

This Agreement is dated

12th June

2014

Parties

- (1) The **GOVERNING BODY OF CHIPPING SODBURY SCHOOL** having its address at Chipping Sodbury School Bowling Road Chipping Sodbury South Gloucestershire BS37 6EW ("the **Governors**")
- (2) **CHIPPING SODBURY SCHOOL CO-OPERATIVE TRUST** (a company limited by guarantee registered in England and Wales under company number 08669980 whose registered office is at Chipping Sodbury School Bowling Road Chipping Sodbury South Gloucestershire BS37 6EW ("the **Trust**")
- (3) **SOUTH GLOUCESTERSHIRE DISTRICT COUNCIL** having its principal office at PO BOX 300 The Civic Centre High Street Kingswood Bristol BS 15 0DS ("the **Council**")

each "a **Party**" and together "the **Parties**"

Background

- (A) Under Part IV of the Education Act 1996 the Special Educational Needs and Disability Act 2001 and the Children and Families Act 2014 ("the **Acts**"), the Council is required to make arrangements for suitable full time education for children with special educational needs ("**SEN**").
- (B) An ASD Unit comprising accommodation and facilities for meeting the SEN of students in relation to autistic spectrum disorder ("the **Unit**") has been provided by the Council at the Chipping Sodbury School site as a capital investment for helping to meet the SEN of children and young people in South Gloucestershire
- (C) Pursuant to its statutory duties, the Council will make revenue contributions to the School towards meeting students' SEN needs at the Unit in respect of a particular range of SEN (as identified in clause 2.1).
- (D) This Agreement sets out the arrangements agreed between the Council and the Governors and the Trust for the development and operation of the Unit.

Agreed terms

1 Interpretation

- 1.1 The following definitions and rules of interpretation apply in this Agreement:
- 1.2 Definitions:

CEDR

means the Centre for Effective Dispute Resolution

Code of Practice means the Department for Education's Code of Practice for Special Educational Needs or any successor statutory guidance.

Commencement Date: means 22 April 2014

DfE means Department for Education.

Month: means a calendar month

School means Chipping Sodbury School

Schools Forum means South Gloucestershire Schools Forum

SEN Services: has the meaning given in clause 2.1.

Statement, Statemented and Statementing: have the meanings attributed to them in the Education Act 1996 and shall as appropriate include the corresponding references to Education Health and Care Plans under the Children and Families Act 2014

1.3 Clause headings shall not affect the interpretation of this deed.

1.4 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time, and includes all subordinate legislation made from time to time under that statute or statutory provision.

1.8 A reference to **writing** or **written** includes faxes and e-mail.

2 Provision of SEN Services

2.1 Subject to the terms of this Agreement the Governors will provide appropriate education at the Unit for up to 8 students (the "**Capacity**"):

2.1.1 with additional needs in relation to autistic spectrum disorder or other needs, and

2.1.2 who have been placed by the Council at the School pursuant to the statutory SEN procedures

together "the **SEN Services**" (which will become the 0-25 service from September 2014).

- 2.2 Notwithstanding clause 2.1, students may be placed in the Unit by the Council over and above its stated capacity for the Unit with the prior written consent of the Governors. In placing students over the agreed number of students, the Council and the Governors will have regard to the resources available to the SEN Services and the overall number of Statemented students enrolled at the School.
- 2.3 The Capacity may be varied by written agreement between the Governors and the Council. The Parties will review the Capacity at least once every two years and any changes shall reflect long term trends rather than short term cyclical variations in pupil numbers.
- 2.4 The SEN Services will include specific programmes (including one-to-one and group work where appropriate) designed for students with SEN (as in clause 2.1) by specialist staff members. The contents and format of these programmes will be determined by the Governors. The programmes will ensure that provision is made in accordance with Part 3 of the Statement of SEN of each student on roll at the Unit.
- 2.5 The Parties agree that this Agreement may be amended from time to time by written agreement between the Parties.

