apply for the secondment period. For secondments outside the Seconding Organisation, any alterations to the employment contract, including to pay or other terms and conditions of employment, need to be fully discussed and agreed, and detailed in the secondment agreement.
- 9.4** Where secondment is to a post of a higher grade, at the end of the secondment the Secondee will go back to the post on the terms and conditions that would have applied had they not been on secondment. Credit will be given for time spent at a higher grade in the event of any subsequent promotion, where appropriate.
- 9.5** Time spent on secondment with another employer within or outwith the NHS will not affect continuity of employment and associated terms and conditions.
- 9.6** For some Secondees, the statutory requirements for maintenance of professional registration must be explicit within the secondment agreement. For example, secondments outwith the NHS may

require a return to NHS duties for short periods during the term of the secondment to ensure continuing professional registration.

- 9.7** Secondment opportunities should generally be allowed to run their course, in line with the terms of each individual secondment agreement. However, the Accountable Manager within NHS Shetland reserves the right to recall Secondees prematurely if required in exceptional circumstances. Termination of the secondment, prior to expiry at its agreed end date, will normally be subject to an agreed period of notice, as stipulated in the secondment agreement. Any extension to the secondment proposed must be by mutual agreement of all parties.
- 9.8** Linked to the above, the secondment agreement must stipulate what will happen in the event of, for example, long-term absence or persistent short-term absence, or conduct or capability matters, particularly in the case of secondment to a Host Organisation. The Host Organisation will not be responsible for management of the Secondee's contract of employment, but it will wish to have access to a mechanism by which it can advise on any potential need for NHS Shetland to institute formal procedures if necessary. Alternatively, the Host Organisation may wish to specify 'trigger events' which would allow early termination of the secondment agreement with NHS Shetland.
- 9.9** Secondees should be aware that, in some circumstances, the post which the Secondee left (where it was agreed that the Secondee would return to their substantive post) may be subject to organisational change. In those circumstances NHS Shetland's local policies on Organisational Change and Redeployment will apply.

10.0 Training

To support the fair and consistent application of this policy, NHS Shetland will ensure full awareness and understanding of the issues relating to secondment amongst management by incorporating training on this policy within line management development programmes and ensure that all managers have participated in such a programme.

11.0 Monitoring & Measuring Success

NHS Shetland will, in partnership, monitor applications for, and use of, secondment on an ongoing basis with a view to ensuring the fair and consistent application of this policy. The information to be gathered in this respect will include, but will not be exclusively limited to, the data collected by the Human Resources Department. This information will be used as part of the review of the policy.

12.0 Review of Policy

This policy will be reviewed, in partnership, by NHS Shetland every three years to ensure that it remains fit for purpose and to enable NHS Shetland to demonstrate adherence to the Secondment PIN Policy.

13.0 Impact Assessment

This policy has been equality impact assessed using a rapid impact checklist process. The impact on groups with protected characteristics was felt to be largely positive, particularly in relation to equality of opportunity, employment, income, lifestyle change, enhanced skills, healthcare and education and training.

Annex A: Model Secondment Agreement (secondment to another organisation)

Agreement between:
[Add name and designation of NHS organisation, which is to second the employee] (referred to in this Agreement as “the Board”)

And

[Add name and designation of external hosting organisation] (referred to in this Agreement as “the Host”)

WHEREAS

- A. The Board and the Host [add short description of context].
- B. As part of this arrangement, the Board and the Host have agreed that the Board will second the Secondee (as defined below) in accordance with and subject to the terms of this Agreement.

THEREFORE the parties do now hereby agree as follows:-

1.0 Interpretation

In this Agreement the following words and expressions shall have the meanings set opposite them below:-

“Agreement” Means this Agreement together with the Schedule;

“Commencement Date” Means [state];

“Confidential Information” Means:

- a) All information relating to the identity, condition or medical history of any person or other personal information where disclosure is prohibited in terms of the DPA;
- b) All information the disclosure of which would or would be likely to prejudice substantially the commercial interests of any person;

“Data Controller” Has the meaning given to it in the DPA;

“Data Processor” Has the meaning given to it in the DPA;

“DPA” Means the Data Protection Act 1998;

“Duties” Means the duties of the Seconded as set out in Part 1 of the Schedule;

“Employment Contract” Means The terms of employment between the Board and the Seconded at the date of this agreement, [details OR a copy] of which are attached as Part 3 of the Schedule, subject to any changes in the Seconded’s salary or other benefits in accordance with the Board’s usual procedures from time to time;

