

Sussex NHS Health Informatics Service

Membership and Governance Agreement

Version 6.1

**Updated to reflect interim changes in NPfIT
CRS delivery November 2009**

**These Terms of Reference are under development and
review**

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Terms and Definitions

Agreement	This Membership and Governance Agreement including its Schedules and Appendices as amended from time to time
Audit Committee	The Audit Committee of the Host Trust
Community Board(s)	The Local Community Boards as described in Schedule D
Domain Board	The HIS Board meeting in part B (see Schedule C) focusing on NPfIT strategy and delivery
Health Service Body	This term has the meaning set out in Section 9(4) of the National Health service Act 2006
HIS	A hosted NHS shared service organisation formed in accordance with this membership agreement to provide informatics services to its member organisations
HIS Board	An NHS Board appointed to represent the Member organisations and the Host Organisation of the HIS
HIS Director	The Director of this HIS with accountability for the general management, performance and expenditure of the HIS
Host Trust – or ‘Host’	The Health Service Body appointed to oversee the administration of the HIS and to provide a framework for human resources, risk management and finance
Member Organisations - or ‘Members’	The Health Service Bodies who are party to this Membership and Governance Agreement for the HIS
NPfIT	National Programme for IT
Remuneration Committee	The Remuneration Committee of the Host Organisation
Risk and Audit Committee	The Risk and Audit Committee of the HIS
Service Catalogue / Agreement	An agreement between the HIS and its Customers, which records the services to be provided by the HIS and purchased by a Customer and the terms under which they are supplied
Standing Financial Instructions (SFIs)	In relation to the HIS, the Standing Financial Instructions of the Host Trust
Standing Orders (SOs)	The Standing Orders of the Host Trust

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1.0 INTRODUCTION

- 1.1 The Sussex Health Informatics Service was formed on 1st July 2004. It is a shared service operating on behalf of specified NHS Member organisations (Members) based in Sussex and hosted by West Sussex PCT.
- 1.2 This Membership and Governance Agreement sets out and explains the governance and accountability arrangements for the Sussex HIS. This includes arrangements for the deployment of Services through the National Programme for Information Technology ("NPfIT") as well as for Services provided by the HIS to its members outside of the NPfIT Programme.

2.0 TERMS OF REFERENCE AND PRINCIPLES OF OPERATION

- 2.1 The Sussex NHS Health Informatics Service ('HIS') is not a separate NHS entity and does not have a legal personality. Nothing in this Agreement shall create or be deemed to create a partnership or joint venture between the Members and save as expressly provided in this Agreement or any Services Agreement there shall be no agency as between the Members and accordingly no Member shall be authorised to bind any other Member unless expressly permitted by the terms of this Agreement or the Services Agreement.
- 2.2 The Members have shared and equal responsibility for supporting the future vision and strategy for the service and supporting the achievement of the same. The Members, with the Host, expressly agree to the risk sharing principles set out in Schedule 2 and the Members accept the consequences of their plans and strategic decisions as detailed in those principles.
- 2.3 There is a separation of the roles of governance and the internal management of the HIS to provide a clear focus for both the Members and the HIS. This separation is reflected in the committees formed to govern the HIS as detailed in the Schedules. The Members will work together to ensure that the separation of roles does not reduce the benefits derived from the fact that all the organisations involved are part of the NHS (or wider health community).
- 2.4 Where statutory arrangements such as those required for financial or employment purposes exist and are vested in an authority other than the HIS Board, (e.g. the Host) the statutory authority will exercise its powers within the relevant legal and NHS framework and the common interest of all the Members expressed through the decisions of the HIS Board.

3.0 MEMBERS

- 3.1 Only NHS organisations shall be eligible to become Members of the Sussex HIS. The current Members are listed in Schedule 1.
- 3.2 The membership of the Sussex HIS may be expanded by the addition of more NHS organisations elected by resolution of the Board. There shall be no maximum number of Members.
- 3.3 Each organisation elected as a new Member shall become a Member with effect from the date specified in the resolution electing it as a Member, subject to such new Member entering into a deed of adherence obliging it to be bound by the terms and conditions of this Agreement in such form as the HIS Board shall determine.

4.0 COMMENCEMENT AND TERM OF THE AGREEMENT

- 4.1 The Members formed the Sussex HIS on 1st July 2004. This Agreement is the new version of the Membership and Governance Agreement which will be binding on the Members from 1st July 2009 for a term of 3 years.
- 4.2 A Member may give notice of their intention to withdraw from the Sussex HIS (or to reduce the scope of Services obtained from the Sussex HIS under their Service Agreement) such notice to expire only at the end of a financial year. The financial consequences of a Member withdrawing from the Sussex HIS, in whole or in part, are addressed in Clause 13.0 and Schedule 2.

5.0 HOST TRUST

- 5.1 Throughout the duration of this Agreement the Host Trust shall be West Sussex PCT, and it shall remain in that capacity unless and until it intimates its wish to resign from that position upon giving to the Board not less than twelve (12) months' notice to resign, such notice to expire at the end of a financial year. If West Sussex PCT ceases for whatever reason to be the Host Trust and no other replacement Host Trust can be found, Sussex HIS shall be dissolved and Clauses 13.6 and 13.6 shall apply.
- 5.2 The accountability for the activities of Sussex HIS will reside with the Host Trust. Sussex HIS will operate as a discrete business operating unit of the Host Trust.
- 5.3 Sussex HIS shall have reporting responsibilities to the Host Trust as set out in Schedule E.
- 5.4 Sussex HIS will obtain its financial, payroll and other relevant services from the Host Trust and the Host Trust's contractors. The Host Trust will re-charge Sussex HIS separately for such services. These arrangements are defined in a Memorandum of Understanding between the Host Trust and Sussex HIS].
- 5.5 Sussex HIS will operate in accordance with the best practice in the National Health Service as to standards of public accountability and business conduct commensurate with the adoption of the core principles of stewardship and governance.
- 5.6 Nothing in this Agreement shall oblige the Host Trust to carry out or perform any act (or omission) which shall cause it to be in breach of its own constitutional documentation including its standing orders and standing financial instructions or which would be an illegal act or omission or which the Host Trust considers would put the Host Trust's business or assets or reputation at risk.
- 5.7 It will be the responsibility of the Boards and Chief Executives of Members to ensure that the activities carried out by Sussex HIS on their behalf are consistent with the Members' own governance arrangements.

6.0 HIS STAFF STRUCTURE AND RECRUITMENT POLICY

- 6.1 The Host Trust will act as employer of Sussex HIS Staff and Sussex HIS will operate within the HR procedures of the Host Trust.
- 6.2 The recruitment policy adopted will be as agreed with the Host Trust and will be in full compliance with NHS and legislative requirements.
- 6.3 The terms and conditions of service of the Host Trust will apply to those employees engaged in the operation of Sussex HIS, subject to their contracts of employment being tailored to the specific needs of Sussex HIS. Where any individual contract of employment of an employee engaged in the operation of Sussex HIS is terminated by

the Host Trust, any associated costs of termination shall be treated as a cost of Sussex HIS.

- 6.4 If, as a result of any Member ceasing to be a Member and/or ceasing to receive some or all Services from Sussex HIS, Sussex HIS will incur costs relating, for example, to the redundancy or redeployment of staff, such costs will be borne as provided in Clause 13.3 and Schedule 2. If notice to withdraw from agreement is served by a member organisation there will be no automatic right to TUPE of staff that may have a detrimental effect on other member organisations
- 6.5 When HIS staff members are working on the premises of Members, they will also be expected to adhere to local Health and Safety policies as applicable to the location. Members will be responsible for ensuring that the applicable policies are displayed clearly at those locations, or are otherwise made clear to both visiting and permanently located members of HIS staff.