3 Admissions

- 3.1 The Council shall be responsible for identifying South Gloucestershire children with additional needs in relation to autistic spectrum disorder and who have a Statement of Special Educational Needs or an Education, Health and Care Plan.
- 3.2 In determining the suitability of a placement at the Unit, the Council shall consult with the Governors, the student, the student's parents carers or legal guardians, and relevant professionals. The Parties agree to observe the statutory assessment processes and procedures, and act in accordance with the Code of Practice.
- 3.3 The Council will specify, in each student's Statement, the nature of the provision required to meet their educational needs. All relevant services supplied at the Unit will be agreed between the Council and the Governors.
- 3.4 If another local authority wishes to place a student at the Unit, the Governors may agree to the placement if:
 - 3.4.1 there are vacant places remaining at the Unit within the Capacity; and
 - 3.4.2 the Unit is able to meet the provision set out in the student's Statement of SEN without disadvantage to the South Gloucestershire students already at the Unit and the placing local authority provides all of the

relevant funding for the place including any top up payments and additional SEN Services; and

3.4.3 the placement is agreed with the Council

4 Admission objections, appeals and terminations of placement

4.1 In the event that an appeal is brought to the First-tier Tribunal by or on behalf of a student, and subject to their own legal obligations, the Governors agree to provide the Council with such information as is reasonably necessary in order to allow it to respond to the appeal. If requested by the Council, the Governors will also make available an appropriate member of staff to attend the Tribunal as a witness and the Council shall pay the Governors' reasonable costs for such attendance.

4.2 With respect to the termination of a placement of a student in the SEN Services:

4.2.1 in the event that a student's needs increase, decrease or change to the extent that the Governors consider they cannot, or should no longer, provide SEN Services to them, the Governors shall arrange and conduct a review meeting with the Council and all other agencies involved in supporting the student ("**Review**");

4.2.2 the Review shall comply with the requirements for annual reviews under the Code of Practice or subsequent guidance and the relevant guidelines issued by the Council;

4.2.3 the Review shall consider whether or not the student's needs can be met within the SEN Services provided at the Unit and make a recommendation to the Council; and

4.2.4 following statutory procedures, if the Council agrees that the student's needs cannot be met (or no longer need to be met) by the Governors, the Council shall arrange for an alternative placement of the student or agree to the student's admission at another school or mainstream schooling. The pupil would remain registered at the Unit until a new Final Statement is issued.

5 Obligations of the Governors

5.1 The Governors will be responsible for:

5.1.1 providing appropriately qualified teachers for children with autistic spectrum disorder needs, other appropriate SEN qualifications or with specific knowledge of, and training in, SEN;

5.1.2 providing support assistants with appropriate qualifications, experience or skills to work with the teachers and assist with children with autistic spectrum disorders;

- 5.1.3 providing logistical and administrative support required for the SEN Services, including sickness cover and related services;
 - 5.1.4 providing space in which to deliver therapeutic support for children with needs in relation to autistic spectrum disorder and securing the necessary or appropriate equipment and provision of therapeutic support from the appropriate agencies.
 - 5.1.5 providing support for an extended school day to include activities before and after normal school hours.
- 5.2 The Governors will also:
- 5.2.1 support with transition arrangements for prospective students;
 - 5.2.2 routinely review students' progress against their individual education outcomes and Statements and in compliance with the Code of Practice;
 - 5.2.3 convene, manage and conduct annual reviews of students in accordance with the Code of Practice and any relevant guidelines issued by the Council from time to time; and
 - 5.2.4 routinely deal with any complaints arising from parents/carers and inform the Council of the outcomes.

6 Access

- 6.1 The Governors will grant reasonable access to the Unit by officers of the Council and authorised external providers on reasonable notice, for the purposes of assessing the SEN Services.

7 Funding

- 7.1 Allocation of funding from the Council will be in accordance with current legislation and guidance provided by the DfE and after extensive consultation with all other schools in South Gloucestershire and the Schools Forum.
- 7.2 The Parties recognise that the Governors will receive funding for low cost, high incidence SEN Services from the Council via the formula allocation available within the school budget.
- 7.3 In respect of placements in the Unit by the Council as placing authority for children and young people resident in South Gloucestershire, the Council agrees to fund the costs of providing additional SEN Services to a particular student where that student is allocated a financial resource to enable the Governors to meet that student's agreed educational outcomes.
- 7.4 In the event of a dispute regarding such funding, the matter shall be resolved through the procedures in clauses 10.1.1 and 10.1.2, but then, if no agreement is able to be reached, the matter shall be referred to the DfE.

