

## Appendix One

**THIS DEED is made on**

### **BETWEEN**

- (1) **BARNSLEY METROPOLITAN BOROUGH COUNCIL** of Town Hall  
Barnsley South Yorkshire S70 2TA (“BMBC”)
- (2) **DONCASTER BOROUGH COUNCIL** of 2 Priory Place Doncaster DN1  
1BN (“DMBC”)
- (3) **ROTHERHAM BOROUGH COUNCIL** of Civic Building, Walker Place  
Rotherham South Yorkshire S65 1UF (“RMBC”)

together the “Parties” or individually a “Party” to this Agreement.

### **1. BACKGROUND**

Connexions South Yorkshire is responsible for the provision of careers services and skills training for young people in South Yorkshire, and receives a Grant from DfES for this provision

It is a condition of the offer of the Grant by DfES that a suitable legal structure is adopted for the application of the Grant and of other funds in respect of Connexions South Yorkshire and also to govern the relationship, roles, constitution and conditions attaching to the Parties.

This Deed sets out the legal structure of the Parties. RMBC is to act as the Host Authority (“The Host”). The Deed establishes an arrangement whereby the Parties and the other members of the Advisory Group can individually and collectively work together across local authority and organisational boundaries in the spirit of partnership, collaborate with each other, act in good faith towards each other and pool resources in order to secure the best possible support services for young people in South Yorkshire and promote the economic and social well-being of all the communities in South Yorkshire on a basis of Best Value, in accordance with the Local Government Act 1999 and the Local Government Act 2000.

**IT IS AGREED** as follows:

**1. INTERPRETATION**

1.1 In this Deed unless the context otherwise requires the following expressions shall have the following meanings:

- “Advisory Group” the advisory group also known as the “Connexions South Yorkshire Advisory Group” detailed in Clause 3 and with its Terms of Reference set out in Schedule 1, comprising the individuals listed at Schedule 5;
- “Advisory Group Member” a member of the Advisory Group;
- “Area” the local authority areas of BMBC, DMBC and RMBC;
- “Best Value” has the meaning given to it in s.3 of the Local Government Act 1999;
- “CEO” the Chief Executive Officer of the Host or his or her nominated representative;
- “Connexions Service” the provision of the “Connexions” service known as Connexions South Yorkshire in accordance with the Key Principles and Objectives and the terms of the Financial Requirements and Guidance encompassing the provision of a co-ordinated advice and information service incorporating the promotion of personal development, support, education, training and careers advice for young people in the Area;
- “Connexions South Yorkshire” the Connexions Service to be delivered by the Host under the terms of this Deed;
- “CSY Ltd” Connexions South Yorkshire Limited, a company limited by guarantee registered number 4190354 with registered office 1 Arena Link 1<sup>st</sup> Floor Broughton Lane Sheffield South Yorkshire S9 2DD;
- “Data Protection Protocol” the procedure established to deal with the collection, processing and use of personal

	data a copy of which is set out in Schedule 4;
“Deed”	this Connexions Deed;
“DfES”	whichever shall be applicable of the Department for Education and Skills and/or the Secretary of State for Education and Skills or any successor body or person;
“Effective Date”	1 April 2006;
“Executive Director”	the person being a member of Staff selected in accordance with the provisions of Clause 5 who is an officer of the Host, who has overall responsibility and is responsible to the Host and to the Advisory Group for the prudent and economical administration of Connexions South Yorkshire, who is responsible for ensuring that that the Connexions Service is at all times delivered in accordance with the Key Principles and Objectives and whose duties shall be set out in more detail in a letter of appointment in a form to be determined by the Host on the advice of the Advisory Group;
“Financial Protocol”	the protocol established as a central reference point for all financial matters relating to the delivery of the Connexions Service as prepared by the Advisory Group and approved by the Parties from time to time, the first version of which is attached as Schedule 2;
“Financial Requirements and Guidance”	financial requirements or guidance including any financial memorandum given or issued from time to time by the DfES or any other funding body or successor organisation the current editions of which are attached at Schedule 3;
“FOI Protocol”	the protocol established to deal with all enquiries for information under the Freedom of Information Act 2000 a copy of which is set out in Schedule 4;
“Funding”	monies received by the Host in respect of the Connexions Service either by way of Grant or from any other source including (without

	limitation) contributions at local level, EU funding and the proceeds of commercial ventures carried out in respect of or as part of the Connexions Service;
“Grant”	any grant or grant in aid paid to the Host in respect of the Connexions Service or otherwise for the purpose of the Connexions Service from the Secretary of State or DfES, pursuant to the Act and the Employment and Training Act 1973 (as substituted by the Trade Union Reform and Employment Rights Act 1993) subject to the Financial Requirements and Guidance;
“Independent”	a description of those Advisory Group Members who do not benefit from the Funding and who are not associated with any body benefiting from the Funding;
“Independent Strategic Member”	an Independent Advisory Group Member;
“Independent Chair”	the Independent chairperson of the Advisory Group;
“Key Principles and Objectives”	collectively the objectives of the Connexions Service and the terms of reference and key principles set out by the DfES in “the Connexions Service prospectus and specification” (May 2000) and which are summarised in clause 2.7;
“Scrutiny Committee”	the scrutiny committee of the Host;
“Secondary Workers”	those persons who are employed by a Party or a third party (not being the Staff) and who carry out some work in connection with the Connexions Service which is incidental to their principal employment;
“Secretary”	the secretary to the Advisory Group who shall have duties as set out in this Deed and as determined from time to time by the Executive Director who shall be appointed, whose detailed terms of reference shall be determined by and who shall be paid by the

Host and shall be entitled to have notice of and attend (but not vote) at all meetings of the Advisory Group;

“Secretary of State” the Secretary of State for Education and Skills from time to time;

“Staff” the staff engaged exclusively in the provision of the Connexions Service appointed by or transferred to the Host in accordance with clause 5;

“Term” the term of this Deed set out in Clause 10;

“Terms of Reference” the constitution of the Advisory Group as set out in Schedule 1 which provides provisions additional to those at Clause 3;

“TUPE” the Transfer of Undertakings (Protection of Employment) Regulations 1981;

“Unit” the Connexions Service Unit within the Host that is comprised of the Staff and that shall deliver the Connexions Service, strategy and contract management for South Yorkshire; and

“Working Group” any group established by the Advisory Group in accordance with the Terms of Reference to deal with a specified task and operated in accordance with the Terms of Reference.