7.0 SERVICES TO MEMBERS

- 7.1 The aim of Sussex HIS is to provide the Services to the benefit of all Members. The Members will assume the financial risks and rewards of Sussex HIS's Business as detailed in Clause 8.0 and Schedule 2.
- 7.2 Each of the Members will enter into a Services Agreement which will detail the Services to be provided to that Member and the costs for the Services.
- 7.3 Each Member will be legally responsible for all liabilities arising out of any contracts entered into between that Member and suppliers as a result of contract procurement services provided to it by Sussex HIS.
- 7.4 Existing ICT contracts may be operated and managed through Sussex HIS but shall remain the responsibility and liability of the Member until such contracts expire, are renewed by the HIS, or are novated, with 'due diligence', to Sussex HIS. Sussex HIS will operate such contracts in full consultation with the individual Members and will make payments for all contracts where budgets have transferred.
- 7.5 New contracts entered into after the Member has joined the HIS, may be in the name of the Host Trust. Members realising the benefits from such a contract shall be charged on a proportionate 'back to back' basis for the term of the contract.
- 7.6 The Services Agreement will detail the core Service Catalogue and non-core Services to be provided annually by Sussex HIS to that Member and signature of the Services Agreement represents the Member's commitment to take these core Services and the terms on which the Members access non-core Services for a minimum term of 2 years. Where a Member wishes to have access to additional or less Core Services to be provided to such Member under the relevant Member's Services Agreement, any request for such change shall be subject to the change control mechanism in the Services Agreement and Members acknowledge that Sussex HIS will be entitled to charge the Member(s) requiring additional Services such amounts as reflect the costs of the revised Services.
- 7.7 The Sussex HIS may use 3rd party suppliers to support services and to ensure efficient and effective services in their day to day business subject to the prior approval of the HIS Board.

8.0 LIABILITY

- 8.1 The Members of Sussex HIS shall be responsible on a joint and several basis for all [non-negligent or non-fraudulent] liabilities of Sussex HIS, whether incurred by the Host Trust on its own behalf or as agent for each other Member of Sussex HIS or otherwise. More detailed principles detailing how Members will bear such liabilities are set out in Schedule B. Where a Member becomes a Member on a date other than the commencement of a Financial Year, the Host Trust shall adjust the respective liabilities of all Members (including the New Member) on a just and equitable basis in respect of that Financial Year.
- 8.2 Each Member shall, upon being requested to do so by the Host Trust, meet its share of any and all liabilities referred to in Clause 8.1 and Schedule 2, or recompense the Host Trust if it has already met such liabilities, on demand.
- 8.3 Without prejudice to the provisions concerning any limitations and exclusions of liability and force majeure contained in the Service Agreement, each Member agrees that save in the case of the Host Trust's [negligence] fraud or wilful default, it shall have no claim against the Host Trust arising out of or in connection with the Host Member performing that role as set out in this Agreement. Nothing in this Agreement will limit or exclude the liability of any party in respect of death or personal injury arising out of its negligence or its fraud.
- 8.4 Except as expressly provided in this Agreement and the Service Agreement, all representations, conditions and warranties, whether express or implied (by statute or otherwise) are excluded to the fullest extent permitted by law.
- 8.5 Notwithstanding cessation of membership of Sussex HIS for any reason whatsoever, each Member shall remain liable for all costs and liabilities due and payable by it in respect of the period up to and including the end of the Financial Year in which it ceased to be a Member (irrespective of the date in that Financial Year on which membership ceased).
- 8.6 Where a Member ceases to be a Member of Sussex HIS for whatever reason, if the HIS Board determines that the costs arising out of that Member ceasing to be a Member of Sussex HIS (including without prejudice to this generality any costs or liabilities incurred to third parties pursuant to any contracts, arrangements or otherwise, whether such relate wholly or partly to the services provided to the ceasing Member and any redundancy costs) are in excess of the amounts due by that Member pursuant to the other provisions of this Agreement and any Service Agreement, then the HIS Board shall be entitled to render further invoices to the leaving Member for such reasonable additional amounts as the HIS Board consider necessary. The Sussex HIS undertakes to use all reasonable endeavours to minimise such additional costs.
- 8.7 Where two or more Members merge or otherwise amalgamate, each shall remain fully liable for all costs and liabilities incurred in respect of all periods up to the end of the Financial Year in which they merged or amalgamated as if each Member had remained a separate Member of Sussex HIS, irrespective of the impact or otherwise such merger or amalgamation has on the costs to the Members in question. Where appropriate, the Members acknowledge that such a merger or amalgamation may impact on the cost of services provided in the future to the combined entity or new Member or the former constituent institutions thereof.
- 8.8 In the event of such merger or amalgamation between two or more Members, if the Board determines, acting reasonably, that the costs arising out of that Member

ceasing to be a Member of Sussex HIS (including without prejudice to this generality any costs or liabilities incurred to third parties pursuant to any contracts, arrangements or otherwise, whether such relate wholly or partly to the services provided to the ceasing Member and including any redundancy costs) are in excess of the amounts due by that Member pursuant to the other provisions of this Agreement, then the HIS Board shall be entitled to render further invoices to each organisation ceasing to be a Member in its own name or, alternatively, from the combined entity now being the continuing or new Member, for such additional reasonable amounts as the HIS Board considers necessary. The Sussex HIS undertakes to use all reasonable endeavours to minimise such additional costs.

- 8.9 The Sussex HIS will, to the extent that it is able, ensure that the business of the Sussex HIS is covered by either its own insurance policies or the Host's NHSLA policies. In particular, provision shall be made for Public and Employer's Liability Insurance for the Sussex HIS functions.
- 8.10 For the avoidance of doubt, the Sussex HIS shall only be responsible for providing insurance cover for the provision of services and that all other liabilities shall be borne by the Members themselves. Any shortfall between the amount of the available insurance cover and the value of any claim shall be shared between Members.

9.0 GOVERNANCE

- 9.1 There has been established an HIS Board for the purpose of managing Sussex HIS and delivering the Services.
- 9.2 The purpose of the Board is to oversee the management of the operation of Sussex HIS and to measure its performance.
- 9.3 The Terms of Reference of the Board and key committees of the Board are set out in Schedules C, D and E.

10.0 AUDIT PROCESS

- 10.1 The internal and external audit of Sussex HIS will take place in conjunction with the audit arrangements and in accordance with the Standing Orders and Standing Financial Instructions of the Host Trust and in accordance with all other applicable legal and regulatory requirements.
- 10.2 The Host Trust Audit Committee will be supported by the HIS Risk and Audit Committee which will perform some specific delegated responsibility as detailed in Schedule E.

11.0 DATA PROTECTION

- 11.1 In respect of this Agreement and in connection with the provision of Services under any Services Agreement, each Member shall comply with the Data Protection Act 1998 ("the 1998 Act") and any other applicable data protection legislation. In particular where the Host Trust is acting as the data processor of any Member(s) ("data controllers"), the Host Trust agrees to comply with the obligations placed on the data controller by the seventh data protection principle ("the Seventh Principle") set out in the 1998 Act, namely:

- 11.1.1 to maintain technical and organisational security measures sufficient to comply at least with the obligations imposed on the data controller by the Seventh Principle;
 - 11.1.2 only to process Personal Data for and on behalf of the data controller, in accordance with the instructions of the data controller and for purposes of fulfilling the Host Trust's obligations to Members and to ensure the data controller's compliance with the 1998 Act;
 - 11.1.3 to allow the data controller to audit the processing party's compliance with the requirements of this Article on reasonable notice and/or to provide the data controller with evidence of its compliance with the obligations set out in this Clause 11.1.
- 11.2 The Members agree to use all reasonable efforts to assist each other to comply with the 1998 Act. For the avoidance of doubt, this includes providing other Members with reasonable assistance in complying with subject access requests served under Section 7 of the 1998 Act and consulting with other Members, as appropriate, prior to the disclosure of any Personal Data created in connection with the conduct or performance of the Sussex HIS Services in relation to such requests.

