

GB-Shrewsbury: CMCV 038 - Provision of specialist support for children and young people (CYP) who display harmful sexual behaviour

Competitive Contract Notice

1. Title: GB-Shrewsbury: CMCV 038 - Provision of specialist support for children and young people (CYP) who display harmful sexual behaviour

2. Awarding Authority:

Shropshire Council

Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom

Tel. +44 1743252992, Email: procurement@shropshire.gov.uk, URL: www.shropshire.gov.uk

Contact: [REDACTED] - Procurement Manager, Attn: Procurement Team

3. Contract Type: Services

Sub Type: Health and social services.

4. Description: Social services. Shropshire Council is seeking a Service Provider for the provision of a specialist support service for children and young people who display harmful sexual behaviour (HSB) or have been victim of other young peoples HSB.

This contract shall commence on 1st June 2019 and end on 31st March 2021 with the option to extend for a further period of 2 years.

5. CPV Codes:

85320000 - Social services.

6. NUTS Codes :

UKG22 - Shropshire CC

7. Main Site or Location of Works, Main Place of Delivery or Main Place of Performance: Shropshire CC,

8. Reference Attributed by the Awarding Authority: CMCV 038

9. Estimated Value of Requirement: Category H: 100K to 500K

Currency: GBP

10. Deadline for Expression of Interest: 20/03/2019 12:00:00

11. Address to which they must be sent:

Shropshire Council

Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom

Tel. +44 1743252992, Email: procurement@shropshire.gov.uk, URL: www.shropshire.gov.uk

Contact: [REDACTED] - Procurement Manager, Attn: Procurement Team

12. Other Information:

Other Information: The contracting authority considers that this contract may be suitable for economic operators that are small or medium enterprises (SMEs). However, any selection of tenderers will be based solely on the criteria set out for the procurement.

To view this notice, please click here:

<https://www.delta-esourcing.com/delta/viewNotice.html?noticeId=376227780>

TKR-2019220-PRO-14134009

Suitable for VCO: Yes

Procedure Type: OPEN

Period of Work Start date: 01/06/2019

Period of Work End date: 31/03/2021

Is this a Framework Agreement?: no

Edit

[Terms and Conditions](#) [Help](#) [Contact](#) [Security](#) [Privacy](#) [Policy](#)

**Commissioning Development & Procurement
Finance Governance & Assurance**

Shirehall, Abbey Foregate
Shrewsbury, SY2 6ND



Tel: (01743) 252993

Please ask for: [REDACTED]

Email: procurement@shropshire.gov.uk

Dear Bidder

CMCV 038 - PROVISION OF SPECIALIST SUPPORT FOR CHILDREN AND YOUNG PEOPLE (0-18) WHO DISPLAY HARMFUL SEXUAL BEHAVIOUR (HSB).

SHROPSHIRE COUNCIL

You have been invited to tender for the above requirement. With this letter please find copies of the following documents:

- Instructions to Tenderers
- Tender Response Document
- Draft Form of Agreement
- Invitation to Tender -Commissioning Intentions & Specification Document

Tenders should be made on the enclosed Tender Response Document. Your Tender must be completed, signed and returned along with a signed copy of the instructions for tendering through our Delta Tenderbox. Please pay particular attention to the points below concerning the returning of tenders.

Returning of Tenders

- The deadline for returning tenders is **noon on 20th March 2019** any tenders received after this time will not be accepted
- Tenders are to be submitted through Delta, our electronic tender portal
 - **Please ensure that you allow yourself at least two hours when responding prior to the closing date and time**, especially if you have been asked to upload documents. If you are uploading multiple documents you will have to individually load one document at a time or you can opt to zip all documents in an application like WinZip. Failure to submit by the time and date or by the method requested will not be accepted.
 - **Once you upload documentation ensure you follow through to stage three and click the 'response submit' button. Failure to do so, will mean the documents won't be viewable by the Council.**

Tenders **cannot** be accepted if:

- Tenders are received by post, facsimilie or email
- Tenders are received after **12 noon on the given deadline**

Freedom of Information

Under the provisions of the Freedom of Information Act 2000 from 1 January 2005, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. Information about your organisation, which Shropshire Council may receive from you may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.