1.2 Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted.

1.3 Words importing the singular include the plural, words importing any gender include every gender, and words importing persons include bodies corporate and unincorporated; and (in each case) vice versa.

1.4 The clause and paragraph headings and titles appearing in this Deed are for reference only and shall not affect its construction or interpretation.

## 2. **THE PARTIES** **Establishment of Connexions South Yorkshire**

2.1 The Parties agree to work co-operatively and to assist RMBC in its capacity as Host for the purposes referred to in this Deed.

## **Status of the Deed and Parties**

- 2.2 The Parties declare that the Deed shall take the form of the contracted and executed relationship establishing commitments between them and for others created by this Deed and the Parties shall from the date of this Deed agree to work together for the relevant purposes.
- 2.3 Nothing in this Deed shall constitute or be deemed to constitute a partnership between the Parties or any of them and none of the Parties shall have the authority or power (nor represent themselves as having such authority or power) to contract in the name of or to undertake any liability or obligations on behalf of or to pledge the credit of any of the other Parties.
- 2.4 This Deed shall not create any legal or economic entity between the Parties.
- 2.5 All assets and funds for the Connexions Service will vest in and belong to the Host and will be held by the Host in respect of the Connexions Service firstly in respect of any liability consequent on the Connexions Service and then shall be held for and on behalf of the Parties.

## **Operational Parameters**

- 2.6 The Key Principles and Objectives in delivering the Connexions Service are set out in clause 2.7 below.
- 2.7 Each of the Parties agrees to act responsibly, in good faith, justly and faithfully and in accordance with the Financial Protocols in its relationship with the other Parties and each of them further acknowledges and agrees and each will use their best endeavours to ensure that:
  - 2.7.1 it shall be of paramount importance that the Connexions Service is governed on the basis of openness, integrity and trust between Parties and those who benefit from or are engaged in the Connexions Service and that the economic and social interests of the communities in the Area shall be placed above sectional interests;
  - 2.7.2 all contracts, sub-contracts and other dealings with either third parties or with individual Parties (based on their particular areas of expertise) shall be so as to ensure Best Value; and
  - 2.7.3 any commercial dealings with any Parties for the purposes of the Connexions Service shall be dealt with in accordance with the Financial Protocol.

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## **Advisory Group**

2.8 The Parties shall specify and the Advisory Group shall conduct reviews of all Connexions Services on a planned basis to ensure that all dealings, in the private, public, voluntary and community sectors, comply with the content and spirit of this Deed.

## **Scrutiny**

- 2.9 The Parties agree that the conduct of the Advisory Group and of the Host in relation to the Connexions Service shall be within the remit of the Scrutiny Committee and the Parties will each use their reasonable endeavours to enable the Scrutiny Committee accordingly.
- 2.10 The Host shall (and shall procure the same in respect of its Scrutiny Committee) promptly provide such co-operation and assistance as may be reasonably requested by equivalent scrutiny bodies of any of the other Parties and for the avoidance of doubt such assistance shall include admission to meetings and provision of relevant documents and information.
- 2.11 The Executive Director shall report to the Scrutiny Committee of the Host in respect of all meetings of the Advisory Group.
- 2.12 The Executive Director shall inform and advise any meetings of the Advisory Group at which he or she is present upon matters of compliance with the terms of this Deed, the constitution and governance of the Host and any other regulation or guidance to which the delivery of the Connexions Service is subject, and any such meeting shall give due regard to any such information or advice provided by the Executive Director.
- 2.13 The Executive Director shall report any compliance issues that have arisen at any meeting to the Scrutiny Committee.

## **3. ADVISORY GROUP**

### **Purpose**

3.1 The Advisory Group shall be the strategic advisory body concerned with the successful delivery of the Connexions Service in the Area and the remit of the Advisory Group shall be so as to ensure this delivery and shall include without limitation the purposes set out in the Terms of Reference set out in Schedule 1. The composition of the Advisory Group shall be as follows:

- (a) the Parties;

- (b) such other persons as are required by law to be a member of the Advisory Group;
- (c) any organisation that has been a member of CSY Ltd and who also makes supplies to the Host in respect of Connexions Services; and
- (d) any other parties appointed to the Advisory Group from time to time by agreement of the Parties.

For the avoidance of doubt the details of the Advisory Group are set out in Schedule 5.

### **Appointments**

- 3.2 Each organisation (through its representative) and each individual on the Advisory Group shall have one vote on any matter except on those reserved matters set out in Schedule 6. The Parties shall by majority (and in accordance with the Terms of Reference) appoint an Independent Member as Independent Chair of the Advisory Group. For the avoidance of doubt the Independent Chair of the Advisory Group will be Professor A D H Crook.

### **Meetings and Attendance**

- 3.3 The Executive Director and the Secretary shall be entitled to notice of, the agenda for, attendance at and comment at every meeting of the Advisory Group but shall not have a vote. Advisory Group Members may regulate their proceedings as they think fit save as otherwise provided by this Deed. Any Party or the Executive Director may call a meeting of the Advisory Group or table an agenda item for any meeting by notice to the Secretary. Questions arising at a meeting shall be decided by a majority of votes except that where the matter being considered relates to any one or more of the reserved matters referred to in Schedule 6, in which case such matter will be a matter reserved to the Parties. The vote of a majority of the Parties is required for the passing of any such resolution of the Advisory Group. The quorum for any meeting of the Advisory Group shall be six. In the case of an equality of votes the Independent Chair shall have a casting vote.

### **Status**

- 3.4 The Advisory Group shall not be a committee or joint board of any one or more of the Parties and shall have no separate or legal existence.