Following such a referral, the Parties agree to comply with the DfE's determination.

- 7.5 The Parties acknowledge funding reforms in respect of specialist SEN provision are currently in progress. The Parties agree to work in good faith to ensure the ongoing delivery and sustainability of the SEN Services in future years, including negotiating any necessary amendments to this Agreement.

8 Transport

- 8.1 Students who are placed by the Council at the Unit will be provided with transport in line with the Council's policies on the provision of transport to children on grounds of distance (or SEN where a distance policy does not apply) ("**the Transport Policy**").
- 8.2 The Council shall consult with the Governors in respect of any proposed changes to the Transport Policy.

9 Quality assurance

- 9.1 Subject to the Governors meeting the reasonable costs of the Council for doing so, the Council shall:

9.1.1 provide reasonable logistical support for the Governors for them to carry out internal reviews of the SEN Services; and

9.1.2 evaluate the SEN Services through an annual audit.

The Council reserves the right to carry out periodic reviews of the Unit.

- 9.2 The Parties agree that the training of employees employed by the Governors for the provision of the Unit is the responsibility of the Governors. The Governors will consider how best to ensure that employees are adequately trained to deliver the SEN Services and also to ensure that all relevant employees are aware of the ongoing needs of SEN students placed in the Unit and that professional development is appropriately supported to enable effective access to the curriculum. The Governors agree that they will reimburse the Council for any training provided at the request of the School.
- 9.3 Each academic year the Council shall arrange a meeting of representatives of the School, the Council and any relevant external provider of specialist services in respect of the SEN Services (together, "**the SEN Representatives**"). At this meeting, the SEN Representatives will assess matters including but not limited to the work, effectiveness, funding, suitability and sustainability of the SEN Services.

9A Compensation for the Council

- 9A.1 This clause 9A provides for compensation to be paid by the Governors to the Council if the Governors cease, wholly or in part, to make available or to use the Unit at the School site for SEN Services related to autistic spectrum disorder or to be paid by the Trust to the Council if the Trust disposes of the

Unit (in each case "a **Compensation Event**"). It shall apply to any Compensation Event occurring in the period of ten (10) years from the Commencement Date.

9A.2 The Governors or the Trust as the case may be shall notify the Council of any plans or proposals in respect of the Unit and begin consultation with the Council at least three months before the date of an intended Compensation Event. Subject to the prior written agreement of the Council, payment of compensation by the Governors or the Trust in respect of a Compensation Event may at the Council's discretion be waived or deferred in whole or in part by the Council where the Unit is disposed of and the proceeds of sale are invested in another asset having a similar purpose to the Unit and made available or used for SEN Services related to autistic spectrum disorder.

9A.3 The compensation to be paid to the Council upon the happening of a Compensation Event shall be an amount equal to the actual costs incurred by the Council in developing the Unit (evidenced in writing to the reasonable satisfaction of the Governors and the Trust and subject to a maximum sum of Five Hundred Thousand Pounds (£ 500,000)).

This sum shall be payable to the Council within 30 days of written demand.

9A.4 In this clause 9A "disposal" shall mean any sale transfer or the granting of a lease of the Unit but shall not include any disposal:

9A5.1 to an academy trust; or

9A5.2 that is required by a change in the law

and "dispose" and "disposed of" shall be construed accordingly.

10 Dispute resolution

10.1 Without prejudice to the right of termination under clause 11, the Parties agree as follows in the event of a disagreement or dispute (except any dispute or disagreement in relation to funding under clause 7.5)

10.1.1 the Dispute will be referred to the Headteacher of the School and the Council's senior officer with responsibility for SEN for consideration and resolution;

10.1.2 if the Dispute continues, it will be referred to the Chairman of Governors and the Director for Children's Services at the Council for consideration and resolution; and

10.1.3 if the Chairman and the Director fail to resolve the Dispute, the Parties will attempt to settle the Dispute by mediation in accordance with the CEDR Model Mediation Procedure or any other appropriate, recognised mediation procedure agreed by the Parties. Either Party

may give notice in writing to the other to initiate mediation ("**Mediation Notice**"). The mediation shall commence within twenty working days from the service of the Mediation Notice. The Parties agree to co-operate with any person appointed as mediator, to provide him with such information and other assistance as he shall require and to pay his costs as he shall determine (or failing such determination, in equal shares).

