

The Secondment Agreement HMPPS - YOS

Secondment Agreement

This Agreement is made on [date]

From: Her Majesty's Prison and Probation Service of 102 Petty France, London SW1H 9AJ ("HMPPS").;

To: Youth Offending Service/Team ("the YOS") of [insert the name of local authority & address]

HMPPS and [insert the name of local authority] have agreed that HMPPS' employee [insert individual's name] ("the Secondee") will be seconded to the YOS in accordance with the terms set out in this Secondment Agreement.

IT IS AGREED AS FOLLOWS:

1. Secondment period and duties

- 1.1 The Secondee will be seconded to provide services to the YOS on a [insert full-time or part-time] basis for a period of [insert period] commencing on [insert date] and terminating on [insert date] ("the secondment period"), subject to the provisions of subparagraph 1.2 and paragraph 16 of this Agreement.
- 1.2 In exceptional circumstances the secondment period may be extended by mutual agreement in accordance with Paragraph 22 of this Agreement following a review by the YOS which must be initiated no later than four months before the terminating date above. The length of any secondment must be no longer than three years. Any secondments beyond this time would need to be supported by HMPPS (Section 5.4 of the NPS/YOS National Partnership Framework refers). For individual and organisational tax compliance purposes the HMPPS line manager must change the individual's posting term (on HMPPS Shared Services system) to reflect the Secondee's attendance pattern. A copy of the National Partnership Framework is attached as annex one.
- 1.3 During the secondment period the Secondee will carry out the duties of [insert job title] for the YOS. Details of these duties are attached to this Agreement.
- 1.4 Any substantial changes to the duties to be performed by the Secondee must be approved by both parties in accordance with paragraph 22 of this Agreement prior to such changes taking effect.

2. Terms and conditions of employment

- 2.1 The Secondee will be seconded to the YOS on the terms and conditions of her/his employment with HMPPS, except where varied by this Agreement. HMPPS will provide the YOS with a copy of the Secondee's principal terms and conditions prior to the commencement of the secondment period.

3. Remuneration of the Secondee

- 3.1 HMPPS will continue to pay salary to the Secondee and will account to the appropriate authorities for PAYE, income tax and national insurance contributions payable thereon. The Secondee will not be entitled to any salary, pension, bonus or other financial benefits from the YOS. If appropriate: For the duration of the secondment period or until its earlier termination, the Secondee will be on temporary promotion to [insert

HMPPS/NPS grade and pay band]. Any temporary promotion does not confer any right or benefit to the higher pay band and will end on termination of the Secondment for any reason].

4. Secondee's status

- 4.1 The Secondee will remain the employee of HMPPS at all times and will not be deemed to be an employee of the YOS by virtue of the secondment. At the end of the secondment period or upon its earlier termination (other than by reason of the termination of the Secondee's employment by HMPPS during that period) the Secondee will return to HMPPS.

5. Reporting, Supervision and Accountability

- 5.1 The Secondee will report to a named functional line manager who will be identified by the YOS to the Secondee and HMPPS before or on commencement of the secondment period ("the functional line manager"). The functional line manager will be responsible for the induction, day to day supervision and management of the Secondee during the secondment period.
- 5.2 The Secondee will remain accountable to HMPPS via an identified contact point during the secondment period. If concerns arise about the Secondee's performance, conduct or attendance which could lead to formal action, the YOS functional line manager will notify HMPPS within seven days, and HMPPS will manage and determine these matters in accordance with its policies and procedures. The YOS will provide all reasonable co-operation to enable HMPPS to progress its policies and procedures.

6. Place of work

- 6.1 The YOS will notify HMPPS of the employee's workplaces and attendance pattern in advance so that HMPPS can define the appropriate posting term for tax compliance reasons. Any changes to workplace and attendance pattern during the course of the secondment will also be notified. The Secondee's place of work during the secondment period will be [insert address] but the Secondee may be required to travel to different locations at the request of the YOS. The YOS will provide suitable office accommodation and support services, including any reasonable adjustment or equipment required where necessary in order to fulfil their duties.