Therefore if you provide any information to Shropshire Council in the expectation that it will be held in confidence, you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as “commercial in confidence” will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

Other Details


Please note that if supplementary questions are raised by any tenderer prior to the closing of tenders and Shropshire Council decides that the answers help to explain or clarify the information given in the Tender Documents, then both the questions and the answers will be circulated to all enterprises invited to submit a tender. Please raise all clarification questions before the deadline of **13th March 2019**.

Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council’s involvement

Please also note that Shropshire Council is committed to achieving Social Value outcomes through maximising the social, economic and/or environmental impact of all its procurement activity. Specific requirements for this contract are set out within the Tender Response Document and in addition for your further information the council’s Social Value Framework guidance can be found at www.shropshire.gov.uk/doing-business-with-shropshire-council.

If you have any queries relating to this invitation to tender, please contact us through the Delta e-tendering portal.

Yours faithfully


Commissioning Development and Procurement Manager
Commissioning Development and Procurement
Finance Governance & Assurance
Shropshire Council



INSTRUCTIONS FOR TENDERING

CMCV 038:

Provision of specialist support for children and young people (0-18) who display harmful sexual behaviour (HSB).

Shropshire Council Instructions for tendering

Contract Description:

Contract commissioned by Shropshire Council's Safeguarding Children Services.

Provision of specialist support for children and young people, who display harmful sexual behaviour (HSB) or have been the victim of other young people's HSB.

- 1) Assessment and support delivery to a minimum of 30 (thirty) children and young people per annum, aged 0 up to 18th birthday, living in Shropshire LA area. Where relevant, support needs to be extended to other family members.
- 2) Knowledge and skills development for Shropshire Council Children Services staff

Contract to start on 1 June 2019 and end on 31 March 2021. There is the option to extend for two further twelve months periods. The maximum contract value is £50,000 per year.

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1.0 Invitation to Tender

- 1.1 You are invited to tender for the provision of specialist support for children and young people (0-18) who display harmful sexual behaviour as detailed in the Tender Response Document. The contract will be for an initial period of 2 years commencing on the 1st June 2019 with the option to extend for a further period of up to 2 years
- 1.2 Tenders are to be submitted in accordance with the General Terms and Conditions and Draft Form of Agreement of Shropshire Council and the instructions outlined within this document.
- 1.3 Tenders must be submitted in accordance with the following instructions. Tenders not complying in any particular way may be rejected by Shropshire Council (the Council) whose decision in the matter shall be final. Persons proposing to submit a Tender are advised to read the Invitation to Tender documentation carefully to ensure that they are fully familiar with the nature and extent of the obligations to be accepted by them if their Tender is accepted.
- 1.4 The Invitation to Tender documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Invitation to tender document other than on an “in confidence” basis to those who have a legitimate need to know or who they need to consult for the purpose of preparing the tender as further detailed in these Instructions for Tendering.
- 1.5 Tenderers shall not at any time release information concerning the invitation to tender and/or the tender documents for publication in the press or on radio, television, screen or any other medium without the prior consent of the Council.
- 1.6 The fact that a Tenderer has been invited to submit a tender does not necessarily mean that it has satisfied the Council regarding any matters raised in the pre-tender questionnaire submitted. The Council makes no representations regarding the Tenderer’s financial stability, technical competence or ability in any way to carry out the required services. The right to return to any matter raised in any pre-tender questionnaire submitted as part of the formal tender evaluation is hereby reserved by the Council.
- 1.7 The Invitation to Tender is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a tenderer to submit a tender or enter into a Contract or any other contractual agreement.
- 1.8 Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council’s involvement.

2.0 Terms and Conditions

- 2.1 Every Tender received by the Council shall be deemed to have been made subject to the General Terms and Conditions and Draft Form of Agreement and these Instructions for Tendering unless the Council shall previously have expressly

agreed in writing to the contrary.