- 10.2 Except where a Party would be prejudiced by a delay in the issue of proceedings, the Parties agree not to commence court proceedings or arbitration in relation to any dispute arising under this Agreement until they have attempted to settle the dispute under the procedures in clause 10.1 and either the mediation has been terminated or the other Party has failed to participate in it.

11 Termination

- 11.1 The Council may terminate this Agreement –

11.1.1 after having served upon the Governors a written notice either of failure to comply with any terms or conditions of this Agreement or that the SEN Services are being delivered to an inadequate standard of provision, and if capable of remedy the School fails to remedy such deficiencies within a reasonable period of time

11.1.2 if any change in the Council's policies or the legislation or Code of Practice relating to SEN is made which necessitates a significant alteration in the provision of the SEN Services

11.1.3 by written notice to the Governors of not less than 12 months, such notice to expire at the end of any school year

- 11.2 The Governors or the Trust may terminate this Agreement by written notice to the Council of not less than 12 months, such notice to expire at the end of any school year, save that clause 9A (Compensation for the Council) shall continue in full force and effect notwithstanding such termination by the Governors or the Trust.

- 11.3 Without prejudice to the rights of termination in this clause 11 the Parties acknowledge the Council's responsibilities towards the Unit's students in the event of a termination, and agree wherever possible to allow sufficient time for the orderly re-allocation of students by the Council to other settings or for current students to conclude their education with the School.

12 Consequences of termination

- 12.1 Termination of this Agreement for any reason shall not affect the accrued rights, remedies, obligations or liabilities of the Parties existing at termination.

13 Third Party Rights

- 13.1 A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999, or otherwise, to enforce any term of this Agreement.

14 Variation

- 14.1 No variation of this Agreement shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

15 Severance

- 15.1 If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.
- 15.2 If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

16 Counterparts

- 16.1 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute one Agreement.

17 Governing law and jurisdiction

- 17.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.
- 17.2 The Parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

This Agreement has been entered into as a deed and delivered on the date stated at the beginning of it.

EXECUTED and DELIVERED
as a DEED by the
GOVERNING BODY OF
CHIPPING SODBURY
SCHOOL acting by two
governors each in the presence
of a witness

R. E. Braithwaite

Vice-Chair of Governors

ROBERT EDWARD BRAITHWAITE

Name of governor

Shain Chilson

Signature of witness

Shain Chilson

Name of witness

371 Unthank Rd Norwich

Norfolk NR4 7QW

Address

[Signature]

Special Educational Needs
Governor

Mandy Joan Pearce

Name of governor

Shain Chilson

Signature of witness

Shain Chilson

Name of witness

371 Unthank Rd Norwich

Norfolk NR4 7QW

Address

EXECUTED and DELIVERED
as a **DEED** by **CHIPPING**
SODBURY SCHOOL CO-
OPERATIVE TRUST acting by a
director in the presence of a
witness

Director

KBMansfield
.....
Name of director

KATHERINE BRENDA MANSFIELD
.....

Signature of witness

Mim Chilson
.....

Name of witness

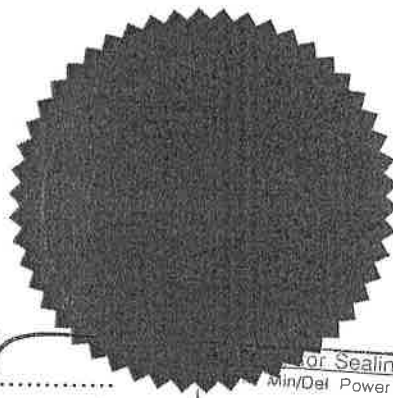
Sharon Chilson
.....

371 Unthank Rd... Norwich
Address *Norfolk NR4 7QR*

THE COMMON SEAL of
SOUTH GLOUCESTERSHIRE
DISTRICT COUNCIL was
hereunto affixed in the presence
of

Solicitor

J. Mansfield
.....
Authorised officer



For Sealing
Min/Del Power
Seal Reg No *10118*