“Intellectual Property Rights” Means any and all patents, registered and unregistered trade marks, trade and business names, domain names, registered designs, unregistered design rights and other rights in designs utility models, applications for and the right to make applications for any of such rights, know-how, Confidential Information, including rights in any getup or trade dress, copyrights (including rights in computer software and in websites) and rights in databases, subsisting anywhere in the world, and “Intellectual Property Rights” shall be construed accordingly;

“Management Issues” Means all those matters under the Employment Contract requiring action, investigation and/or decisions by the Board including in particular (by way of illustration only and without limitation) appraisals and performance issues; pay reviews and the award of other payments and benefits under the Employment Contract; period of annual, sick or other leave; absence of the Seconded for any other reason; any complaint about the Seconded (whether or not that would be dealt with under the Board’s disciplinary procedure) and any complaint or grievance raised by the Seconded (whether or not that would be dealt with under the Board’s grievance procedure);

“Personal Data” Means personal data as defined by the DPA in terms of which the Board is Data Controller;

“Process” Has the meaning given to it in the DPA and “Processing” shall be construed accordingly;

“Schedule” Means the Schedule of 3 Parts attached to and forming part of this Agreement;

“Secondee” Means [Insert name and address of Secondee];

“Secondment” The Secondment of the Secondee by the Board to the Host on the terms of this Agreement;

“Secondment Period” Has the meaning set out in Clause 3; and

“Sensitive Personal Data” Means sensitive personal data as defined by the DPA in terms of which the Board is Data Controller.

2.0 Purpose

For the duration of this Agreement, the Board agrees to second the Secondee to the Host for the purpose of carrying out the Duties.

3.0 Commencement, Duration & Review

This Agreement shall commence on the Commencement Date (notwithstanding the date or dates hereof) and shall continue until [insert date] unless otherwise terminated in accordance with the provisions of Clause 9 of this Agreement (the “Secondment Period”).

4.0 Secondment

4.1 [Without prejudice to Clause 4.5] the Board shall second the Secondee to the Host for the Secondment Period to perform the Duties in accordance with the terms of this Agreement.

4.2 The normal working hours of the Secondee shall be the hours specified in Part 2 of the Schedule, or such hours as may be otherwise agreed in writing by the Parties.

4.3 The Secondee’s normal place of work will be [*]’s premises at [state]. [From time to time, the Secondee may be required to travel to other locations in order to perform the Duties. If this is the case, the provisions of Clause 5.3.3 will apply.]

4.4 No other consultancy agreement, payment arrangement, or other arrangement or contract whatsoever shall be entered into between the Host and the Secondee in relation to the time spent by the

Secundee on [*]'s business or any other commitments by the Secundee without the prior written consent of the Board.

- 4.5** The Host recognises that the Secundee is required to adhere to certain professional training requirements and to maintain his or her [professional registration] and for such purposes, is required to [state]. The Host undertakes to allow the Secundee to [state] for up to [insert number of days/hours] during the Secundment Period at times and on dates convenient to the Secundee and the Board (acting reasonably and having regard to any representations of [*]) to enable the Secundee to satisfy such professional training requirements and to maintain his or her professional registration.]

5.0 Charges, Costs & Expenses

- 5.1** The Board shall continue to pay the Secundee's salary and any allowances, provide any benefits due to the Secundee or his or her dependants, make any payments to third parties in relation to the Secundee and make any deductions that it is required to make from the Secundee's salary and other payments.

- 5.2** The Host shall, at the end of each [specify period] during the Secundment Period, provide the Board with details of any overtime done by the Secundee during the preceding [period], and the Board shall make the necessary overtime payments to the Secundee in the usual way.]

- 5.3** The Host agrees to pay, within thirty (30) days of receipt from the Board of an invoice in respect thereof, the following charges, costs and expenses in respect of the Secundee:-

5.3.1 Salary costs and all employer's tax and national insurance contributions, employer's superannuation contribution and all other expenses and costs, fees and the like incurred by the Board as employer of the Secundee;

5.3.2 Any costs or expenses incurred by the Board arising out of the Secundee's status as employee of the Board, including without limitation any payment made in respect of sick leave or other special leave entitlement, or other employee benefits to which any Secundee may be entitled from time to time; and,

5.3.3 [All reasonable and properly incurred travel [and] [,]
[accommodation] [and subsistence] expenses incurred
by the Secondee in the course of fulfilling the Duties
[(including travelling to and from [*]'s premises)].

