

SERVICE LEVEL AGREEMENT

between

THE CROWN PROSECUTION SERVICE SUFFOLK

and

SUFFOLK CONSTABULARY

and

THE NHS SECURITY MANAGEMENT SERVICE



Security Management Service

1.0 **Introduction**

- 1.1 On 1 November 2006 a Memorandum of Understanding (“Memorandum”) between the Crown Prosecution Service (“CPS”) and the NHS Security Management Service (“NHS SMS”) was signed by the Director of Public Prosecutions, and the NHS Business Services Authority (Counter Fraud and Security Management Division). – This memorandum is attached to this Service Level Agreement as Annex 1 and sets out in full the roles, responsibilities and obligations of the Police, CPS and Local Security Management Specialist (LSMS).
- 1.2 The Memorandum was agreed in order to ensure the effective prosecution of cases involving violence and abuse against any member of NHS staff, including any assault whether physical or verbal which is motivated by any discrimination against the victim’s ethnic or national origin, disability, sex, religious beliefs, political views or sexual orientation; or where the suspect demonstrated hostility towards the victim based on any of those characteristics.
- 1.3 A separate Memorandum of Understanding was created between the NHS Security Management Service and the Association of Chief Police Officers (ACPO) to agree the common interest between both parties in the prevention, detection, and investigation of matters affecting security work in the NHS and the application of sanctions as appropriate. It provides a framework for the exchange of information to achieve this and is intended to facilitate good working relationships between the parties and develop clear lines of communication. The memorandum is attached to this Service Level Agreement as Annex 2.
- 1.4 This Service Level Agreement is designed to give effect to the Memorandum referred to at paragraph 1.1 above within the Suffolk Area. It will define local points of contact and communication routes to facilitate better communication between the Suffolk Area and NHS trusts locally. This should be read in

conjunction with the memorandum and is not to be regarded as a substitution for this document.

2.0 **Scope**

2.1 This Service Level Agreement will only cover investigations that are referred to CPS by the police or the NHS Legal Protection Unit. The CPS will only review investigations by a third party if, at some point, the matter is handed over to the police who then refer it to the CPS. This does not restrict the ability of the Director of Public Prosecutions to take over a private prosecution under Section 6(1), Prosecution of Offences Act 1985 (see paragraphs 5.5, 5.6 and 5.7 of the Memorandum).

2.2 References to “NHS Staff member” means a person employed by a relevant English NHS body, or otherwise working for such a body (whether as or on behalf of a contractor, as a volunteer or otherwise).

2.3 This Service Level Agreement applies to the CPS Suffolk Region and Suffolk Constabulary.

2.4 This Service Level Agreement does not apply to instances of dishonesty, fraud or corruption in the NHS.

3.0 **Commencement and Amendment**

3.1 This Agreement will take effect on 5th August 2009.

3.2 This Agreement may be amended as appropriate at any time if the parties to the Agreement so agree. Any amendments should be in writing. Any amendment must, however, be consistent with the nationally agreed protocols and standards.

4.0 **Nationally-agreed Protocols and Standards**

4.1 The delivery of local arrangements within the framework of this Agreement will be consistent with the following protocols and standards:

- Memorandum of Understanding between the NHS SMS and the Association of Chief Police Officers
- The Code for Crown Prosecutors
- The Director of Public Prosecutions (DPP)'s Guidance on Charging
- The DPP's Guidance on Conditional Cautioning
- Charging Standards for relevant offences
- CPS Policy statements, including the statement on racially and religiously aggravated crime and homophobic crime
- The Code of Practice for Victims of Crime
- Crown Prosecution Service: Anti-Social Behaviour Guidance (August 2006)
- The Attorney General's Guidelines on the Acceptance of Pleas and the Prosecutor's Role in Sentencing (October 2005)
- CPS Public Policy Statement on the Delivery of Service to Victims
- The Farquharson Guidelines on the Roles and Responsibilities of the Prosecution Advocate
- The Bar CPS Standard for Communication between Victim and Witnesses and the Prosecution Advocate
- Secretary of State Directions, November 2003 (amended 2006) and March 2004 (amended 2006), for taking forward work to tackle violence and general security management issues
- NHS SMS Legal Protection Unit Prosecution Policy.
- Police Prosecution and Diversion Police.
- CPS Guidance
- Home Office circular on simple cautions

5.0 **Locally agreed Protocol on information sharing**

This agreement will not effect the locally agreed protocols on information Sharing.