## **4 THE HOST**

- 4.1 RMBC shall be the Host for the Connexions Service and as such shall be the legal entity responsible for the delivery of the Connexions Service. Any concerns about the performance of the Host shall (without prejudice to the rights and remedies of the relevant Parties) be reported in writing



to the Executive Director, the CEO and the Advisory Group, and the CEO shall determine what action shall be taken and when. The role of Host may be transferred to any Parties on the unanimous agreement of the Parties excluding the Host for the time being.

4.2 The Host shall:

4.2.1 act in good faith in respect of the Parties and shall so far as is able, act in the best interests of the communities in the Area in the delivery of the Connexions Service;

4.2.2 receive hold and control the Funding and any partnership assets as the financially accountable body in accordance with the Financial Protocol the Financial Requirements and Guidance and any other conditions attached to the Funding for the purposes of the Connexions Service;

4.2.3 apply all Funding in accordance with the Financial Protocol and shall be financially accountable to DfES for such application of the Funding;

4.2.4 enter into the necessary financial memoranda in accordance with the Financial Requirements and Guidance and otherwise contract with DfES for the provision of the Connexions Service;

4.2.5 contract with other persons including for the avoidance of doubt public, voluntary, community and private sector bodies for the provision of the Connexions Service and shall ensure that such other persons (“ **Contractors**”) are obliged to comply with the provisions of Schedule 7 by including in the terms of such contracts the provisions of Schedule 7;

4.2.6 distribute grant funding and meet invoices for the provision of the Connexions Service in accordance with and subject to the Financial Requirements and Guidance;

4.2.7 employ the Staff;

4.2.8 take responsibility for Health and Safety and Data Protection legislation compliance and any other relevant statutory compliance required in the provision of the Connexions Service;

4.2.9 provide any requisite guidance or assistance to the Parties and the Advisory Group from time to time;

4.2.10 secure all appropriate insurance required from time to time in connection with the delivery of the Connexions Service, including but not limited to employers liability insurance and public liability insurance; and

4.2.11 be entitled to carry out such commercial and other activities in pursuance of the Key Principles and Objectives as the Advisory Group or the Executive Director reasonably deems necessary and as the Advisory Group may advise in accordance with the terms of this Deed in order to further the delivery of the Connexions Service.

- 4.3 The Host shall use its reasonable endeavours to act in the best interests of the Connexions Service in any discussions or negotiations or other appropriate transactions with contractors and potential suppliers and with Parties and shall in particular consult with the Advisory Group and with other key stakeholders in respect of material procurements.
- 4.4 The Host shall use its reasonable endeavours to act in the best interests of the Connexions Service in any financial discussions or negotiations or other appropriate transactions with DfES in relation to the Parties, and the Connexions Service.
- 4.5 The Host shall use all due care and diligence in the exercise of the functions conferred upon it by this Deed and shall not, in the absence of negligence or fraud on its part, be liable to any other Party in respect of any action approved by that Party whether individually or as a Party.
- 4.6 If the Host uses or provides its own goods or services in delivery of the Connexions Service, such transactions and the decisions to enter into such transactions will be conducted in a transparent manner open to competition.
- 4.7 Any assets which are acquired by the Host for the purpose of the Connexions Service shall be held by the Host for the purpose of the Connexions Service and shall be held firstly in respect of any liabilities of the Connexions Service and then shall be held on behalf of the Parties. Any such assets shall be used by the Host for the purposes of the Connexions Service only and shall not be used by the Host for any other purpose save with the prior agreement of the Advisory Group. The net proceeds of sale of any such assets after deduction of reasonable costs of sale shall be added to the Funding.

#### **Relationship with the Advisory Group**

- 4.8 In carrying out its responsibilities the Host shall have due regard to the advice and guidance provided by the Advisory Group (including majority agreement of the Parties where appropriate having regard to Schedule 6) and any Working Groups and shall use its best endeavours to act in accordance with such advice and guidance unless to do so would place the Host in a position of unprotected risk of loss or a conflict arises in respect of:

4.8.1 English Law or European Law;

- 4.8.2 the Host's constitution and legal obligations;
  - 4.8.3 the Key Principles and Objectives;
  - 4.8.4 the terms of the Financial Requirements and Guidance; or
  - 4.8.5 any relevant policies and procedures that the Host must by law comply with.
- 4.9 In the event of a difficulty arising in accordance with clause 4.8 above, the Advisory Group shall review its advice. In the meanwhile, the Host shall endeavour not to act against or without the Advisory Group's advice but will only refrain from acting until the Advisory Group provides alternative advice that does not give rise to a difficulty pursuant to clause 4.8 above.
- 4.10 In this respect the Advisory Group accepts that the CEO is the chief officer responsible for managing this Deed on behalf of the Host and has strategic authority detailed in the Host's constitution, and that as such has responsibility for the Financial Requirements and Guidance and compliance with the Host's terms of reference.
- 4.11 The Advisory Group also accepts that the Executive Director and the Unit are accountable to the CEO who will take and manage responsibility for any key decisions in accordance with the Host's constitution.
- 4.12 If a problem arises pursuant to clause 4.8 the CEO will advise the Advisory Group and the Executive Director as to why there is a conflict of interest or other problem and will recommend alternatives.
- 4.13 Neither the Parties nor the Advisory Group shall proceed with any matter if there remains a problem or conflict of interest in accordance with clause 4.8. In these circumstances the matter shall be referred to the Supporting Children and Young People's Group of the DfES for advice.
- 4.14 If any dispute arises out of this Deed the Parties will attempt to settle by mediation in accordance with the Centre of Dispute Resolution (CEDR) Model Mediation Procedure.

#### **Relationship between the Parties**

- 4.15 The Parties and each of them acknowledge and agree that the Host shall be entitled to meet any cost, claim, expense or other liability reasonably incurred by it in the proper performance by it of its obligations as Host pursuant to this Deed, the Financial Requirements and Guidance or otherwise in connection with the delivery of the Connexions Service from the Funding or alternatively from any policy of insurance secured in accordance with clause 4.2.10 above as is appropriate in the circumstances. It shall be the responsibility of the Host to ensure that

appropriate insurance cover is obtained.