OR

The Host agrees to pay, within thirty (30) days of receipt from the Board of an invoice in respect thereof, the sum of £[amount] a [month] (inclusive of VAT) during the Secondment Period for the performance of the Duties.]

5.4 [The Host shall refund the Secondee all reasonable travel, accommodation and other expenses wholly, exclusively and necessarily incurred by the Secondee during the Secondment Period in or in connection with the exercise of the Services, if such expenses are evidenced in such manner as the Host may specify from time to time.]

5.5 Any fees earned by the Secondee during the Secondment Period shall be paid to the Host.

6.0 Intellectual Property & Confidential Information

6.1 Any know-how and information communicated by the Secondee to the Host shall be used solely in connection with the business of the Host. All such know-how and information shall be subject to the provisions of Clause 6.2. All Intellectual Property Rights throughout the world created during the continuance of this Agreement by the Secondee and/or by or on behalf of the Host through the input and involvement of the Secondee shall be owned solely and exclusively by the Board free from any encumbrances and, upon request by the Board at any time, the Host shall execute any and all documents and do all other things necessary in order to vest such ownership of any and all such Intellectual Property Rights in the Board.

6.2 The Board and the Host agree and undertake to each other that they shall keep secret and confidential at all times both during and after the continuance of this Agreement all and any Confidential Information of the other which comes into their possession at any time either before, during or after the Secondment Period. Neither the Board nor the Host shall use, copy or divulge any such

Confidential Information of the other to any third party except with the express prior written consent of the disclosing party.

6.3 The provisions of Clause 6.2 shall not apply to any information which:

- a) Is in or enters the public domain except as a result of the breach of this Agreement; or,
- b) The recipient can demonstrate was within its rightful possession at the time of or prior to becoming aware of the relevant Confidential Information or having same disclosed to it in terms of this Agreement; or,
- c) Is or becomes available in good faith to the recipient by another source not under a duty of confidentiality; or,
- d) The recipient can demonstrate is developed independently of disclosure by the disclosing party hereunder; or,
- e) Is disclosed pursuant to Clause 6.5.

6.4 [The Board shall be free to disclose the terms of this Agreement, the Duties, the Secondment and any documents connected to same to and within the Scottish Government Health Department [and to other Government departments, agencies and non-departmental public bodies].

6.5 No term of this Agreement, whether express or implied (including this Clause 6) shall preclude the Board from making public under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 and/or any codes applicable from time to time relating to access to public authorities' information (together referred to as "FOI"), details of all matters relating to this Agreement unless:

- i) Such details constitute a trade secret;
- ii) The disclosure of such details would or would be likely to prejudice substantially the commercial interests of any person; or,
- iii) Such details fall within any other exemption under FOI

provided always that application of such exemption shall be at the sole discretion of the Board.

The Board will take all reasonable steps to provide the Host with notice of such intended disclosures under FOI prior to making such information public.

6.6 The Host shall:-

6.6.1 Transfer any request for information, to the Board as soon as practicable after receipt and in any event within five (5) working days of receiving a request for information;

6.6.2 Comply within five (5) working days with any request by the Board; and,

6.6.3 Provide all such assistance as may be required by the Board; to enable the Board to comply with its obligations under FOI.

6.7 The Host warrants that it will Process the Personal Data in compliance with the DPA and all other applicable laws, enactments, regulations, orders, standards and other similar instruments and shall not act in such a way as to put the Board in breach of any of same.

6.8 The Host and the Seconded shall process the Personal Data only to the extent, and in such manner, as is necessary for the purposes of the Secondment and in accordance with the Board's instructions from time to time and shall not Process the Personal Data for any other purpose, and shall keep a record of any processing of Personal Data it carries out.

6.9 To the extent that the Host acts as a Data Processor of the Personal Data, the Host warrants that it has and undertakes that it will at all times have in place appropriate technical and organisational measures sufficient to comply at least with the obligations imposed on the Board by the seventh data protection principle set out in the DPA.

6.10 The Host shall ensure that its technical and organisational measures described in Clause 6.9 reflect the level of damage that might reasonably be expected to be suffered by a Data Subject (as such term is defined in the DPA) as a result of any unauthorised

access or disclosure and shall ensure that its confidentiality and security policies are consistent with NHS MEL(1992)42, NHS MEL(1994)100, HDL(2003)37 and the NHS Code of Practice on Confidentiality and Disclosure of Information issued by the Scottish Government (2005) or any update thereof and afford an equivalent level of protection in respect of Sensitive Personal Data.