12.0 CONFIDENTIALITY AND FREEDOM OF INFORMATION

- 12.1 Each Member will not use for any purpose (except to carry out its obligations in this Agreement) and will keep confidential and not divulge to any third party (other than is contemplated by this Agreement or to its professional advisers, provided that such third party is under duties of confidentiality no less onerous than those contained in this Agreement) any and all information of the other Members and the Host Trust which is marked as confidential or which is by its very nature confidential including without prejudice to the foregoing the terms and conditions of this Agreement.
- 12.2 The provisions of Clause 12.1 above do not apply to information which:
- 12.2.1 comes into the recipient's possession directly from a third party other than a result of breach of confidence;
 - 12.2.2 is in or comes into the public domain other than as a result of a breach of 12.1; or
 - 12.2.3 the parties in question agree in writing is not confidential.
- 12.3 Each Member undertakes to take all those steps as may from time to time be necessary to ensure compliance with the provisions of this Clause by its employees, contractors and agents.
- 12.4 If any Member receives a request for information relating to Sussex HIS or Sussex HIS activities under the Freedom of Information Act 2000 it shall consult with the HIS Board before responding to such request and, in particular, shall have due regard to any claim by the HIS Board or any other Member that the exemptions relating to commercial confidence and/or confidentiality apply to the information sought.

13.0 TERM AND TERMINATION

- 13.1 A Member may give notice of their intention to withdraw from the Sussex HIS as provided in Clause 4.2.
- 13.2 The membership of any Member may be terminated following a material breach of contract or an allegation of behaviour by the Member which is detrimental to any

Member or to Sussex HIS by a resolution passed at a meeting of the Board of not less than 80% of the Board Members voting at that meeting. The Member which is the subject of the resolution to remove it from membership shall be entitled to make representations to the other Members at the meeting at which the said resolution is being proposed prior to the vote being taken on such resolution. If the resolution is passed the HIS Board shall also determine in their discretion a period of notice prior to termination.

- 13.3 The membership of any Member may also be terminated without the need for a resolution to be passed at a meeting of the Board if that Member is a foundation trust authorised pursuant to the National Health Service Act 2006 and following such authorisation any step or proceedings are taken against the Member by the Independent Regulator or, if not a foundation trust, the Secretary of State makes an order under the National Health Service (Residual Liabilities) Act 1996 in respect of the Trust transferring its property rights and liabilities to one of the bodies referred to in Section 1(2) of that Act; such termination may be effected by service of notice to that effect on the relevant Member by the Host Member.
- 13.4 The Services Agreement shall terminate automatically on termination or expiry of a Member's Membership of Sussex HIS.
- 13.5 If Sussex HIS is in material breach of the Services Agreement which has a material and unacceptable impact on the relevant Member then that Member shall be entitled to serve notice in writing on Sussex HIS requiring the breach to be remedied within a reasonable period (to be agreed between the aggrieved Member and the HIS Director and in default of agreement shall be referred for determination through the Dispute Resolution Procedure). If Sussex HIS is unable to remedy the breach to the reasonable satisfaction of the aggrieved Member then that Member shall be entitled to terminate its Membership by not less than 6 months' notice in writing to Sussex HIS [such notice to end at the end of the financial year].
- 13.6 On termination of this Agreement by resolution of all Members, Sussex HIS's affairs shall be wound up. All debts shall be settled and all income collected by the Host Trust and the balance, if any, remaining distributed to, or in the case of a deficit collected from, the Members in the proportion in which they share any other liability of Sussex HIS immediately prior to the date of the winding up. If at the time of a winding up of Sussex HIS there has been employed any staff specifically for its purposes, the Members shall use their reasonable endeavours to find alternative employment for such staff within their own organisations. In the case of any members of staff not so re-engaged their salaries up to the date of winding up, redundancy costs and all other contract termination costs further to the winding up shall be a charge on the Members in the same proportions as the other liabilities of Sussex HIS on a winding up.
- 13.7 If the Members resolve to wind up Sussex HIS as provided by Clause 13.6, the HIS Board shall give the Host Trust and the Members formal notice of the date upon which Sussex HIS will cease to operate and shall make such arrangements as are reasonable in all the circumstances to ensure that Sussex HIS continues to provide the Services or such parts of the Services as it can reasonably provide to Members during any remaining period prior to such cessation and winding up.

14.0 ASSIGNMENT

- 14.1 No Member shall be able to transfer any of its rights or obligations under this Agreement to any other person without a resolution passed at the Board, except that a subject to Clauses 8.7 and 8.8 a Member may assign all or any part of its rights

and obligations to an other health service organisation in connection with any re-organisation of health services on notice to Sussex HIS.

15.0 NOTICE

- 15.1 Any notice or document to be given under this Agreement shall be in writing and shall be deemed to have been duly given if left at or sent by hand or by pre-paid recorded delivery or registered post or by facsimile or other electronic media to a party at the address or facsimile number for such party as such may from time to time be designated by the recipient.
- 15.2 Any such notice or other document shall be deemed to have been received by the addressee two (2) working days following the date of dispatch if the notice or other document is sent by registered post, or if delivered personally, at the time of delivery. Any notices sent by fax or by other electronic media shall be deemed to have been received by the addressee at the time of transmission if subsequently confirmed by pre-paid recorded delivery or registered post dispatched the same day. The HIS Director shall retain a record of all Members' addresses, email addresses and facsimile numbers for these purposes. It shall be the responsibility of each Member to ensure that such information held by the HIS Director in relation to that Member is correct in all respects.

16.0 ENTIRE AGREEMENT

- 16.1 Subject to Article 16.2, this Agreement supersedes all previous understandings and negotiations in respect of the Members' obligations as provided in this Agreement. The Members acknowledge that in entering into the Agreement none of the Members has relied on or shall have any remedy for any representation or statement which is not expressly included in this Agreement. All representations (save in respect of fraudulent misrepresentation), warranties, conditions and other terms whether implied by statute or otherwise which are not expressly included in this Agreement and which might otherwise relate to this Agreement are hereby excluded.
- 16.2 The Memorandum of Understanding shall remain in existence between the Host Trust and Sussex HIS until such time as the Host Trust remains the host organisation for Sussex HIS.

17.0 THIRD PARTY RIGHTS

- 17.1 A person who is not a party to this Agreement shall have no right pursuant to the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

18.0 AMENDMENT OR VARIATION

- 18.1 This Agreement may not be released, discharged, supplemented, amended, varied or modified in any manner except in writing signed by duly authorised officers or representatives of all of the Members.