- 4.16 In the event that there is insufficient Funding to meet any cost claim expense or other liability set out in clause 4.15 above, and the Host cannot obtain indemnification from any policy of insurance secured in accordance with clause 4.2.10, the Host shall be entitled to indemnification from the Parties in accordance with the provisions of clause 4.17 below
- 4.17 Where clause 4.15 and 4.16 indicate that this clause applies, each of the Parties shall, subject to the provisions of clauses 4.15 and 4.16 above and in the absence of any negligence or fraud on the part of the Host, severally indemnify the Host for an equal share of any cost, claim, expense or other liability reasonably incurred by it in the proper performance by it of its obligations and duties as Host pursuant to this Deed, the Financial Requirements and Guidance or otherwise in connection with the delivery by the Host of the Connexions Service and the Host shall take all reasonable steps to mitigate any loss or damage suffered by it.

## **5. STAFF**

- 5.1 The Parties agree that sufficient and appropriate staff shall be engaged by the Host or made available by the Host or the other Parties to deliver the Connexions Service and the Advisory Group may make recommendations regarding such staffing arrangements to the Host.
- 5.2 The Host shall ensure that a clear distinction is made between the Staff and the Secondary Workers.
- 5.3 The cost of employing Staff (but not the Secondary Workers) shall be met by the Funding.

### **5.4 Executive Director**

The Executive Director shall:

5.4.1 be accountable to the Host and the Advisory Group (through its Independent Chair or Vice Chair) for all matters relating to the strategic and operational delivery of the Connexions Service in the Area and in particular for ensuring that the Connexions Service is provided in accordance with the Financial Protocol and the Financial Requirements and Guidance; and

5.4.2 the Parties accept that the CEO shall have responsibility for all matters relating to the Executive Director's contract of employment and the Host agrees that the Executive Director's terms of employment shall fully enable and require the Executive Director to conform to the terms of this Deed.

- 5.5 Notwithstanding clause 5.4 above the CEO shall consult fully With the Advisory Group, either directly or through its Independent Chair and Vice Chair, on all matters relating to the employment of the Executive Director.
- 5.6 The Executive Director shall be subject to an annual performance review in accordance with the policies of the Host. These reviews shall be conducted jointly by the Independent Chair, or Vice-Chair of the Advisory Group and the CEO.
- 5.7 The Executive Director shall provide reports to the Advisory Group and any relevant Working Group as specified in their job description or as otherwise agreed.

## 6. **FUNDING**

- 6.1 The Funding shall be held by the Host and applied to secure the Connexions Service in accordance with this Deed.
- 6.2 The Grant shall be applied in accordance with the Financial Requirements and Guidance and other Funding shall only be applied to expenditure authorised by the terms of that Funding.

## 7. **PROVISION OF NON CASH RESOURCE**

- 7.1 The Advisory Group shall consider suggestions from time to time as to the commitment of non-monetary resources and assistance and in kind support to the Connexions Service.
- 7.2 No suggestion shall be accepted under clause 7.1 which would have the effect (if acted upon) of compelling any Party to incur unbudgeted expenditure for the purposes of making available for the Connexions Services any such resources assistance or support as are referred to in clause 7.1.
- 7.3 No provision in this clause 7 shall apply so as to preclude any contribution budgeted or otherwise made by any Parties voluntarily or as a result of direction by another funding organisation.

## 8. **DfES CONDITIONS**

- 8.1 The Parties undertake with each other to comply with, procure compliance with and observe the terms and conditions applicable to the Grant:
- 8.1.1 under any financial memorandum or other Financial Requirement or Guidance;
- 8.1.2 otherwise lawfully imposed by DfES; or

8.1.3 otherwise applicable under the Act, the Employment and Training Act 1973 (as substituted by the Trade Union Reform and the Employment Rights Act 1993).

8.2 The Host shall have overall responsibility for monitoring compliance with the grant conditions and legislative requirements relating to the Grant and shall report to the Advisory Group in the event of any actual or potential or threatened non-compliance therewith.

## 9. **DURATION AND TERMINATION**

9.1 This Deed shall come into effect on the Commencement Date. The Parties intend that this Deed shall continue in force for an initial term of one year expiring at 23:59 hours on 31 March 2007. At least three months prior to the end of the initial term the Advisory Group shall consider and make recommendations to the Host as to whether it is appropriate to extend this Deed for a further period. In the event that a decision to extend this Deed is made by the Parties this Deed shall be so extended and a memorandum of such extension attached hereto and a copy forwarded to the Advisory Group.

9.2 Without prejudice to the provisions of clause 9.1 above, in the event that either one or more of the Parties gives to the other Parties at least 3 months notice to terminate the arrangements under this Deed then the provisions of this Deed shall be deemed to be inoperative from the date of the expiry of the said notice save for any accrued rights and liabilities arising under this Deed between the Parties which shall be dealt with in accordance with the provisions of clause 10 below.

## 10. **PROVISION ON TERMINATION**

Upon termination of this Deed for any reason whatsoever the following shall apply:

10.1 Unless agreed to the contrary by the Parties any net assets held by the Host for the purpose of the Connexions Service and any unexpended Funding shall vest in the successor body to whom the responsibility to deliver the Connexions Service has transferred subject to the obligations in the Financial Requirements and Guidance.

10.2 The Parties shall endeavour to deal with the contracts of employment of any employees engaged in the provision of the Connexions Service in accordance with the provisions of TUPE and the law. Any termination costs connected with the Staff employment shall be met by the Funding. For the avoidance of doubt, any costs associated with the termination of a Secondary Worker's employment shall remain with the person who employs that Secondary Worker, and shall not be met by the Funding. Any costs, damages claims or other liabilities arising of the termination of the Deed in accordance with the provisions of clauses 9 and 10 shall be met firstly by the Funding. Any costs claims expenses or other liabilities

not met by the Funding shall subject to the provisions of clause 4.18.2 above be met by the Host and the other Parties in equal shares.