7. Health and safety

- 7.1 The functional line manager will ensure that:
- 7.1.1 All Secondees will receive a Health and Safety Induction from their host YOS (Section 8 of the NPS/YOS National Partnership Framework refers). This is to ensure that they are aware of the YOS' health and safety and fire safety policy, procedures and arrangements that they will need to do to comply with whilst on their estate carrying out YOS duties.
 - 7.1.2 The health and safety of the Secondee is protected in accordance with all relevant laws, regulations and applicable guidance.
- 7.2 HMPPS will require the Secondee to observe all safety instructions given from time to time by the YOS and/or HMPPS. There will also be a requirement to undertake some training including short e learning courses e.g. Fire Awareness Training
- 7.3 The YOS will allow HMPPS' representatives to inspect its workplace, policies and procedures for occupational health and safety purposes.

7.4 Reasonable adjustment will be provided as follows:

7.4.1 Adjustments relating to NPS IT will be provided by HMPPS

7.4.2 Adjustments relating to YOS IT will be provided by YOS

7.4.3 Other specialist equipment such as specialists' chairs will be HMPPS responsibility. HMPPS will ensure that any required equipment is transferred from an existing base or purchased. This equipment will be returned to HMPPS upon completion of secondment

7.4 Any RIDDOR reportable injury accidents or incidents involving a Secondee will need to be reported to the HSE via the HMPPS

8. Attendance and leave

8.1 [If Secondee's working pattern will differ from that of her/his substantive role: For the duration of the secondment period or until its earlier termination, the Secondee will work (delete as appropriate) full-time, Monday to Friday, e.g.37 hours as appropriate per week/148 hours over a four week period exclusive of an unpaid meal break of a minimum of 30 minutes OR part-time (insert details of part-time working pattern).]

8.2 If the Secondee works in excess of her or his contracted hours, s/he may be entitled to [(delete as appropriate) time off in lieu for the additional hours worked OR payment] in accordance with the current policy of HMPPS and if agreed in advance with the YOS. The functional line manager will ensure that the Secondee's work patterns comply with the Working Time Regulations 1998.

8.3 The Secondee will be expected to use any annual leave entitlement accrued during the secondment period prior to the end of that period.

8.4 The Secondee's requests for annual leave will be considered and authorised by the functional line manager. For the avoidance of doubt, the Secondee is also entitled to any leave in respect of those privilege days granted to civil servants.

8.5 In the event of sickness absence, the Secondee will be expected to notify the YOS' functional line manager in line with YOS local procedures.

8.6 The functional line manager will provide HMPPS with records of annual leave on a quarterly basis, and sickness absence documentation following any periods of sick absence.

9. Performance management and review

9.1 Performance will be reviewed by the Secondee's functional line manager in the YOS in accordance with HMPPS' procedures and utilising its documentation, with input from the HMPPS line manager as required. HMPPS may provide training or support on these procedures to the functional line manager if required. Copies of any performance review documentation will be forwarded by the functional line manager to HMPPS' Shared Services [add address] for retention on the Secondee's personal file. Continuation of the secondment will be subject to the Secondee's satisfactory performance.

10. Discipline and grievances

10.1 The YOS will take no disciplinary action in respect of, nor purport to terminate the

employment of, the Secondee.

- 10.2 Allegations of misconduct by the Secondee will be dealt with jointly as appropriate, but in accordance with HMPPS' disciplinary policies and procedures. If in the reasonable opinion of the YOS, the Secondee is guilty of any serious misconduct or any other conduct which affects or is likely to affect prejudicially the interests of the YOS, HMPPS will at the request of the YOS immediately remove the Secondee from the secondment pending the outcome of any disciplinary procedures.
- 10.3 Any grievance raised by the Secondee about her or his relationship with the YOS or its employees (for example, office disputes, disagreements with YOS actions) during the secondment period will be addressed in accordance with the YOS' policies and procedures. Any grievance relating to the Secondee's relationship with HMPPS or its employees (for example, payroll disputes or disagreements with HMPPS actions) will be addressed in accordance with HMPPS' policies and procedures. In the event of disagreement as to which policy or procedure is applicable, HMPPS' decision will be final

11. HMPPS and Secondee contact arrangements

- 11.1 HMPPS will designate a contact person to ensure that the Secondee is kept informed of significant service developments. The nature of the contact, which will be agreed between the two parties, will vary according to the particular circumstances.
- 11.2 HMPPS will also ensure that the Secondee receives details of any job vacancies, internal bulletins, notices etc during the period of secondment. Responsibility for keeping in touch also lies with the Secondee.