- 6.11** The Host shall not transfer the Personal Data outside the European Economic Area without the prior written consent of the Board.

7.0 Conditions of Secondment

- 7.1** The Host shall comply with all legislation, including regulations and directions deriving validity from legislation, and the Board's policies and procedures where applicable, including, without limitation, all legislation, applicable regulations and policies and procedures relating to health and safety at work and shall advise each Secondee of relevant policies and ensure that each Secondee shall comply with those policies. The Host shall demonstrate to the Board if required that a safe system of work is in place for each Secondee.

- 7.2** The Employment Contract shall remain in force during the Secondment Period. The Board shall continue to deal with any Management Issues concerning the Secondee during the Secondment Period, where relevant following consultation with the Host.

- 7.3** The Host undertakes that it will:

7.3.1 Keep the Board regularly updated on the performance of the Secondee, completion of the Duties and operation of the Secondment generally by providing [monthly] written reports to the Board of such details and in such format reasonably requested by the Board;

7.3.2 Raise any and all concerns (whether actual or potential, formal or informal) which it may have in connection with the Secondee and/or their performance of the Duties promptly with the Board in writing and provide full and accurate particulars of them to the Board on an ongoing basis;

7.3.3 Notify the Board immediately upon becoming aware of any Management Issues and provide full and accurate particulars of them to the Board on an ongoing basis; and

7.3.4 Provide any information, documentation, access to its premises and employees and assistance (including but not limited to giving witness evidence) to the Board to deal with any Management Issues concerning the Seconded whether under the Board's internal procedures or before any court or tribunal. [The Board will reimburse the reasonable costs and expenses incurred by the Host in doing so subject to the prior approval of the Board].

7.4 The Seconded shall continue to be eligible for sick pay, holiday pay and any absence entitlements in accordance with the Employment Contract, and shall remain subject to the Board's approval and notification procedures. [The Board shall consult with the Host before approving any holiday request made by the Seconded OR notify the Host of any dates on which the Seconded shall take holiday].

7.5 The Host shall not, and shall not require the Seconded to do anything that shall, breach the Employment Contract and shall have no authority to vary the terms of the Employment Contract or make any representations to the Seconded in relation to the terms of the Employment Contract.

7.6 The Host shall provide the Board with such information and assistance as it may reasonably require to carry out its obligations as the Seconded's employer.

7.7 The Host is responsible for the supervision of each Seconded and his or her work output and behaviour and for providing a safe system of work for the Seconded. The Board shall have no responsibility or liability whatsoever for the performance, conduct or other acts, omissions, breaches or defaults of the Seconded during the term of this Agreement.

7.8 The Host shall indemnify the Board in respect of all costs, damages and expenses incurred by the Board:

a) Arising out of the provision of the Seconded to the Host hereunder and/or the behaviour or activities of the Seconded while acting for or under the supervision of the Host or at the

Host's premises (including without limitation claims made against the Board by third parties, the Host, or the Secondee); and,

b) As a result of breach by the Host of its obligations of confidence stated hereunder.

7.9 The Host will indemnify the Board and keep it indemnified from and against any costs, claims, liabilities and expenses (including, without limitation, all costs incurred by the Board in settling, contesting or dealing with the same) which the Board may incur or suffer as a result of or in connection with any act, omission, breach or default of the Host (including, without limitation, any breach by the Host of the provisions of this Agreement) or of the Secondee.

8.0 Further Obligations of the Host

8.1 The Host undertakes that it will at all times during the continuance of this Agreement cooperate with the Secondee and the Board to such extent as is reasonably required to facilitate the proper operation of the Secondment. In particular (and without limitation), the Host will:

8.1.1 Provide the Secondee with such access to its premises during its normal hours of business, information records, employee facilities and other material relevant to its operations as the Secondee may reasonably require to perform the Duties; and,

8.1.2 Maintain in place at its own cost and expense for the duration of this Agreement all appropriate statutory insurances, including public liability and employer's liability insurances with an insurer of repute in the United Kingdom to cover the liability of the Secondee in respect of any act, omission, breach or default. Upon request, the Host will provide the Board with written evidence to the Board's satisfaction of such insurance.

9.0 Termination

9.1 This Agreement may be terminated by written notice:-

9.1.1 With immediate effect by either the Board or the Host in the event of the material breach by the other of any of its obligations under this Agreement which is irremediable or, if it can be

remedied, which remains unremedied on expiry of a period of twenty eight (28) days after receipt by the party in breach of written notice from the other specifying the breach and the action required to remedy same; or

9.1.2 With immediate effect by the Board in the event of the liquidation (except for the purposes of amalgamation or reconstruction) or receivership of the Host or the appointment of an administrator of the Host or its ceasing trading; or

9.1.3 With immediate effect by the Board upon termination of the Employment Contract;

9.1.4 [By the Board subject to the service of [state] months prior written notice on the Host.]