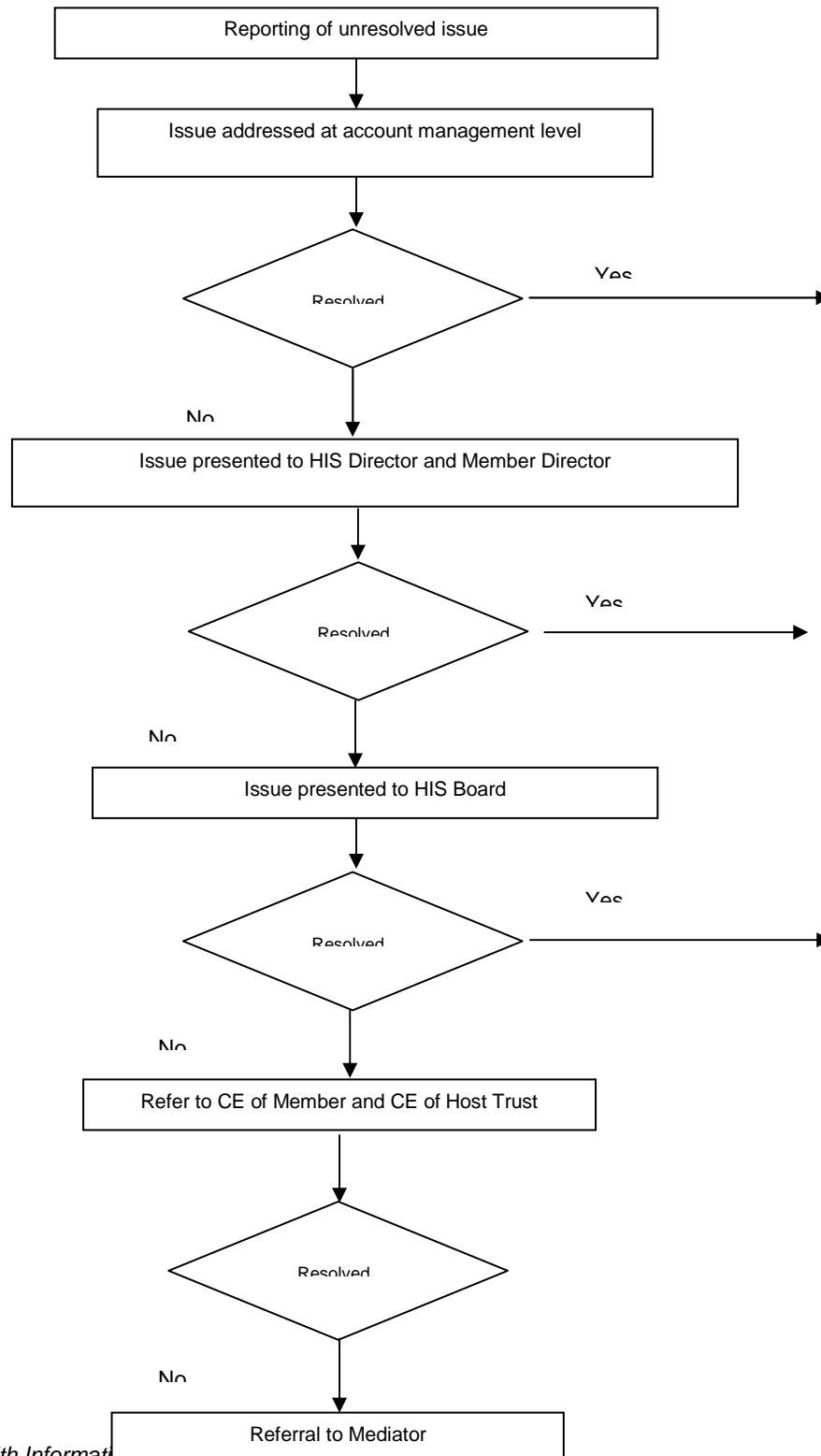
19.0 GOVERNING LAW

- 19.1 The validity, construction and performance of this Agreement shall be governed by and construed in accordance with the laws of England. Each Member irrevocably agrees to the exclusive jurisdiction of the English courts over any claim or matter arising out of this Agreement or any other matter arising in connection with Sussex HIS.

20.0 DISPUTES

- 20.1 Any disputes arising between Members in connection with these Articles of Agreement shall be referred to and resolved in accordance with the following Dispute Resolution Procedure. A similar dispute resolution process will apply under the Services Agreement in respect of disputes arising in connection with the provision of the Services.

Figure 1: Dispute Resolution Process



- 20.2 Where, under the dispute resolution process set out in Figure 1, a dispute between a Member and Sussex HIS has reached the stage of being referred to the HIS Board and is nevertheless not resolved, the dispute shall be referred to mediation by a mediator to be appointed by agreement between the relevant Member and the Host Trust and in default by the Chief Executive of the South East Coast Strategic Health Authority.
- 20.3 Any dispute that still cannot be resolved at this stage will be referred to the South East Coast Strategic Health Authority for adjudication and determination in accordance with the provisions of the 9(6) of the National Health Service Act 2006 or if relevant and specialist another agreed 3rd party (Audit providers, British Computer Society etc). Disputes between the HIS and an NHS Foundation Trust will be referred to Monitor for adjudication.

21.0 COUNTERPARTS

- 21.1 These Articles may be entered into in any number of counterparts, each of which shall be an original but all of which taken together shall constitute one and the same instrument. Any party may enter into these Articles by executing any such counterpart.

22.0 VARIATION AND TERMINATION

- 22.1 The provisions of this Agreement may be varied only by agreement of all Members and may be terminated only upon the expiry of the period referred to above or by agreement of all Members and with the approval of the South East Coast Strategic Health Authority.
- 22.2 The period of notice for any major change to this Agreement outside of annual review shall be one year.

SCHEDULE A
LIST OF MEMBER ORGANISATIONS

Brighton and Hove City PCT

Brighton and Sussex University Hospitals NHS Trust

East Sussex Downs & Weald PCT

East Sussex Hospitals NHS Trust

Hastings and Rother PCT

Royal West Sussex NHS Trust

South Downs Health NHS Trust

NHS South East Coast

Sussex Partnership NHS Foundation Trust

West Sussex PCT (HIS Host)

Worthing and Southlands Hospitals NHS Trust

SCHEDULE B
RISK SHARING AND FINANCIAL ARRANGEMENTS
PART A - RISK SHARING

The table below lists the Member Organisations with their risk shares.

Table 1.0 Member Organisation Risk Share %

Sector	New Health Service Body	Risk Share %
Acute	Brighton and Sussex University Hospitals NHS Trust	13.50
	East Sussex Hospitals NHS Trust	12.20
	Royal West Sussex NHS Trust	4.60
	Worthing and Southlands Hospitals NHS Trust	5.20
Mental Health	Brighton and Sussex University Hospitals NHS Trust	13.50
PCTs	West Sussex PCT	26.10
	Hastings and Rother PCT	4.80
	East Sussex Downs and Weald	9.80
	Brighton and Hove City PCT	5.80
Other	South East Coast SHA	0.60
	South Downs Health NHS Trust	3.25

1. Risk Sharing

- 1.1 The risks will be shared in the percentages shown in the table amongst the HIS members or other organisations participating in this agreement:
- 1.2 The percentage risk shares are based on service income. This apportionment is variable, and the basis may in future be altered to one based on specified investment levels.¹
- 1.3 Further work will be undertaken to develop different levels of risk sharing for different risks.

2. Scope

- 2.1 The Service Agreements set out the services both core and non-core to be supplied to each Member organisation, and the basis on which those services will be paid for. Risks will be shared only for those services as agreed in the Service Agreements.

3. Legal Status

- 3.1 The Sussex HIS is not a separate legal entity and is not an NHS Trading Agency. It is a hosted service managed on behalf of its Members.
 - 3.2 Due to its status, the Sussex HIS cannot enter into contracts in its own right, but only in the name of (and with the authority of) the Host Trust.
4. Accountability to the Host Trust Board – Audit and Assurance
 - 4.1 The HIS's accountability to the Host Trust Board and to their Risk and Audit Committees is set out in Schedule B.
 - 4.2 The HIS Director will be responsible for maintaining a HIS Risk Register and for ensuring that all identified risks and issues have been registered, assessed and managed. This register will be available to all Member organisations.
 - 4.3 A risk reporting structure will be agreed and fully documented showing the links between the HIS Director, the HIS Risk and Audit Committee and the HIS Board. These arrangements are set out in Schedule F.
5. Determination of the Agreement
 - 5.1 The Members have established a HIS Board. This Board will determine the application and interpretation of this Agreement.
 - 5.2 This HIS Director will have day to day operational responsibility for the management of the Sussex HIS, reporting to the HIS Board. The Chief Executive of the Host Trust will be the NHS accountable officer for the overall activities of the Sussex HIS.
6. Losses and Special Payments
 - 6.1 The Members will jointly indemnify the Host for any losses or unplanned payments in the following circumstances:
7. Liability arising within the HIS
 - 7.1 Any legal costs of defending any challenge to any part of the procurement and contract negotiation process, provided that the HIS Board has agreed to the defence and scale of fees prior to the commencement of proceedings.
 - 7.2 Any legal damages, costs and fines payable as a consequence of any failure to Complete a satisfactory procurement or enter into contract(s), including abortive set-up costs.
 - 7.3 General cost over-runs not attributable to the acts or omissions of one or more of the parties.
 - 7.4 Costs of defending, settling or payment of uninsured excess on Third Party, Public and Employer's Liability claims arising from the implementation or operation of the agreed services.
 - 7.5 Costs (including compensation to contractors) of early termination of the whole contract or forced cessation of any of the services across all the partner organisations.

