[all text in square brackets should be modified as appropriate – remove this text after reading]

##### CONTRACT

**RELATING TO THE**

**Survey year and name**

**Briefing**

This briefing has been produced to explain the purpose of the model Service Contract relating to the [survey year and name] (the Service Contract), made available to NHS trusts to use in carrying out the [survey year and name].

##### Introduction

The [survey year and name] is being carried out by [Survey contractor], on behalf of [Trust name].

The NHS patient survey programme was established by the Department of Health and has been operating since 2002. This [survey name] addresses issues of importance to [service users / patients / recent mother] including their experiences of [add in areas of key questionnaire content depending on survey]. These surveys make it possible to build up a picture of people’s experience for England, compare the performance of different organisations, monitor change over time, and identify variations between different patient groups. Data from these surveys are also used in policy evaluation.

##### The use of confidential information

In order to carry out the survey, [Survey contractor] requires personal data of the service users that have been in contact with the trust. These will be mailing information (name and address) and sample information: age, gender, ethnic group, date of last (most recent) contact, Care Programme Approach (CPA) status, Clinical Commissioning Group (CCG) and Mental Health Care Cluster Code information [if there are any survey variables collected outside of the survey requirements these should also be added here]. Survey contractor must provide a secure data transfer method for submission of this data by the trust. Once data checks have been completed, the name and address details will be kept separate from all other information, to enable [Survey contractor] to send out a questionnaire by post.

All organisations that process personal data must comply with the General Data Protection Regulation. NHS organisations must also comply with the common law duty of confidence and adhere to the NHS confidentiality code of practice. Additionally, the Care Quality Commission must be satisfied that all arrangements comply with its policies and procedures on confidential personal information. The Commission requires that the transfer of service user data is done in an appropriate way, so that it does not compromise service user confidentiality.

**Model Service Contract**

To minimise the risk of any breach of service user confidentiality, the Care Quality Commission has produced a template written agreement between the provider and individual trusts to cover these arrangements.

The organisations that are parties to the written agreement must be legal entities (for example, the NHS trust, or a limited company), so that they have the necessary locus to enter into the agreements, and must be the data controller(s) of the relevant personal data. A data controller is defined in the General Data Protection Regulation as “the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law; Article 4 (7) ”.

The arrangement as recommended by the Care Quality Commission requires the provider to contractually agree that their employees will meet and follow specific obligations in relation to the way that the service is delivered, which will include meeting specific standards of confidentiality and data protection, governance and security. By signing the service contract, the provider agrees to comply with the General Data Protection Regulation. In particular, they are agreeing that they will not use the personal data for any purpose other than the named survey, and that they will comply with Article 5 (1(f)) of the General Data Protection Regulation which requires that data is "processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures (‘integrity and confidentiality’)”.

Throughout the course of the survey, the trust remains the data controller, with the provider employed as a data processor to act on behalf of the trust.

The Service Contract can include all relevant arrangements between trusts and providers, for example invoicing details and funding agreements (see the main survey guidance document for more detail). As the data controller, it is for the trust to decide whether to implement the revised version of the arrangements as recommended by the Care Quality Commission, or to continue with any previous form of agreement.

Instructions for completion are provided in the model Service Contract in red text, and within square brackets.

###### Process for review of model Service Contract

The model Service Contract should be reviewed by the relevant legal department/body, at each trust. Any queries relating to the intent or purpose of the documentation should be sent to the patient survey team at the Care Quality Commission:

patient.survey@cqc.org.uk

Any amendments to the model Service Contract must be negotiated and agreed by the individual trusts and the provider, independently from the Care Quality Commission. Please contact [Name of survey contractor staff member who will field queries relating to contacts] in this instance:

**[Contact details (email, then phone number) for survey contractor member of staff (to field queries relating to contracts)]**

The survey contractor will then disseminate finalised contracts to each trust and arrange for these to be put into place.