9.2 Termination or expiry of this Agreement shall not affect any rights or obligations of the parties in respect of the period up to the date of termination or expiry nor shall it affect any rights or obligations of the parties which due to the nature thereof are due to be performed or observed following such determination or expiry. Clauses [state] shall remain in full force and effect notwithstanding termination of this Agreement (whether by natural expiry or otherwise).

10.0 General

10.1 No provision of this Agreement may be varied, waived, extended or modified except expressly in writing and signed by authorised representatives of each of the parties.

10.2 Any omission by either party to exercise any right or remedy available to that party under this Agreement shall not be taken to signify acceptance of the event giving rise to the right to exercise such right or remedy and shall be without prejudice to the future exercise of any such right or remedy and/or to the rights or remedies of either party which may arise in the future.

10.3 Any provision of this Agreement which is or becomes illegal, void or invalid, shall not affect the legality and validity of its other provisions.

10.4 Neither party shall be entitled to assign or sub-contract the benefit or burden of this Agreement without the prior written consent of the other party.

10.5 Any notice given under this Agreement shall either be delivered personally, sent by facsimile or sent by first class recorded delivery post. The address for service of each party shall be as follows or such other address as either party may previously have notified to the other party in writing:

[_____] (Board address)

[_____] (Host address)

10.6 A notice shall be deemed to have been served:

10.6.1 If personally delivered, at the time of delivery; or

10.6.2 If sent by facsimile/email, at the time of transmission; or

10.6.3 If posted, at the expiration of 48 hours (or in the case of airmail if overseas, seven (7) days) after the envelope containing the same was delivered into the custody of the postal authorities.

10.7 In proving such service it shall be sufficient to prove that the personal delivery was made, or that the envelope containing such notice was properly addressed and delivered into the custody of the postal authorities as prepaid first class, recorded delivery or airmail letter (as appropriate) or that the facsimile was transmitted on a tested line or that the correct transmission report was received from the facsimile machine sending the notice as the case may be.

11.0 Applicable Law & Jurisdiction

This Agreement shall be governed by and construed in accordance with the Law of Scotland and the parties agree to submit to the exclusive jurisdiction of the Scottish Courts. IN WITNESS WHEREOF these presents consisting of this and the preceding [state] pages together with the Schedule in three Parts are executed as follows:-

For and on behalf of [insert name of NHS organisation which is to second the employee]

Place Date

Signed by Witnessed by

Print Name Print Name

Designation Designation

Address

.....

For and on behalf of [insert name of the Host]

Place Date

Signed by Witnessed by

Print Name Print Name

Designation Designation

Address

.....

**This is the Schedule referred to in the foregoing Secondment Agreement between:
[insert name of NHS organisation, which is to second the employee]
And
[insert name of external hosting organisation].**

Schedule: Part 1

Duties

Schedule: Part 2

Hours of Employment

Schedule: Part 3

Employment Contract

[On headed notepaper of the NHS organisation, which is to second the employee]

[Secondee Name]

[Secondee Address Line 1]

[Secondee Address Line 2]

[Postcode]

[Date]

Dear [Name]

Secondment to [position] within [Name of host]

I am writing to confirm the arrangements that have been agreed between us in connection with your Secondment (the “**Secondment**”) to [name of host] (the “**Host**”).

1.0 Continuity of Employment

You shall remain employed by [name of NHS organisation, which is to second the employee] (the “**Board**”) during the Secondment and your current terms of employment (your “**Employment Contract**”) shall remain unchanged, save as set out in this letter. In particular, your period of continuous employment will remain unbroken. At the end of the Secondment, the Board currently intends that you will return to [your current position/a suitable alternative position (*delete as appropriate)] on the terms applying prior to the Secondment. [However, circumstances may arise where your current position is subject to organisational change. In these circumstances, the Board’s policies on Organisational Change and Redeployment will apply (*delete if agreement is not to return to current position)].

2.0 Period of Secondment

2.1 The Secondment shall commence on [date] and shall continue until [insert date] unless earlier terminated in the circumstances summarised in Clause 2.2 below (the “**Secondment Period**”).