- 2.2** The Tenderer is advised that in the event of their Tender being accepted by the Council, they will be required to undertake the required services.

3.0 Preparation of Tenders

3.1 Completing the Tender Response Document

- 3.1.1** Tenders should be submitted using the 'Tender Response Document' following the instructions given at the front of the document. The Tenderer's attention is specifically drawn to the date and time for receipt of Tenders and that no submission received after the closing time will be considered.

- 3.1.2** All documents requiring a signature must be signed;

- a) Where the Tenderer is an individual, by that individual;
- b) Where the Tenderer is a partnership, by two duly authorised partners;
- c) Where the Tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.

- 3.1.3** The Invitation to Tender Documents are and shall remain the property and copyright of the Council

3.2 Tender Preparation and Costs

- 3.2.1** It shall be the responsibility of Tenderers to obtain for themselves at their own expense all information necessary for the preparation of their Tender. No claim arising out of want of knowledge will be accepted. Any information supplied by the Council (whether in the Tender Documentation or otherwise) is supplied only for general guidance in the preparation of tenders.

- 3.2.2** Any Tenderer considering making the decision to enter into a contractual relationship with the Council must make an independent assessment of the Tender opportunity after making such investigation and taking such professional advice as it deems necessary.

- 3.2.3** Tenderers will be deemed for all purposes connected with their Tender submission where appropriate to have visited and inspected the Council, its assets, all the locations in respect of the delivery of the services/supplies/works and to have satisfied themselves sufficiently as to the nature, extent and character of the services supplies/works sought, and the human resources, materials, software, equipment, machinery, and other liabilities and other matters which will be required to perform the contract.

- 3.2.4** The Council will not be liable for any costs incurred by Tenderers in the preparation or presentation of their tenders.

- 3.2.5** Tenderers are required to complete all pricing schedules in the Invitation to tender documents. The terms "Nil" and "included" are not to be used but a zero or figures must be inserted against each item. Unit rates and prices must be quoted in

pounds sterling and whole new pence.

- 3.2.6** It shall be the Tenderer's responsibility to ensure that all calculations and prices in the Tender documentation are correct at the time of submission.
- 3.2.7** The Tenderer is deemed to have made him/herself acquainted with the Council's requirements and tender accordingly. Should the Tenderer be in any doubt regarding the true meaning and intent of any element of the specification he is invited to have these fully resolved before submitting his Tender. No extras will be allowed for any loss or expense involved through any misunderstanding arising from his/her failure to comply with this requirement.
- 3.2.8** Any Tender error or discrepancy identified by the Council shall be drawn to the attention of the Tenderer who will be given the opportunity to correct, confirm or withdraw the Tender.
- 3.2.9** The Tender Documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Tender document other than on an In Confidence basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing the Tender.

3.3 Parent Company Guarantee

It is a condition of contract that if the tendering company is a subsidiary then its Ultimate Group/Holding Company must guarantee the performance of this contract and provide a letter to that effect signed by a duly authorised signatory of the Ultimate Group/Holding Company if requested to do so by the Council. Where the direct parent company cannot provide an adequate guarantee in the opinion of the Council, the Council will look to another group or associate company, with adequate assets, to be the guarantor. In cases where the contract is with a Joint Venture Company (JVC) or a Special Purpose Vehicle (SPV) company, which may have two or more parent companies and which may not be adequately capitalised or have sufficient financial strength on its own to support the risk and obligations it has under the contract, 'joint and several' guarantees / indemnities from the parent companies of the JVC or SPV may be sought.

3.4 Warranty

The Tenderer warrants that all the information given in their Tender and if applicable their Request to Participate Questionnaire is true and accurate. The information provided will be deemed to form part of any contract formed under this contract.

The Tenderer warrants that none of their current Directors have been involved in liquidation or receivership or have any criminal convictions

4.0 Tender Submission

- 4.1** Tenders must be submitted strictly in accordance with the letter of instruction accompanying this Invitation to Tender. Tenders must be submitted by the deadline of **noon, 20th March 2019**.