- 10.3 The Host hereby undertakes that it shall, where any Party or Parties (either collectively or individually) reasonably considers that TUPE applies or may apply at any time during the operation of this Deed or on its termination, provide to the other Party or Parties (within 28 days of receiving written notice to such effect) such information as it has in its possession relating to the Staff and their terms and conditions of service as the Party or Parties may require.

## **11. INFORMATION MANAGEMENT**

- 11.1 All applications for information under the Freedom of Information Act 2000 received by the Parties or the Advisory Group in respect of the Connexions Service shall be dealt with in accordance with the FOI Protocol set out in Schedule 4.
- 11.2 All personal data collected or processed in relation to the Connexions Service shall be dealt with in accordance with the Data Protection Protocol set out in Schedule 4.

## **12. GENERAL**

- 12.1 Except insofar as the Parties are expressly or by necessary implication constrained by the provisions of this Deed, nothing herein contained or implied shall prejudice or affect the Parties' rights and powers duties and obligations in the exercise of any function they have as a public body and/or in any other capacity and all rights, powers, discretions, duties and obligations of the Parties under all public and private statutes bylaws orders and regulations and statutory regulations and statutory instruments may at all times be fully and effectually exercised as if the Parties were not parties to this Deed and as if it had not been made.
- 12.2 The Parties shall not represent themselves as being any other Parties nor an agent, partner or employee of any other Parties and shall not hold themselves out as such nor as having any power or authority to incur any obligation of any nature express or implied on behalf of any other Parties and nothing in this Deed shall operate so as to constitute any one Parties an agent, partner or employee of any other. Any Independent Advisory Group Member shall not be appointed unless they have first at the request of the Host by notice in writing confirmed that they will at all times act as if he or she were a Party for the purposes of this Clause.
- 12.3 This Deed is personal to the Parties and no Parties shall assign to transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under this Deed but may be represented by a third party where the relevant function of the Member is provided externally.

- 12.4 No provision of this Deed is intended to or creates any right or benefit enforceable against the Parties by any party who has not executed the Deed under the Contracts (Rights of Third Parties) Act 1999.
- 12.5 Any notice to be served in connection with this Deed shall be in writing (which, for the avoidance of doubt, shall include facsimile transmission) and any notice or other correspondence under or in connection with it shall be delivered to the address which the relevant Party shall notify to the Secretary.
- 12.6 Subject as required by law all announcements by or on behalf of any of the Parties or any Advisory Group Member and relating to the subject matter of the Deed shall be in terms to be agreed by the Advisory Group in advance of issue.
- 12.7 In the event of any conflict, ambiguity or discrepancy between the provisions of the Deed and the Terms of Reference, the provisions of the Deed shall prevail.
- 12.8 No purported novation of the Deed shall be effective unless made in writing and signed by all of the Parties.
- 12.9 The Deed may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.
- 12.10 The Deed shall be governed by and construed in accordance with the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the courts of England and Wales.

THIS Deed is executed as a Deed and is delivered on the date stated at the beginning of this Deed.



## **SCHEDULE 1 TERMS OF REFERENCE**

These Terms of Reference set out working arrangements for the Advisory Group and provide a framework within which the Advisory Group shall operate. The purpose, appointments, meetings and attendance and status of the Advisory Group are provided for at Clause 3 of the Deed. These Terms of Reference are intended, in so far as is practical, to provide for the Advisory Group the arrangements previously set out in the articles of association, the members agreement and the rules of CSY Ltd as they applied to the CSY Ltd board of directors. Any alteration to these Terms of Reference proposed by the Advisory Group shall be approved by the Parties prior to implementation. Any conflict or inconsistency between these Terms of Reference and the Deed shall be interpreted in accordance with the terms of the Deed, the terms of which shall take precedence over these Terms of Reference. Any word defined in the Deed shall have the same meaning in these Terms of Reference.

The Terms of Reference comprises the following:

1. Notes on Terms of Reference
2. Membership
3. Meetings & Decision Making
4. Working Groups

### **1. TERMS OF REFERENCE**

1.1 The Advisory Group is a non-executive advisory body that shall, subject to the provisions of the Deed:

1.1.1 provide strategic advice, operational guidance and support to the Parties and the Host in respect of the policies for the management and delivery of the Connexions Service;

1.1.2 monitor compliance with the Financial Protocol the Financial Requirements and Guidance and any other conditions and legislative requirements relating to the Funding and shall promptly advise the Parties in the event of any actual or potential or threatened non-compliance therewith;

1.1.3 monitor the financial viability of the Connexions Service and advise in respect of the Parties accordingly;

1.1.4 monitor compliance with the Key Principles and Objectives in the delivery of the Connexions Service and shall promptly advise the Parties in the event of any actual or potential or threatened non-compliance therewith;

1.1.5 monitor and review overall performance of the Connexions Service;

1.1.6 develop a business plan in accordance with the guidance

provided by the Secretary of State, passing the same to the Host for approval and then, once approved, oversee the delivery of the Connexions Service in accordance such approved Business Plan;

- 1.1.7 research and recommend delivery options and contracting opportunities for the Connexions Service and advise the Host and the Parties accordingly. Additionally, once any delivery option has been approved by the Advisory Group and the Host, the Advisory Group shall enable the implementation of such delivery option as recommended, monitor its provision and report back accordingly;
  - 1.1.8 develop and submit for the approval of the Parties and the Host, protocols for the delivery of the Connexions Service and once approved, oversee compliance with any such protocols in the delivery of the Connexions Service;
  - 1.1.9 seek to have demonstrated that Best Value principles apply to the delivery of the Connexions Service and monitor and review its performance against the national quality standards;
  - 1.1.10 ensure that all Advisory Group Members contribute effectively to the planning and delivery of a coherent Connexions Service and that young people are involved at all stages;
  - 1.1.11 consult and work with young people to design and deliver an effective Connexions Service and ensure that quality of opportunity for young people in the Area is at the core of the Connexions Service;
  - 1.1.12 secure strategic links with planning bodies in the Area to enhance the quality of provision available for young people;
  - 1.1.13 consult with appropriate bodies in relation to how best to deliver the Connexions Service;
  - 1.1.14 market services subject to the approval of the Host; and
  - 1.1.15 establish effective systems of communications with all interested organisations and effective internal management information systems;
- 1.2 Advisory Group Members shall undertake with each other to comply with and observe the terms and conditions applicable to the Funding:
- 1.2.1 under the Financial Requirements and Guidance;
  - 1.2.2 otherwise lawfully imposed by DfES; and

1.2.3 otherwise applicable under the Act and the Employment and Training Act 1973 (as substituted by the Trade Union Reform and Employment Rights Act 1993).