- 7.6 Costs of compliance arising from Statutory or NHS policy changes introduced during the contract period, unless dealt with under service level agreements through Change Control.
 - 7.7 Write-off or permanent impairment of assets used solely or mainly for the delivery of the agreed services.
 - 7.8 Any exceptional expenditure agreed by the Board, e.g. in case of “Force Majeure”.
8. Liability arising outside the HIS
- 8.1 The Members accept direct responsibility for, and will therefore individually indemnify the Host for, the whole of any liability or make payment direct to a third party as appropriate in respect of:
 - 8.1.1 Any loss caused by one or more Member acting outside the policies, plans or professional advice of the HIS.
 - 8.1.2 Any loss caused by the negligence or any other omission of one or more Members (e.g. to maintain data security or internal financial controls, resulting in a fraud).
 - 8.1.3 Any loss caused by the omission of one or more Members to undertake planned actions to enable the implementation or delivery of service against the timetable as agreed by the HIS Board.
 - 8.1.4 Any costs (e.g. redundancy costs) of local reorganisation and / or restructuring following the transfer of services from any Member organisation into the HIS.
 - 8.1.5 Specific costs not previously agreed by the HIS Board for adaptation of the services to any change in the particular requirements or environment of any one or more of the Members.
 - 8.1.6 Increased share of costs caused by the early withdrawal of one or more of the partners.
 - 8.1.7 Costs of late implementation including costs for the provision of services accepted as available but not actually taken up at the planned date.
 - 8.1.8 Costs of implementing and operating replacement systems (at any time).
 - 8.2 Each Member accepts direct and full liability for and will individually indemnify the Host and other Members in the circumstances that the said Member shall withdraw from this agreement as provided in Clause 8.0 of the Agreement [ie up to the end of the Financial Year in which they withdraw].

PART B - FINANCIAL MANAGEMENT PROBITY AND ASSURANCE

1. Financial Management, Probity and Assurance
 - 1.1 The HIS shall adopt the Standing Financial Instructions, Standing Orders, audit rules, controls and assurance policies and procedures of the Host Trust, the Host Trust will ensure that these meet the needs of the Sussex HIS so that it can operate effectively across it's range of duties and across the membership.
 - 1.2 The Host Trust, within its Standing Financial Instructions and Chart of Accounts, will provide, maintain and operate a separate bank account to transact the business of the HIS.
 - 1.3 The Host Trust will act on behalf of all Members to manage any funds provided to the Sussex HIS whether provided by the Members or any other Health Service Body. Funds will be managed within a separate ledger and reported separately to the HIS Board but will be consolidated with the Host Trust accounts for annual statement as the Sussex HIS is not a separate legal entity.
 - 1.4 It is recognised that such funding may be provided for one or more of the following purposes: expenditure on administrative costs, including the employment of the employees required for the management and administration of the business of the HIS; expenditure in making payments of sums due under any contract with a third party supplier; expenditure where the management and application of funds from specific budgets allocated for specific purposes to Trusts or through other agencies including the Strategic Health Authority budget is delegated to the HIS.
 - 1.5 It is recognised that in any case where the Strategic Health Authority transfers funds to the Host in connection with any contract or agreement between the Strategic Health Authority and a third party supplier, the Strategic Health Authority may delegate to the Host Trust the functions of managing and monitoring that contract or agreement on behalf of the Strategic Health Authority. These funds may or may not be held by the HIS.
 - 1.6 In turn, the Host Trust will generally delegate the funds for, and delivery of, the service to the HIS in order to provide separation of reporting.
 - 1.7 Where funding for services involves the purchase of services from a third party supplier, the Sussex HIS may manage funds and carry out the function of managing and monitoring those contracts or agreements with third party supplier on behalf of its Members.
 - 1.8 Where the Sussex HIS has the function of making the payments due under such contracts or agreements it shall be entitled to recover the appropriate part of the necessary payments from the Members in sufficient time for those payments to be made to the relevant third party suppliers.
 - 1.9 Where capital funds are used to procure goods or systems the ownership of the asset will be agreed in advance and the 'owner' will ensure that the asset is recorded and capital charges managed. In the event of shared ownership

or shared usage of a system agreement will be made as to who will own the asset and how charges should be applied. On occasions where assets are used by more than one NHS Body capital charges will be applied to service charges in order to reimburse the relevant owner. An asset which is shared may be owned by the Host Trust on behalf of the membership; or any member depending on accountancy arrangements at the time but the rights to usage by other members will be agreed and maintained for the life of the asset, and the users will continue to pay the relevant charges for the agreed life of the asset or service.

2. Financial Arrangements

- 2.1 Payment for Services provided under Service Agreements shall be made in twelve equal monthly instalments, payable on the 15th day of each month. Members will not withhold whole payments for minor discrepancies or issues and may negotiate a temporary service reduction should this be necessary subject to approval by the HIS Board.
- 2.2 Hypothecated and centrally funded initiative monies, including *local*/ National Programme for IT Implementation funds (formally known as Local Implementation Strategy (LIS) programme funding, will similarly be made in twelve equal monthly instalments, payable on the 15th day of each month. However, the HIS may need to vary this, and if so the need for such variation will be discussed with Members Finance Directors, and the HIS Board as appropriate and twelve weeks notice will normally be given.
- 2.3 Any additional work undertaken by the Sussex HIS on behalf of a Member shall be agreed in writing. Payment will be made no later than 30 days after receipt of invoice. In some circumstances payment may be required in advance of completion of services in order to allow good and services to be ordered and paid for.
- 2.4 Where orders are placed for 3rd party goods and services directly by Members, the process and planning will be agreed in advance with the HIS (as will the detail of any technical solutions) The Sussex HIS reserves the right not to provide services for any orders placed without prior consultation and agreement; and the right to charge a service levy.
- 2.5 Any central management costs relating to the HIS Director and the Director's office shall apportioned pro-rata to the Agreement costs of each Member or funded from hypothecated or central funding as agreed by the HIS Board.

3. Host Reimbursements

- 3.1 The Host Trust shall be reimbursed for all legitimate overheads and costs associated with delivery of the Sussex HIS as detailed in a Memorandum of Understanding between the Host Trust and the HIS Board.

4. Under spends and over spends

- 4.1 Where, in any financial year, any savings occur in respect of any of the funding for the Sussex HIS, those savings may be forwarded to each of the Members pro rata to their contribution to the funding of the Sussex HIS, except in respect of those savings gained by planned and approved efficiency measures; on agreement savings maybe used to supplement other funding

for the improvement of NHS informatics in support of the needs of the service to support the Members or to achieve general policy objectives.

- 4.2 This arrangement, or the alternative of retaining a surplus against future deficits, will be subject to an annual decision of the Members, given by a resolution passed by the HIS Board, and shall be applicable to all Members and subject to there being no relevant restriction imposed by the Department of Health.
- 4.3 Where in any financial year, any excess costs occur in respect of any of the funding for the HIS services, those excess costs may be recovered from each of the Members pro rata to their contribution to the funding of the HIS.
- 4.4 This recovery arrangement, or the alternative of writing off the over spend against retained surplus funds from past under spends, will be subject to an annual decision of the Members, given by a resolution passed by the HIS Board, and shall be applicable to all Members and subject to there being no relevant restriction imposed by the NHS Executive.
- 4.5 The above arrangements will be varied where an over spend or under spend relates to a specific requirement of a Member or where a Member has acted unreasonably or contra to decisions taken by the HIS Board. In such cases, the benefit or liability shall rest with the individual Member, who shall receive or pay any resulting monies from or to the Host on behalf of the HIS.

5. Miscellaneous

- 5.1 The membership are responsible for the replacement and upkeep of the physical assets, systems and solutions used by HIS staff, including all considerations relating to Health and Safety, in the execution of their duties. Where there is no transferred / budget heading for such replacements the HIS may use vacancies or other incidental savings to replace equipment but where this is not feasible, the HIS will recharge Trusts directly (with prior agreement) . As the HIS has developed since inception this mechanism will become increasingly difficult to apply and therefore the new payment mechanism will include an overhead for equipment and similar replacement based on a fair and equitable recharge basis, but held in a clear and separate budget heading for reporting purposes.
- 5.2 The HIS is operating as a cross Sussex / Membership provider in order to discharge it's work cross Sussex systems and services have been and will continue to be developed. Agreed charges associated with new systems and services will be applied on a prorata basis using an agreed basis for apportionment and will be added to the [service charges accordingly.]