12. Reimbursement/ Fees

- 12.1 HMPPS provide funded secondees to the Youth Justice Service under the agreed, joint National Partnership Framework. Reimbursement for any long-term unfilled Secondee vacancies will be made by HMPPS, according to the process described in Section 5.5 of the Framework, and upon completion of a Vacancy Payment Escalation Form.

13. Secondee's expenses

- 13.1 HMPPS will reimburse the Secondee for travel, accommodation and subsistence in connection with their secondment, in accordance with HMPPS' travel and subsistence policies. Secondees have a personal responsibility for claiming correctly in accordance with these policies, and for raising any queries promptly with HMPPS Shared Services. The Secondee's YOS functional line manager must certify that all expenses have been legitimately incurred prior to the Secondee submitting a claim to HMPPS. Claims must be submitted in accordance with HMPPS' current procedures and will be paid at HMPPS' current rates. Claims will be subject to routine compliance checks via HMPPS Shared Services.
- 13.2 The Secondee must use HMPPS systems for booking travel and/or accommodation, following the HMPPS policy and guidance that applies at the time. In order to do so, the Secondee must have a HMPPS posting term and check this regularly with their HMPPS home business unit to ensure it fits the reality of their attendance pattern with the YOS. This is important for personal and organisational tax compliance reasons.

14. Conduct and security

- 14.1 The Secondee will continue to be subject to the provisions of the Official Secrets Act.

- 14.2 HMPPS agrees to require the Secondee as a condition of the secondment to agree that s/he will:
- 14.2.1 Keep confidential any information of a private, confidential, sensitive or secret nature acquired during the performance of the Secondee's duties with the YOS, and not disclose such information to anyone during the secondment period or at any time thereafter without the prior written approval of the YOS; and
 - 14.2.2 Behave in accordance with the conditions and rules governing the conduct of civil servants as set out in the Civil Service Code as well as LA and NSC codes of practice during the secondment period; and
 - 14.2.3 Upon the termination of the secondment for whatever reason, immediately deliver to the functional line manager all correspondence, documents, specifications, papers and other property relating thereto which may be in her/his possession or under her/his control, all of which will rightfully belong to and remain the property of the YOS.
- 14.3 It is responsibility of NPS unit to ensure that secondee has current DBS clearance before the secondment commences.

15. Intellectual property

- 15.1 HMPPS agrees, and will require the Secondee as a condition of the secondment to agree, that:
- 15.1.1 Any patents and/or copyright derived from any intellectual property created by the Secondee and arising from her/his duties during the secondment period will be owned by the Ministry of Justice.
 - 15.1.2 Any discovery, development, invention, improvement, design, process, formula, information, computer program, or copyright work (whether capable of being patented or registered or not) created by the Secondee (either alone or with any other person) and arising from the Secondee's duties during the secondment period will belong (subject to the provisions of the Patents Act 1977) to the Ministry of Justice.
- 15.2 HMPPS agrees that it will if and whenever required to do so by the Ministry of Justice (and at the expense of the Ministry of Justice) provide any reasonable assistance in securing the ownership of any patent, registered design, trade mark or other protection or registration in the United Kingdom and in any other part of the world; and it will require the Secondee, as a condition of the secondment, to agree to provide similar assistance.

16. Termination

- 16.1 Either party may terminate this Agreement forthwith if the other party is in breach of any of its obligations under this Agreement.
- 16.2 If the Secondee ceases to be employed by HMPPS for any reason during the secondment period, this Agreement will terminate automatically on the Secondee's last day of employment with HMPPS.
- 16.3 In the event of the Secondee requiring an extended period of leave, other than annual leave, the YOS may terminate this agreement by giving HMPPS reasonable notice, usually three months minimum.
- 16.4 If during the secondment period HMPPS is subject to a machinery of government

change or a transfer of activities and/or staff is to take place, this Agreement will terminate automatically one month before any such change takes effect.

- 16.5 Should it become necessary for HMPPS to consider redundancies during the secondment period, the Secondee will be included where appropriate in such considerations. In these circumstances HMPPS may terminate this Agreement upon giving reasonable notice, usually three months minimum.
- 16.6 Either party to this Agreement may terminate this Agreement in any event by giving at least three months' notice in writing to the other party (or such lesser notice as may be agreed between the parties).
- 16.7 The parties agree that the Secondee may terminate the secondment by giving at least three months' notice in writing to both parties and that this Agreement will terminate upon the expiry of the Secondee's notice.
- 16.8 In the absence of early termination, this Agreement will terminate on the date stated in paragraph 1.1 above.
- 16.9 If the Secondee is placed on temporary promotion during the secondment, then upon termination of this Agreement, the Secondee will revert to her/his substantive pay band within HMPPS.