1.3 The Advisory Group shall undertake any task reasonably delegated to it by the Host.

## **2. MEMBERSHIP**

2.1 In determining the size and membership of the Advisory Group consideration will be given to the Connexions Service Planning Guidance issued by the Supporting Children and Young People's Planning Group and the following:

2.1.1 the need for the Advisory Group to be manageable in terms of size;

2.1.2 the potential for a local authority senior representative to represent a number of departments including those dealing with Education, Youth Offending and Youth Services;

2.1.3 the need to ensure that young people are represented; and

2.1.4 the need for Independent Board Members to hold sufficient authority in their organisation to influence decisions.

2.2 Accordingly, the Advisory Group shall include Advisory Group Members to be appointed from the following sectors or organisations:

- The South Yorkshire Learning and Skills Council
- Schools/colleges, young peoples' forum and other similar bodies
- Youth Offending Teams and Probation Service
- Health Authorities and Primary Care Trusts
- Job Centre Plus
- Voluntary and Community organisations (including faith, minority, ethnic and disability groups)
- the business sector, work based learning providers and employers and any other organisations that are contributing to the Connexions Service in South Yorkshire
- other individuals with an interest and background in Connexions Service who can bring specific skills to the Advisory Group

- 2.3 Advisory Group Members who represent an organisation shall confirm that they have the authority to be appointed as a representative and that they are duly authorised to act on behalf of such organisation in respect of the Advisory Group.
- 2.4 For the avoidance of doubt the first Advisory Group shall consist of those individuals who are listed at Schedule 5 as the First Advisory Group.
- 2.6 The Advisory Group shall represent the Connexions Service (but not so as to create legal rights, obligations or liabilities) to third parties only to such extent and in such terms and manner as the Advisory Group shall unanimously agree and the Host shall approve.

### **3. MEETINGS AND DECISION MAKING**

- 3.1 The Advisory Group shall meet on reasonable notice (meetings can be called by any of the Parties, the Independent Chair, or any two (2) other members of the Advisory Group). Such meetings shall be held not less than quarterly and usually once every two months.
- 3.2 Each meeting shall be minuted and the minutes approved at the next meeting.
- 3.3 Except in extraordinary circumstances, no meeting shall be convened without the presence of the Independent Chair or the Vice Chair.
- 3.4 The Independent Chair must not be affiliated to any of the local authorities that are Parties or to any of the providers of services for the Connexions Service. The first Independent Chair shall be Professor A. D. H. Crook. The Advisory Group shall select one of the Advisory Group Members to be Vice Chair if there is a vacancy. The First Independent Vice Chair shall be Mrs. J Brier. The Vice Chair shall chair any meetings, which the Independent Chair is unable to attend.
- 3.5 The roles of the Chairperson and the Vice Chairperson shall include ensuring and maintaining the independence of the Connexions Service and to oversee the review of the Connexions Service in line with CSNU and DfES guidance from time to time.
- 3.6 Each Advisory Group Member shall have one vote Resolutions discussed at meetings shall be passed by a majority of votes, and in the case of an equality of votes the Independent Chair (or Vice Chair if the Independent Chair is not in attendance) shall have a casting vote.
- 3.7 The Advisory Group shall select from amongst its number an Independent Advisory Group Member with an appropriate financial background, preferably professionally qualified, to act on its behalf in relation to the Executive Director and financial matters of the Connexions Service. This officer shall be known as the Lead Member for Finances.

The Lead Member for Finances shall be Mr. Donovan Modest.

- 3.8 The Advisory Group may review and make decisions upon all matters that fall within its Terms of Reference. However, the matters set out in Schedule 6 shall **not** be within its remit and shall be reserved for the Parties only.
- 3.9 Each Advisory Group Member must declare any personal interest that they or their appointing body has in any matter which is to be discussed or voted upon. An Advisory Group Member who is in any way either directly or indirectly interested (as defined in the Host's Member's Code of Conduct) in any matter to be discussed or voted upon at an Advisory Group Meeting shall declare the nature of their interest to the Advisory Group and shall then take no part in, and shall not vote upon, any relevant item of business.
- 3.10 Parties shall procure that the Advisory Group Member shall each agree that they shall act in good faith and with goodwill and shall use all reasonable endeavours to procure that the Advisory Group shall:
- 3.10.1 act by consensus;
  - 3.10.2 reach agreements and decisions in a timely manner and in the overall interests of the Connexions Service;
  - 3.10.3 avoid insofar as possible deadlock over necessary decisions;
  - 3.10.4 act in accordance with the terms of any business plan; and
  - 3.10.5 and act in accordance with the Key Principles and Objectives.
- 3.11 The Parties shall procure that each Advisory Group Member acknowledges and agrees that the conduct of the Advisory Group shall be within the remit of the Scrutiny Committee.

#### **4. WORKING GROUPS**

- 4.1 The Advisory Group may establish Working Groups to deal with specific matters as is appropriate.

## **SCHEDULE 2**

### **Financial Protocol**

**The Financial Protocol is a central reference point for the financial regulation of the Connexions Service.**

Any word defined in the Deed shall have the same meaning in this Financial Protocol.