SCHEDULE C

HIS BOARD TERMS OF REFERENCE

Sussex HIS Board (including Domain Board)

Terms of Reference

1. In this Schedule the following words and phrases have the following meanings:-
 - 1.1 "CRS" means Core Records Service.
 - 1.2 "Customer User Group" [means a forum of IT users within the Sussex HIS community].
 - 1.3 "Domain Board" means the HIS Board Part B meeting focusing on NPfIT strategy and delivery.
 - 1.4 "Local Community Board/Community Board(s) means the sub-committee(s) of the HIS Domain Board responsible for the local planning/alignment with the NPfIT as detailed in Schedule D.
 - 1.5 "Stakeholder Conference" means a forum for clinical and other users of IT Services to discuss and debate IT related issues relevant to the South East Coast NHS economy and interface with the Sussex His Board.
2. Each of the Stakeholder Conference and Customer User Group will have their own terms of reference which will be updated annually. This Schedule focuses on the Terms of Reference of the HIS Board (which meets in two parts), the Community Board(s) which are sub-committees of the Domain Board and the HIS Risk and Audit Committee but refers to interaction with other relevant Boards and groups/stakeholders as relevant.
3. Terms of Reference of this HIS Board
 - 3.1 These terms of reference set out the specific responsibilities for the HIS Board and will be reviewed and updated as required annually. These responsibilities will not be delegated to any other group, or individuals although it is recognised that the HIS Board will need to interface with other groups and stakeholders as illustrated in the attached structure diagram. The terms of reference of the Stakeholder Conference and Customer User Group will be adopted and reviewed by those groups annually.
 - 3.2 The HIS Board will meet to
 - 3.2.1 Act as the main Board for the Sussex HIS and will focus on the oversight of strategic matters, major programmes of work, development and business plans, key performance indicators, assurance around corporate and financial governance, and membership satisfaction.

- 3.2.2 Agree the strategic direction for the development of Information Management & Technology to support the delivery of health and social care services across the Sussex HIS membership. To ensure that this technology accrues benefits for patients and staff in the delivery of care, and to ensure involvement of other key agencies engaged in the delivery of health and social care.
- 3.2.3 Agree the strategic direction for the HIS and the work programme which emanates from this within the context of affordability, feasibility and fit with those plans which support the Local Operating Framework IM&T Plans and local deployment plans for the NPfIT.
- 3.2.4 Secure and agree strategic financial plans for developing and delivering IM&T and all strategic programmes to ensure the HIS is capable of meeting agreed plans.
- 3.2.5 Manage the allocation and programming of NPfIT funds in conjunction with, and as part of, the Domain Board (see below Part B) and other funds identified for the delivery of NPfIT or other strategic programmes.
- 3.2.6 Support the HIS Director in developing services and structures which achieve the HIS Strategic Plans.
- 3.2.7 Assure the HIS's status as a 'shared membership service' managed under the umbrella of the Host Trust on behalf of all the Members.
- 3.2.8 Assure that the delivery of services provided by the Sussex HIS, and the Sussex HIS itself, are fully accountable to all its Members, by overseeing the financial and operational management and performance of the Sussex HIS.
- 3.2.9 Support and ensure effective programme management arrangements of community-wide development of shared initiatives which support key Operating Framework Plans.
- 3.2.10 Ensure maintenance and consistency of the Governance Arrangements for the Sussex HIS and inter-relationships with relevant NPfIT and other key Programme Boards including the Community Boards.
- 3.2.11 Ensure that the Sussex HIS and members operate within the context of the deployment of the National Programme for IT, the local programme as agreed at the Domain Board, and within the guidelines and agreements set out by the SHA-wide implementation programme.
- 3.2.12 Nominate membership to relevant SHA steering groups or programme boards, including the SHA NPfIT Board or equivalent, as invited.
- 3.2.13 Ensure that SHA groups and Boards are apprised of issues, risks and other matters pertaining to the implementation of NPfIT in Sussex.
- 3.2.14 Appoint a HIS Audit & Risk Committee (the terms of reference of which are contained in Schedule F) and take cognisance and act upon any issues and risks that are escalated.

- 3.2.15 Receive advice, recommendations and escalation from the Community Boards or any other formally appointed sub-groups.

In order to discharge its responsibility the HIS Board will also undertake the following functions:

- 3.2.16 Agree the scope of the services required by client organisations, which will be set out in Service Agreements, based on a common standard.
- 3.2.17 Agree a Business Development Plan for the HIS that will be reviewed and rolled forward annually.
- 3.2.18 Agree the budget for the HIS and annual cost improvements or increased investment decisions.
- 3.2.19 Monitor the overall performance of the HIS against the Business Plan and Key Performance Indicators, as well as those set out within Service Agreements on an exception basis, with reports being made available to all Members.
- 3.2.20 Manage Governance Arrangements, including change control of the HIS Governance Agreement and other supporting documents, and the updating of documentation and Terms of Reference.
- 3.2.21 Resolve Members' problems that have not otherwise been resolved and have been escalated to the HIS Board under the agreed process. Escalate disputes that cannot be resolved to the South East Coast Strategic Health Authority or Member for adjudication.
- 3.2.22 Agree the programme and arrangements for the Stakeholder Conference.
- 3.2.23 Ensure all business plans, progress reports and programme reports, and other similar documents, are available to all Members.

The Sussex HIS Board – will also act as the Sussex NPfIT board for NPfIT programmes and projects where applicable therefore it will oversee:

- 2.2.5 that relevant arrangements are in place for the strategic planning for
 - 3.2.24 the management and delivery of NPfIT projects across Sussex, and that operational and IM&T support services are available to meet these aspirations. The Board will take cognisance of other competing requirements for IM&T and, as part of the wider Sussex HIS Board, ensure that tension and priorities are set out and managed within IM&T frameworks across Sussex.
 - 3.2.25 Own and agree Deployment Plans for NPfIT projects with national contracts, and will agree changes to that plan, ensuring all resources are agreed and that risks and issues associated with change have effective mitigation plans in place.
 - 3.2.26 Agree the allocation of NPfIT community funds within the agreed local model – ensuring ongoing provision of these funds, and any further funds, required to ensure delivery of NPfIT.

- 3.2.27 Take strategic ownership of NPfIT planning and implementation delegating programme management of individual Deployments to individual Community Boards or cross-Sussex Project Boards, where appropriate.
- 3.2.28 Receive reports from each Project Board and consider implications of interdependency between plans when these impact across deployments.
- 3.2.29 Agree priorities (in liaison with full HIS Board) when resources are insufficient to meet all demands (financial and/or human resource).
- 3.2.30 Ensure that Project Boards are managed to the agreed standards, following the agreed core Terms of Reference and meeting the reporting standards set out.
- 3.2.31 Ensure that the Project Boards have effective risk and issues management in place, and manage issues and risks escalated from individual deployment boards, or the HIS Risk and Audit Committee, ensuring resolution with the relevant Trusts, SHA and Supplier.
- 3.2.32 Monitor and review programmes and ensure full reporting at SHA and national levels, as required.
- 3.2.33 Ensure that Sussex is properly represented at NPfIT forums and boards at SHA, Clinical Network, national or other levels.
- 3.2.34 Ensure that Sussex provides the required level of input to system design, service management and contract development, as required.
- 3.2.35 Ensure that the Sussex participates with the NHS SEC NPfIT planning and management arrangements.
- 3.2.36 Receive advice, recommendations and escalation from the Project Boards, the Clinical Advisory Group, the Customer User Group, the HIS Management Team or individual Trusts as and when this impacts on the Sussex-wide deployment of NPfIT projects.
- 3.2.37 Ensure that benefits programmes are established and monitor progress against predefined benefits through regular review and post implementation review.
- 3.2.38 Approve management, policies and standards and act as arbitrator in the event of conflict where there are shared domains or equeivelant.
- 3.2.39 Take cognisance of the SHA-wide perspective and matters relating to all 3 SEC SHA Domains

4. Membership

Chairperson and Vice-Chairperson

- 4.1 The Chairperson of the HIS Board shall be the Chief Executive Officer of the Host Trust. (under review)

- 4.2 The Vice-Chairperson of the HIS Board shall be selected from one of the executive representatives of the Members, with the Deployment Boards filling the post in rotation for periods of a year.
- 4.3 The Vice-Chairperson of the HIS Board shall neither be an employee nor a non executive director of the Host Trust.
- 4.4 The Chairperson of the Domain Board will be a nominated Commissioning SRO.
- 4.5 The Vice-Chair of the Domain Board will be as **Error! Reference source not found.** above.