17. HMPPS and Secondee return arrangements

- 17.1 Three months prior to the end of the secondment period, or, in the case of earlier termination, at the earliest feasible opportunity, an appropriate representative of HMPPS will discuss and agree a return plan with the Secondee. The Secondee will return to a suitable alternative post at the Secondee's substantive pay band and salary (including, where appropriate, any pay increases/progression which the Secondee would have been awarded in the intervening period).
- 17.2 If the Secondee's working pattern with HMPPS prior to the secondment ("the original working pattern") was varied as a condition of undertaking it, from full time to part time or vice versa, the Secondee will be expected to resume the original working pattern immediately upon returning to HMPPS, unless discussed and agreed otherwise.

18. Liability

- 18.1 The YOS will indemnify HMPPS against any and all claims, liabilities, actions, proceedings, costs (including legal fees), losses, damages and demands arising out of or resulting from:
 - 18.1.1 its breach of this Agreement;
 - 18.1.2 any act or omission or default of the Secondee in connection with the secondment and occurring during the secondment period, or until the date of its earlier termination
 - 18.1.3 any act, omission or default of the YOS, or any other person for whom the YOS is liable, at any time during the secondment period, or until the date of its earlier termination, in respect of the Secondee.
- 18.2 HMPPS hereby indemnifies the YOS against any and all claims, liabilities, actions, proceedings, costs (including legal fees), losses, damages and demands arising out of or resulting from:
 - 18.2.1 its breach of this Agreement;

18.2.2 any act or omission or default of the Secondee in connection with the secondment and occurring before or after the secondment period, or after the date of its earlier termination;

18.2.3 any act, omission or default of HMPPS, or any other person for whom HMPPS is liable, in respect of the Secondee;

18.2.4 the payment of salary and all other contractual benefits to the Secondee during the secondment period.

18.3 If one party becomes aware of any matter that may give rise to a claim against the other party or any person for whom the other party is liable, notice of that fact will be given as soon as possible to the other party.

19. Dispute Resolution

19.1 If a dispute arises between the parties as to any matter or thing arising out of this Agreement which they are unable to resolve by negotiation within 28 days of the dispute arising, or such longer period as agreed, the matter will be referred to the relevant Director of HMPPS [insert name of unit responsible for secondment] and the Director of the YOS for dispute resolution.

19.2 If the Director of the YOS and the HMPPS Director are unable to resolve the matter within 28 days, or such longer period as agreed, they will agree upon a process for resolving the dispute through an external dispute resolution process such as conciliation, mediation, independent expert determination, or a combination thereof.

19.3 HMPPS and the YOS will bear the costs of the external dispute resolution process equally.

20. Data protection

20.1 It is necessary for the parties to share and otherwise process personal and sensitive personal data about the Secondee. All processing of data will be in accordance with the provisions of the Data Protection Act 2018. HMPPS will require the Secondee to give explicit consent to such processing as a condition of the secondment.

21. Communications

21.1 All notices, approvals, consents, demands or other communications required or permitted to be given under this Agreement must be in writing and delivered personally or sent by first-class post to the relevant party's address as set out at the beginning of this Agreement. Any such communication will be deemed to be served, if delivered personally, at the time of delivery, or if sent by post, two working days after posting. A party may change its address by notice in writing to the other party.

22. Variation

22.1 No amendment or variation of this Agreement will be effective unless it is in writing and signed by the Director of the YOS (or other authorised representative of the YOS) and the HMPPS Director [insert name of HMPPS Directorate responsible for secondment].

23. Entire Agreement

23.1 This Agreement constitutes the entire agreement between the parties with respect to the subject matter thereof.

24. Severability

24.1 If a court determines that a word, phrase, sentence, paragraph or provision in this Agreement is unenforceable, illegal or void then it will be severed, and the other provisions will remain operative.

25. Jurisdiction and Proper Law

25.1 This Agreement shall be governed by and construed in accordance with English law and subject to the exclusive jurisdiction of the English courts.

Signed for and on behalf of [] HMPPS

Dated

Signed for and on behalf of YOS/ Hosting Authority

Dated

Signed (individual being seconded)

Dated