1.1 As the accountable body for the Funding the Host shall act in accordance with:

1.1.1 the Financial Protocol;

1.1.2 the Financial Requirements and Guidance;

1.1.3 any other conditions of grant attaching to the Funding;

1.1.4 the Host's constitution (standing orders, finance regulations, etc); and

1.1.5 the scheme of delegation set out at the end of this Schedule.

1.2 The Advisory Group shall advise and assist the Host in relation to compliance with clause 1.1 above.

1.3 In the event of any conflict between the terms of any of the documents listed in clause 1.1 above the Host will report the options to the Advisory Group and recommend a preferred option for agreement.

## **2. PAYMENTS**

Any payments made by or to the Host will be paid and accounted for pursuant to and in accordance with the constitution, statutes, regulations and standing orders that govern the conduct and finances of the Host and the national "Connexions" service. Payments received by the Host shall be dealt with by the Host subject to the conditions and requirements set out in this Financial Protocol and to such further conditions and requirements as the Secretary of State, DfES, the Office of the Deputy Prime Minister or any other person or body under whose direction or in accordance with whose advice the Host must or is reasonably expected to act as they may from time to time specify.

No payment in respect of the Connexions Service shall be made by the Host except in respect of relevant expenditure incurred or to be incurred in the delivery of the Connexions Service. The Host shall use its best endeavours to ensure that any Funding or other payments received by it for the purposes of the Connexions Service are used only in accordance with the terms of this Financial Protocol.

The Host shall make payments and receive or recover payments in respect of the Connexions Service in a timely manner and only to the extent and in accordance with the terms of any binding agreement and

the Host shall seek so far as it is lawfully able to set off any such payment it must make to a party against any payment that that party is expected to make to the Host.

### **3. RECOVERY OF PAYMENTS**

If the Host does not to a material degree comply with any of the conditions and requirements in respect of any payment it receives or is to receive in respect of the Connexions Service and the Host is in consequence to either not receive an expected payment or shall repay a payment that it has received the Executive Director shall immediately notify the Advisory Group.

## **4 ACCOUNTABILITY**

### **4.1 The role of the Executive Director**

4.1.1 The Executive Director's responsibilities are to ensure that the arrangements and procedures set out in the Financial Memorandum and Financial Requirements and Guidance are implemented and carried into effect, to be satisfied that the financial and other management controls applied by the Host and the Advisory Group are appropriate and sufficient to safeguard public funds, and more generally, that those controls being applied by the Host conform with the requirements both of propriety and of good financial management. In addition the Executive Director shall ensure that the Key Principles and Objectives are consistently applied throughout the delivery of the Connexions Service. The Executive Director shall report to the Host and the Strategic Board as he or she shall from time to time be directed by them.

4.1.2 The Executive Director shall be formally responsible for all financial affairs and for the proper conduct of delivery of the Connexions Service. The Executive Director will be personally responsible for ensuring regularity and propriety, and for the economic, efficient and effective use of resources (including ensuring value for money), and the Host and the Advisory Group shall seek to procure that the Executive Director's terms and conditions of service are commensurate with this. The Executive Director shall be specifically responsible for the following in relation to the financial regulation of the Connexions Service:

4.1.2.1 ensuring that the annual accounts are prepared sufficient to the needs of the DfES;

4.1.2.2 observing the conditions laid down for administering any payments in respect of the Connexions Service and their use;

4.1.2.3 safeguarding all funds and assets held in relation to the Connexions Service in the charge of the Host and

ensure compliance with the Hosts Financial Regulations and Standing Orders;

4.1.2.4 ensuring that relevant public funds are applied only to the purposes for which they have been made, that proper financial procedures are followed, that financial records are maintained suitable for the requirements of management; and

4.1.2.5 taking appropriate action if the Host is contemplating a course of action involving a transaction which the Executive Director considers will or realistically may infringe the requirements of propriety or regularity (including the provisions of the Business Plan, documents setting out the financial duties of the Host or of any other rules governing the conduct of the Host), or would not represent prudent or economical administration, or the efficient or effective discharge of the Host's obligations in respect of the Connexions Service, or would be a breach of the Key Principles and Objectives.

#### **4.2 The Role of the Host and Strategic Board**

Upon receipt of any report or other information from the Executive Director, the Host shall if it deems it appropriate, copy the report or information to the Advisory Group. The Advisory Group shall determine what action if any shall be taken.

#### **4.3 Annual and Other Reports**

There shall be an annual report, "Annual Report" in respect of the Connexions Service. The Annual Report shall be prepared by the Host on the advice of the Executive Director, approved by the Host's Cabinet and the Advisory Group and submitted for approval and registration by the Independent Chair, CEO and Executive Director

Additional reports shall be made by the Executive Director to the Advisory Group and the Executive Director as the parties shall from time to time agree.

### **5 Scheme of Delegation**

This scheme of delegation shall be reviewed annually and agreed by the Advisory Group and subsequently submitted for approval in compliance with the Host financial regulations and standing orders.

The scheme of delegation is as follows:

The Executive Director is responsible for authorising all purchase orders.

(Currently delegated to the Director of Finance and Performance Management)



The Executive Director is authorised to enter contracts to a maximum value of £50,000

Where budgets have been delegated to other Senior Managers authority has been delegated to authorise purchase orders within the budgets allocated (See detailed delegation below).

#### Purchasing

Items under £100 may be purchased through petty Cash. All other expenditure must be through the use of purchase orders and invoices unless authorised by the Executive Director.

Under £1000 – Delegated budget holders discretion

£1000 to £10,000 – Delegated Budget holders discretion subject to at least two written quotations

£10,001 to £30,000 – Executive Director subject to at least three competitive tenders

£30,001 to £50,000 – Executive Director subject to four tenders obtained by either open advertisement or direct mail to a random selection of potential providers

Over £50,000 – Executive Director and at least one member of the board subject to at least four tenders obtained by open advertisement.

In all circumstances procurement of goods and services must comply with the Contract Standing Orders and Finance Regulations of RMBC.