6.0 **Supply of Information by the Police**

- 6.1 The investigating officer in the case will notify the LSMS of the progress and outcome of all investigations involving NHS staff.
- 6.2 After a post conviction order has been served on a defendant, it will be recorded on the police national computer. The relevant NHS Trust should be informed of the making of the order, the prohibitions it contains and its expiry date so they can circulate the information to the relevant health body.
- 6.3 The Witness Care Unit (WCU) will be responsible for informing the LSMS of the outcome of any Prosecution in addition to the normal obligations to inform the victim of the case result.
- 6.4 If a suspect is released on bail to return to the police station or to attend court, the police must notify victims of this, along with the reasons for granting bail and any relevant bail conditions, within five working days. Similarly, if bail conditions are altered or bail is cancelled, the police must notify victims within five working days.

7.0 **Information to Support Charging Decisions or applications for ASBO's**

- 7.1 In all cases prosecutors will refer evidential queries or requests to the investigating police officer or evidence review officer as appropriate. It should be noted that where requests relate to 'NHS' staff witnesses or information held by NHS bodies, the LSMS may be able to facilitate such requests. In incidences where delays may occur, the CPS prosecutor, in referring queries, should refer the investigating police officer/evidence review officer to the appropriate LSMS to facilitate speedy resolution of such requests. In exceptional circumstances prosecutors may contact the LSMS directly.
- 7.2 In respect of potential offenders who are mentally disordered the investigating officer should have regard to the information required as outlined at Para 11.9

of the memorandum, which will be required by the CPS to make a decision. The CPS should immediately notify the NHS SMS if it is having difficulty in obtaining any information relevant to the review of the case.

- 7.3 It is recognized that incidents involving the NHS can have a serious impact on the provision of NHS services to the public. In all cases, particular regard should be had to the “*Particular aggravating factors involving NHS staff or on NHS premises*” as set out in Appendix 2 to the Memorandum of Understanding (see Annex 1 attached), and to the public interest factors in favour of a prosecution (especially paragraph 5.9(d)) in the Code for Crown Prosecutors. The LSMS can provide information on previous incidents involving the suspect and the NHS body concerned as well as evidence of the impact that any offending behaviour has had on the provision of NHS services or loss to NHS resources.
- 7.4 It is the role of the police to obtain Victim Personal Statements from NHS staff members who are the victims of crime, but the LSMS may be able to facilitate this process, and with the consent of the victim check its currency with the LSMS.
- 7.5 When reviewing a case where an NHS staff member has been assaulted, threatened or abused, prosecutors should consider whether it may be appropriate to apply for an anti-social behaviour order (ASBO) on conviction.
- 7.6 On receipt of an ASBO or CRASBO by the Area ASBO Coordinator, the Coordinator will be responsible to inform the relevant NHS Trust of the making of the order, the prohibitions contained and its expiry date.
- 7.7 The ASBO Coordinator will contact the relevant NHS Trust to confirm the identity of the person the subject of the order.

8.0 **Non Court Disposals**

8.1 There may be rare cases (for example, where admissions are made and victim does not support a prosecution) where the police or the CPS determine that an out of Court disposal and/or restorative practice would be an appropriate disposal. In these circumstances, the investigating officer should be advised that, when consulting the victim, it is made clear to the victim that the issuing of a caution will prevent the NHS Legal Protection Unit from bringing a private prosecution. This is particularly important in light of the CPS policy of discontinuance of private prosecutions where a caution has been administered.

9.0 **Victim and witness care during progress of a case**

9.1 It will be the role of the appropriate WCU to provide support to victims and witnesses. In the event of any difficulties the WCO will contact the LSMS

9.2 Where NHS staff are required to attend court as witnesses the WCU will liaise with the CPS and Court to seek to minimize the impact of their being called by applying to the court for standby arrangements.