Voting Membership

- 4.6 The voting membership of the HIS Board will be as follows:
 - The Chief Executive of Host Trust (Chair)
 - The Executive Members from each full Member organisation, including the Host, i.e. the Organisational Leads for IT (OLITs)
 - The Finance Director of the Host Trust
 - The HIS Director
 - Two nominated Non-Executive Directors drawn from the member organisations, one from a Commissioning Deployment Organisation, one from a Provider Trust.
- 4.7 The voting members of the Domain Board will be as above, but will be extended to include the:
 - The Domain Board Chair
 - Chair of the Sussex Clinical Advisory
- 4.8 Voting members will not normally send deputies. Where this is unavoidable, due to holiday or similar circumstances, a member may select another member of the Board to speak for them and vote for them by proxy or send a suitably qualified and fully briefed deputy.
- 4.9 In order to ensure that there is appropriate representation of all constituencies, and to allow for the full representation of community services, at least one OLIT will be drawn from a relevant community provider service – and will be supported in creating a network in other areas, if required (this position will be monitored).

In Attendance

- 4.10 The Board will also include the following non-voting members in attendance:
 - Chief Information Officer of the South East Coast Strategic Health Authority, or agreed representative
 - Sussex HIS Lead for the NPfIT Programme

- 4.11 .
- 4.12 At its discretion, the Board may also invite representatives from Social Services and the voluntary sector to attend on a regular basis.
- 4.13 At its discretion, the Board may invite other non-voting attendees, such as senior HIS managers, for all or part of its business at any meeting.

Quorum & Voting

- 4.14 The HIS Board will be expected to seek consensus in order to pursue its business and to pursue delivery of NPfIT.
- 4.15 The quorum shall consist of the votes of over half of the full voting membership, and at least half of those making up the quorum should be representatives of Member Organisations. The voting ratio should be greater in favour of the non-Host Members.
- 4.16 Binding decisions cannot be taken without a quorum, although a meeting without a quorum present can continue, with agree recommendations for submission to a later meeting.
- 4.17 A majority vote is required for binding decisions to be made.
- 4.18 The Chairperson shall have a casting vote in the event of a tie.
- 4.19 Each voting member will have a single vote on any resolution placed before the HIS Board. Deputising members can vote.
- 4.20 Non-voting attendees may be asked to withdraw from all or part of a meeting on a majority vote of attendees with voting powers, if any voting member proposes such a withdrawal.
- 4.21 In the event of there not being a quorum on three consecutive Board meetings, the Board will review membership and other relevant matters in order to achieve more consistent attendance and may require any Member to appoint a new representative to the Board where appropriate.

5. Frequency of Meetings and Housekeeping Arrangements

- 5.1 The HIS Board will meet no less than bi-monthly. Dates will be agreed at least six months in advance.
- 5.2 Apologies should be provided via the HIS Business Centre.
- 5.3 Major agenda items and development items can be agreed at each meeting for the subsequent meeting, or requested at any time up to three weeks prior to a meeting.
- 5.4 The venue may rotate across the Sussex health community, and members will make suitable rooms available.
- 5.5 Appropriate refreshments will be provided and the arrangements will be noted on the relevant agenda.
- 5.6 In urgent circumstances, the Chairperson may convene an extraordinary Board meeting at the request of not less than a quorum of the voting

members. The minimum notice period for extraordinary meetings will normally be seven days, but this can be waived if a quorum would be present at a meeting held earlier.

- 5.7 Extraordinary meetings do not have to follow the agenda of a normal meeting, and they may make any decision within the power of the HIS Board, providing that there is a voting quorum present. The requirement to clearly identify in the agenda any decisions sought from the HIS Board meeting should be followed, wherever possible, at extraordinary meetings.
- 5.8 In some circumstances, an extraordinary meeting may be arranged by teleconference, but all attending members will participate in a courteous manner, using appropriate equipment/facilities.

Secretarial Arrangements

- 5.9 Papers will be prepared by the HIS Business Centre and will be circulated electronically one working week in advance.
- 5.10 Paper copies will be made available upon request at the meeting or, from time-to-time, be distributed by post.
- 5.11 Papers will be published on the HIS website or other agreed portal.
- 5.12 Minutes will be taken by a member of staff from the HIS Business Centre and will be circulated by the HIS Business Centre in draft form prior to the next meeting.
- 5.13 Action points will be noted and the individual assigned the action will be provided with a relevant task note.
- 5.14 Issues, risks or other matters for escalation to the Strategic Health Authority will be raised on HIS Risk and Issue forms, and will be logged in the relevant registers.
- 5.15 Archive copies of papers will be kept by the HIS for a period of not less than ten years, with back-ups kept in a separate location. The HIS Business Centre will provide historic copies on request.

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SCHEDULE D

STRATEGIC PLANNING TERMS OF REFERENCE

STRATEGIC PLANNING GROUP TERMS OF REFERENCE

1. The Strategic Planning Group is a key element of the Local Health Community (LHC) governance arrangements for the coordination of informatics planning. The LHC is lead by the four PCTs in Sussex and has the active participation of all the NHS provider organisations within this geographic area.
2. Purpose of the Group
 - 2.1 To identify and provide recommendations to the Sussex HIS Board on which collaborative programmes should be prioritised for investment from the LHC.
 - 2.2 To oversee the portfolio of active collaborative programmes to realise the benefits to the LHC.
3. Terms of Reference

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Service Developments

- 3.1 The Strategic Planning Group will ensure local collaborative IM&T developments support Commissioners' service planning.

LHC Collaborative Portfolio Management

- 3.2 The Strategic Planning Group will create and maintain an active portfolio of collaborative programmes.
- 3.3 The Strategic Planning Group will carry out the following tasks within the portfolio management process:
 - 3.3.1 Progress business cases through the selection gateways and recommend to the Sussex HIS Board that a business case be approved for inclusion within the active portfolio
 - 3.3.2 Manage the budget for the operation of the portfolio management process and assign funds for the development and review of business case proposals for collaborative programmes.
 - 3.3.3 Review at regular intervals the programmes within the active portfolio.

Accountability

- 3.4 To ensure the accountability of the Strategic Planning Group to the Sussex HIS Board; the Strategic Planning Group will:
 - 3.4.1 Ensure that the Sussex HIS Board receives the Strategic Planning Group recommendations through a formal report.
 - 3.4.2 Ensure that the the Strategic Planning Group is represented at the Sussex HIS Board.
 - 3.4.3 Act on decisions taken by the Sussex HIS Board

Members' Responsibilities

- 3.5 The Chairperson will organise the meetings to ensure full consultation and consideration is given to business cases and review documents in order that members can make the recommendations required by the Strategic Planning Group as a part of the collaborative portfolio management process.
 - 3.6 Members will help identify stakeholder representatives to facilitate their membership of project boards, best practice groups and other relevant groups.
 - 3.7 These Terms of Reference will be reviewed and updated as required, at a minimum annually, and should be read in conjunction with the Sussex HIS Board Terms of Reference.
4. Membership
 - 4.1 The Strategic Planning Group will comprise a senior representative from each of the NHS organisations within the LHC. These representatives must be able to reach determinations and act with authority on behalf of their organisation.

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- 4.2 Members may nominate an alternate in the event of their being unable to attend a meeting.
- 4.3 The Chair will be nominated by the Sussex HIS Board and will be drawn from the members of the Strategic Planning Group.
- 4.4 The Sussex Health Informatics Service manager whose role is to oversee the collaborative portfolio management process and the constituent programmes on behalf of the LHC.

Invitees

- 4.5 At its discretion, the Strategic Planning Group may invite attendees, such as representatives from the Local Authority; private care providers; the voluntary sector; and members of advisory groups or “task to finish” groups that it has sponsored, for all or part of its business at any meeting.

Quorum

- 4.6 The Strategic Planning Group will be deemed to be quorate for any decisions if the Chairperson and a representative or nominated alternate from each sector is in attendance.

Attendance Requirements

- 4.7 If members do not attend a minimum of 75% of meetings over each year, their membership will be reviewed.
- 4.8 Apologies and a nominated alternate should be provided to the Chairperson prior to a meeting.