#### **Detailed Delegation of Responsibility**

Members of the Senior Management Team (SMT) have delegated authority for expenditure within their area of responsibility for up to £2,000.

Where deemed appropriate an individual member of SMT may delegate responsibility for a specific budget to the manager responsible for that budget area. However the responsibility for the budget remains with the appropriate members of SMT.

Where expenditure exceeds £2,000 but is not greater than £10,000 an SMT member (where possible this should be the Director of Finance or the Executive Director) is required to agree the order.

Where expenditure exceeds £10,000 then the approval of the

Executive Director is required before the order can be placed.

**SCHEDULE 3**  
**Financial Requirements and Guidance**

## **SCHEDULE 4**

### **Information Management Protocols**

#### **Data Protection Protocol**

The Host is the legal entity responsible and liable as “data controller” for ensuring that all personal data collected and/ or processed in connection with the Connexions Service is dealt with in accordance with the Data Protection Act 1998.

Accordingly the Parties and Advisory Group shall act in accordance with the protocols attached.

#### **FOI Protocol**

The Host is the legal entity responsible and liable for ensuring that any requests for information received by the Advisory Group or the Advisory Group in respect of the Connexions Service are dealt with in accordance with the Freedom of Information Act 2000.

Accordingly the Parties and the Advisory Group shall act in accordance with the protocols attached.

**SCHEDULE 5  
Advisory Group**

**Member of Advisory Group**

**Representative**

Professor A. D. H. Crook	Independent (Chair)
Mrs Joan Brier	Independent (Vice Chair)
Mr Callum McKayle	Young people
Miss Donna Blencoe	Young people
Ms Cllr. Linda Burgess	BMBC
Mr Donovan Modest	Independent
Mrs Fiona Blacke	Learning and Skills Council
Ms Helen Fentimen	South East Sheffield Primary Care Trust
Mr Rod Norton	RMBC
Mr Steve Chew	DMBC
Supt. Mick Maguire	South Yorkshire Police
Mr Tony Clabby	Independent
Mr Trevor Mason	Lifetime
Mr Zahid Hamid	Independent
Vacancy	South Yorkshire Open forum (Voluntary Sector)

**SCHEDULE 6**  
**Matters requiring majority approval of the Parties**

1. A resolution to remove a Party.
2. A resolution which is inconsistent with the Key Principles.
3. A resolution to wind up the Connexions Service.
4. A resolution to change the Terms of Reference.
5. A resolution to appoint another Party.
6. The amendment of the Deed.
7. The appointment or removal of Advisory Group Members.
8. The appointment or removal of the Independent Chairman.
9. The discontinuation or significant change of scope of any existing activity contemplated by this Deed.
10. Any deviation from any business plan which requires additional expenditure in excess of the amounts set out in the Financial Protocol in Schedule 2.
11. The opening or closure of Connexions activities.
12. The termination of this Deed prior to its expiry date.
13. Whether to give a Party permission to do or not do a particular act which would otherwise breach that parties obligations under this Deed.
14. The entering into of any legally binding arrangement of the following kind, regardless of the value, ("**Contract**") which involves the following:
  - (a) the dismissal of the most senior member of Staff;
  - (b) the appointment of the most senior member of Staff, including any matter relating to their terms of employment;
  - (c) the acquisition of any business by the Parties;
  - (d) the giving of security over assets the subject of this Deed; and
  - (e) any loan given by or to a party or any other person (regardless of the amount).
15. The settlement of any dispute with any person whether the amount to be payable or receivable in relation to this Deed is (on a reasonable estimate

entered into in good faith) more than that permitted by the Financial Protocol set out in Schedule 2.

16. Any other Contract not otherwise specified in this Schedule 6 where the consideration payable or receivable by the Host in connection with this Deed, (whether in the form of money or otherwise and whether in ordinary course of business or otherwise) is valued (where necessary, by a suitably qualified independent valuer appointed in good faith by the Host), exceeds the amounts specified in the Financial Protocol set out in Schedule 2.
17. Any matter having VAT or other tax implications for the Parties in relation to the activities contemplated by this Deed.
18. Whether any records pertaining to the activities contemplated by this Deed may be removed to any place other than any legitimate Connexions premises or any premises of any of the Parties.
19. The commencement of any litigation or other dispute resolution process against a Party (regardless of the value of the dispute) or any other person where the value of the dispute (where necessary as estimated by the Host in good faith) exceeds the amounts set out in the Financial Protocol in Schedule 2.
20. Any changes to the frequency, times or locations of Advisory Group meetings.
21. Any other matters which the simple majority of the Advisory Group determines from time to time requires the majority vote of the Parties.

**SCHEDULE 7**  
**Contractual Obligations required by Clause 4.2.5**

The Contractor will note the Host's current and future obligations under the Data Protection Act 1998, the Freedom of Information Act 2000, the Human Rights Act 1998, the Disability Discrimination Act 1995 and the Race Relations Act 1976 (all as amended from time to time) and any codes of conduct and best practice guidance issued by the appropriate enforcement agencies.

The Contractor will comply with the above legislation in so far as it places obligations upon the Host in the performance of its obligations under any contract.

The Contractor will facilitate the Host's compliance with the Host's obligations under these provisions and shall comply with any reasonable request from the Host for those purposes.

The Contractor will act in respect of any person who receives or requests services under the contract as if the Contractor were a public authority for the purposes of the Human Rights Act 1998.

The Contractor notes particularly that the Host may be required to provide information relation to the contract or a Contractor to comply with its obligations under these provisions.



**THE COMMON SEAL** of **BARNSLEY** )  
**METROPOLITAN** **BOROUGH** )  
**COUNCIL** was affixed hereto in the )  
presence of its authorised signatory: )

**THE COMMON SEAL** of **DONCASTER** )  
**BOROUGH COUNCIL** was affixed hereto )  
in the presence of its authorised signatory: )  
)

**THE COMMON SEAL** of )  
**ROTHERHAM BOROUGH COUNCIL** )  
was affixed hereto in the presence of its )  
authorised signatory: )