9.3 The WCU staff will be responsible for informing the LSMS of the outcome of any Prosecution in addition to the normal obligations to inform the victim of the case result.

10.0 **Local agreements, disputes and monitoring**

10.1 CPS will ensure that a copy of this Agreement is distributed to all CPS Prosecutors and other relevant staff and ensure a copy is provided at the charging centre. The Suffolk Constabulary will ensure that the Agreement is brought to the attention of all relevant staff.

10.2 The NHS SMS will provide the contact details of active LSMS in this CPS area (see annex 3). The LSMS is responsible for supporting police investigations and for the monitoring of cases as they progress through the

Criminal Justice System. Where an active LSMS is not in place the details of the Security Management Director (SMD) will be provided.

10.3 It is the duty of the CPS to ensure that victims are informed of decisions taken by the CPS after charge (or where a charging decision after the provision of a full evidential file and other than at face to face meeting). In a case in which a person has been charged but a decision is then made by the CPS to discontinue, or the initial charge is withdrawn and a less serious charge is preferred, the prosecutor will write to the victim to inform him or her of the decision and the basis upon which it was made. In a case where CPS has given advice to the police “face to face”, it is for the police to advise the victim of the initial charging decision.

10.4 The National Agreements emphasise the need to share information and identifies the responsibilities of CPS, Police, and NHS SMS on when that should take place and the type of information that should be made available. Local agreements should reflect this requirement.

11.0 **Disclosure of Information**

11.1 **Disclosure of Information to the LSMS**

In addition to supporting police investigations and facilitating access to staff, the LSMS is also legally obliged to monitor the progress of cases where NHS staff have been assaulted and to provide information to the NHS Security Management Service. The CPS will respond to any request for information to the LSMS as to the progress or outcome of a court case. Any requests for more detailed information should be directed, in the first instance to Suffolk Constabulary.

11.2 The LPU may require a copy of the evidential case file in order to make an informed judgement on whether criminal or civil proceedings are appropriate. If criminal proceedings are anticipated, the LPU will apply its internal prosecution policy and adhere to section 5 of the CPS Code for Crown Prosecutors.

11.3 Such requests should be directed to the police. If the CPS receives such a request, it will be forwarded to the police for consideration. It is a matter for the police or WCUs to obtain the consent of witnesses or other individuals before personal information relating to them is released to a third party. This is in line with the obligations placed on the CPS and police authorities contained within the Data Protection Act 1998. Due regard must, however, be given to any relevant information-sharing gateways – in particular, sections 29 and 35 of the Data Protection Act 1998 for the release of information in appropriate circumstances. This does not effect exiting arrangements in respect of the consents obtained by the LSMS or other Security Management Representatives.

11.4 If the LPU is considering a private prosecution, the prosecutor should, when requested, consider providing a full explanation of their decision not to prosecute or why the offender was cautioned.

12.0 **Disputes**

12.1 Any disagreement over the workings of this Agreement will be referred to the signatories to this agreement or designated deputies for early and informal resolution, wherever possible.

12.2 The signatories to this agreement will, at an interval of 12 months, or as required monitor the workings of this agreement with a view to improving the efficiency and effectiveness of local professional working arrangements.

Signatories

The signatories agree to implement the provisions of this Agreement and any arrangements set out in the attached Memorandum.

For Suffolk CPS:

Name: Paula Abrahams
Chief Crown Prosecutor,
CPS Suffolk

Signature Date

For the Suffolk Constabulary

Name: Simon Ash
Chief Constable
Suffolk Constabulary

Signature Date

For the NHS Security Management Service

Name: Susan Frith,
Deputy Head of Security Management,
NHS Security Management Service

Signature Date

**ANNEX 1: MEMORANDUM OF UNDERSTANDING BETWEEN THE
CPS AND THE NHS SECURITY MANAGEMENT SERVICE**



CPS NHS.pdf

**ANNEX 2: MEMORANDUM OF UNDERSTANDING BETWEEN SECURITY
MANAGEMENT SERVICE AND THE ASSOCIATION OF CHIEF POLICE
OFFICERS**



Police NHS.pdf