5. Frequency of meetings and Housekeeping Arrangements

- 5.1 The Strategic Planning Group will meet monthly; alternately face to face and an audio/video-conference.
- 5.2 Dates will normally be agreed at least six months in advance.
- 5.3 The venue will be agreed and wherever possible will be at a convenient location for all attendees.
- 5.4 Papers will be prepared by the HIS on the instructions of the Chairperson and will be circulated electronically one working week in advance of meetings. Papers will be published on the HIS intranet site and / or other agreed portals.
- 5.5 Notes will be taken by the HIS and reviewed / signed-off by the Chairperson.

Annex A

Core Membership

The following members currently comprise the core membership of the Board as referred to in paragraph 0 of the Board’s Terms of Reference (ToR).

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Chairperson

TBA

Members

TBA

A Sussex Health Informatics Service representative

Phil McCartney

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SCHEDULE E HIS RISK AND AUDIT COMMITTEE TERMS OF REFERENCE

Sussex HIS Risk and Audit Committee

1. Purpose of the Group
 - 1.1 The HIS Risk & Audit Committee will oversee the HIS risk management process ensuring that the HIS has mechanisms in place to escalate risks to member organisations and the Host Risk & Audit Committees.
 - 1.2 The Committee will also receive reports from both (in the first instance) the Host's auditors and other auditors involved in HIS audit programmes. It will have specific delegated responsibility for the IT technical audit programme in order to provide assurance to the HIS Board members, and Host Audit Committee that adequate controls are in place within the HIS.
 - 1.3 The HIS Director and HIS Board are responsible for ensuring that risk and audit issues are communicated to members through the agreed processes.
2. Terms of Reference
 - 2.1 These Terms of Reference set out the specific responsibilities for the Risk & Audit Committee and should be read in conjunction with the HIS Board Terms of Reference, the Host Risk Management Strategy and Host Risk Management Committee Terms of Reference. They will be reviewed and updated as required annually.
 - 2.2 These responsibilities will not be delegated to any other group, or individual.
 - 2.3 The Audit & Risk Committee will fulfil the following responsibilities:

Risk:

 - 2.3.1 Advise and support the HIS in determining policies and procedures which develop the HIS-specific Risk Management Strategy in order to support the needs of all members, including mechanisms for escalation out-with the meeting should this be required.
 - 2.3.2 Ensure that the HIS has a fully documented risk register and containment processes, which are managed in a controlled way.
 - 2.3.3 Review all major risks² on the HIS Programme and Projects Register and review recommendations and/or actions for containment or escalation.

² Currently defined as those marked as belonging to the 'Amber' Category in the 'Red, Amber, Green' method for categorising scored risks.

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- 2.3.4 Ensure that the HIS has mechanisms in place to ensure lessons are learned and recorded following the identification of significant risks.
- 2.3.5 Ensure that the HIS has mechanisms in place to inform the HIS Board, the Host Board and all members, via Organisational Leads for IT, of significant risk issues facing the HIS, and/or specific member organisations.
- 2.3.6 Ensure that there is an accessible Risk Education Programme for staff and managers employed or contracted by the HIS.
- 2.3.7 Ensure that there is a process to support HIS staff in the promotion of risk management through working practices so that Controls Assurance becomes an integral part of service provision.
- 2.3.8 Ensure the HIS Director prepares a report for the Host Audit Committee, to be submitted to the relevant Host Officer no less than four times annually.
- 2.3.9 Approve the Annual Report or similar reporting that is agreed on a more regular basis for submission to the HIS Board, Such reports will advise on the degree of compliance to relevant Standards, and Department of Health guidance re Governance, Finance and Risk Management processes.
- 2.3.10 Manage and recommend revisions to the HIS Risk Sharing Agreement or applications of that Agreement to the HIS Board, ensuring that any risks accepted by member organisations, which are only pertinent to them, shall be fully documented as to implications should the risk be realised.
- 2.3.11 The Committee will refer to the HIS corporate risk register when approving the annual audit plans and reviewing audit results.
- 2.3.12 The Committee will advise the HIS Board of any implications for the HIS Board Assurance Framework arising from their approval of the audit plans and review of audit results.

Audit:

- 2.3.13 The Committee will undertake to manage any specific areas of responsibility, which the Host Audit Committee has agreed it will handle.
- 2.3.14 The Committee will manage the technical IT audit programme days or collated programme.
- 2.3.15 The Committee will assist in the selection of the Internal Auditors to ensure that the auditors meet the needs of the HIS in relation to specialist technical skills.
- 2.3.16 The Committee shall receive and consider all internal and external audit reports specific to the HIS.

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- 2.3.17 The Committee will receive all action plans arising from audits and will monitor fulfilment of these action plans where this lies out-with the HIS.
- 2.3.18 The Committee will ensure that the relevant member organisation is informed of the actions and that an action plan is, or is not, agreed.
- 2.3.19 The Committee will ensure that all audits and plans will be made available to all relevant members and the Host Audit Committee.
- 2.3.20 The Committee will ensure that the minutes of meetings are made available to the Host Audit Committee and to all OLITs within member organisations.
- 2.3.21 The Committee will approve the HIS Director's Summary of Internal Audits for submission to the Host Audit Committee.
- 2.3.22 The Committee shall agree, and review annually, the number of IT audit days that will be transferred from the members and the use to which they have been, and are, intended.
- 2.3.23 The Committee shall ensure that all recommendations of the Committee or Host Audit Committee are referred to the HIS Director for reporting to the HIS Board.
- 2.3.24 The Risk and Audit will serve as the Sussex HIS Ethics Committee for non-clinical validation as required.

3. Membership

Members will be drawn from each Deployment Population Board area and will represent the shared needs of members.

Chairperson and Vice-Chairperson:

- 3.1 The Chairperson of the Risk & Audit Committee will be a Non-Executive Director, as agreed by the HIS Board/Host Audit Committee.
- 3.2 A Vice-Chairperson will be agreed by the Committee.

The membership of the HIS Risk & Audit Committee will be as follows:

- 3.3 The Finance Director of the Host Organisation (or nominated deputy).
- 3.4 The Risk Lead for Host (or nominated deputy).
- 3.5 At least one nominated Non-Executive Director drawn from a Member Organisation's Risk and/or Audit Committee per Deployment Board area.

In attendance:

- 3.6 HIS Director
- 3.7 HIS Finance Manager

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3.8 HIS Business Services Manager

3.9 Key Programme and Project Managers, as required

Invitees:

3.10 Internal Audit Manager(s)

3.11 External Audit Manager

3.12 Nominated Strategic Health Authority Programme Lead

In order to maintain consistency, regular attendance would be anticipated.

Quorum and Voting

3.13 Each organisation may only cast one vote where this is required.

3.14 Voting will be by simple majority.

3.15 The meeting will be quorate if at least two of the three deployment areas are represented by the appropriate Non-Executive Directors.

4. Frequency of Meetings and Housekeeping Arrangements

4.1 The Committee will meet no less than quarterly.

4.2 Dates will be agreed at least twelve months in advance.

4.3 Where possible meeting dates will be orchestrated with the HIS Board/ Host Audit and Risk Committee calendars.

4.4 The venue will rotate across Sussex to assist all attendees.

4.5 Apologies should be provided to the HIS Business Services Manager.

4.6 Papers will be prepared by the HIS Corporate Services Manager or nominated officer and will be circulated electronically one working week in advance.

4.7 Paper copies will be made available upon request at the meeting or, from time to time, be distributed by post.

4.8 Paper will be published on the HIS website or other agreed portal.

4.9 Notes will be taken by the HIS Business Office and reviewed/signed off by the Committee Chairperson.

4.10 Action points will be noted and the individual assigned the action will be provided with a relevant task note.

4.11 Issues or matters for escalation will be raised on issue forms and will be logged in the relevant log.

4.12 All issues escalated to other Boards or Committees will be tracked.

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- 4.13 Archive copies of papers will be kept by the HIS.
- 4.14 The HIS Director will be responsible for managing the outcome of all technical audits and subsequent reports to their conclusion.