2.2 The Secondment may be terminated:

a) With immediate effect by either the Board or the Host in the event of a material breach by the other of any of its obligations under the Agreement entered into between the Board and the Host in connection with the Secondment (the “**Secondment Agreement**”) which cannot be remedied or that remain unremedied; or

b) With immediate effect by the Board in the event of certain adverse financial positions being experienced by the Host or the Host ceasing to trade; or

c) With immediate effect by the Board upon termination of your Employment Contract; or

d) [By the Board subject to the service of [state] months prior written notice on the Host].

3.0 Your Obligations

During the Secondment you shall:

a) Continue to abide by the terms of your Employment Contract;

b) Act as [position] and carry out [details of duties] (the “**Duties**”);

c) Continue to report to, and be managed by [name] at the Board;

d) Report on day-to-day matters to [name] at the Host;

e) Work at the Host’s premises at [address];

f) Comply with the Host’s [detail relevant procedures] copies of which are available at [source];

g) Obtain the prior approval of [Accountable Manager] in the usual way before taking any holiday and, (at the same time as seeking **OR** on receiving) the Board's approval, notify [Host Manager] of the proposed dates of your holiday; and

h) If you are absent from work at any time, notify both [Host Manager] and [Accountable Manager] as soon as possible on the first day of absence.

4.0 Variations to Your Employment Contract

[Details of any terms of employment that will change, such as hours of work]

5.0 Keeping in Touch

During the Secondment

a) You should continue to stay in contact with [Accountable Manager] on a regular basis and, in particular, keep them informed of any issues that arise and any absences from work;

b) You should continue to attend [detail relevant meetings] in order to keep in touch with developments at the Board; and,

c) You should talk to [Accountable Manager] if you have any issues or concerns about the Secondment or the work that you are doing.

6.0 Monitoring, Review and Appraisals

6.1 The Host will provide the Board with regular reports on your performance, completion of the Duties and operation of the Secondment generally. With these reports and the information you provide in terms of Clause 5 above, the Board will monitor the Secondment. A meeting to review the Secondment will be scheduled between you and [Accountable Manager] approximately [half way through the Secondment Period].

6.2 At the end of the Secondment you will meet with [Accountable Manager] in order that the Board may review and evaluate the Secondment for the purposes of [insert details].

6.3 The Board will undertake any appraisals and pay reviews in the usual way and will deal with any grievances or any concerns about your conduct or performance. In all cases it will consult the Host prior to taking any action.

7.0 Salary, Overtime and Expenses

7.1 The Board will continue to pay your salary in the normal way and you shall continue to participate in [details of any benefits].

7.2 [Any overtime claims arising during the Secondment must be approved in writing by [Host Manager] before being passed to the Board for payment in the usual way].

7.3 Any expenses claims arising during the Secondment must be submitted to [Host Manager] in accordance with the Host's normal procedures, details of which are [state where they can be found].

8.0 Training Requirements [and Maintaining Professional Registration]

8.1 You have indicated that your training requirements during the Secondment Period are likely to be:

[Insert details]

The Board will use reasonable endeavours to ensure that such training requirements are met.

8.2 [You have indicated that in order to maintain your professional registration, you require to complete:

[Insert details]

The Board will make arrangements for you to complete same in order that you maintain your professional registration.]

8.3 Prior to the end of the Secondment Period you will meet with [Accountable Manager] in order to discuss any training or retraining requirements you have for returning to your current role or such other suitable role.

9.0 Your Personal Information

You consent to the Board providing relevant information about you to the Host in connection with the Secondment [and, in particular, to it providing [detail any sensitive personal data] to the Host to enable it to [details].]

10.0 Confidentiality

Your Employment Contract currently requires you to keep the Board's confidential information and trade and business secrets confidential. This is particularly important while you are on Secondment to the Host. You should also respect the confidentiality of any similar information relating to the Host to which you have access during the Secondment.

11.0 [Employment or Engagement with the Host post Secondment]

[You may not take up any offer of employment or engagement with the Host (or be involved in the Host's business in any capacity) for the period of [state] months after the end of the Secondment, unless you have the prior written agreement of the Board (which will not be unreasonably withheld or refused).]

Please sign this letter in duplicate and return one copy of this letter to [name] by [date] to indicate your agreement to the terms of this letter. Please retain one copy for your own records.

Yours sincerely

For and on behalf of [name of NHS organisation which is to second the employee]

I hereby agree to the above changes to the terms of my employment

Signed by [Secundee]:

Date _____

In the Presence of: _____

Witness Name: _____

Address:

Witness' Occupation: _____