- 4.2 No unauthorised alteration or addition should be made to the Specification and Tender Response Document, or to any other component of the Tender document. If any such alteration is made, or if these instructions are not fully complied with, the Tender may be rejected.
- 4.3 Qualified tenders may be submitted, but the Council reserves the right not to accept any such tender. The Council's decision on whether or not a Tender is acceptable will be final.
- 4.4 Tenderers should note that their Tender must remain open and valid and capable of acceptance for a period of at least 90 days.
- 4.5 Tenderers should note that Tenders and supporting documents must be written in English and that any subsequent contract, which may or may not be entered into, its formation, interpretation and performance, shall be subject to and in accordance with the laws of England and subject to the jurisdiction of the Courts of England and Wales.
- 4.6 Where Tender submissions are incomplete the Council reserves the right not to accept them.

5.0 **Variant Bids**

- 5.1 The Council is interested in alternative solutions which would provide and develop opportunities for savings in service costs, service improvement or other financial benefits. In particular, the Council wishes to encourage solutions which also deliver benefits and added value to the local economy, residents and the business community.
- 5.2 Tenderers may submit, at their discretion, a Tender offering a different approach to the project as a "Variant Bid". However, to permit comparability, at least one bid must be submitted strictly in accordance with the Invitation to Tender Documents (the "Compliant Tender") . Any Tender variant proposed must clearly state how it varies from the requirements of the Compliant Tender Documents, and be explicit in demonstrating the benefits that will accrue to the Council from adopting this approach. Tenderers will be required to identify which submission, in their view, demonstrates best value to the Council.
- 5.3 Variant Bids must contain sufficient financial and operational detail to allow any Variant Bid to be compared with the standard Tender, permitting its considerations in written form.

6.0 **Tender Evaluation**

- 6.1 The Tenderers may be called for interview to seek clarification of their tender or additional or supplemental information in relation to their tender. The presentations will not carry any weighting to the final score achieved by Tenderers, but will be used to clarify and moderate issues raised in the Tenderer's submissions. Any areas of discrepancy between submissions and information gained from the presentations will be reviewed and scores previously awarded will be amended if necessary.

6.2 If the Council suspects that there has been an error in the pricing of a Tender, the Council reserves the right to seek such clarification, as it considers necessary from the Tenderer in question.

7.0 Clarifications

7.1 Tenderers are responsible for clarifying any aspects of the tendering process and/or the Invitation to Tender documents in the manner described below.

7.2 If you are unsure of any section and require further clarification, please contact via our Delta Tenderbox.

7.3 Where appropriate, the Authorised Officer named above may direct the Tenderer to other officers to deal with the matter.

7.4 All queries should be raised as soon as possible (in writing), in any event not later than **13th March 2019**.

7.5 All information or responses that clarify or enhance the tendering process will be supplied to all Tenderers on a uniform basis (unless expressly stated otherwise). These responses shall have the full force of this Instruction and where appropriate the Conditions of Contract. If a Tenderer wishes the Council to treat a question as confidential this must be expressly stated. The Council will consider such requests and will seek to act fairly between the Tenderers, whilst meeting its public law and procurement duties in making its decision.

7.6 Except as directed in writing by the Authorised Officer, and confirmed in writing to a Tenderer, no agent or officer or elected Member (Councillor) of the Council has any express or implied authority to make any representation or give any explanation to Tenderers as to the meaning of any of the Tender Documents, or as to anything to be done or not to be done by a Tenderer or to give any warranties additional to those (if any) contained in the ITT or as to any other matter or thing so as to bind the Council in any way howsoever.

8.0 Continuation of the Procurement Process

8.1 The Council shall not be committed to any course of action as a result of:

- i) issuing this Invitation to Tender;
- ii) communicating with a Tenderer, a Tenderer's representative or agent in respect of this procurement exercise;
- iii) any other communication between the Council (whether directly or through its agents or representatives) and any other party.

8.2 The Council reserves the right at its absolute discretion to amend, add to or withdraw all, or any part of this Invitation to Tender at any time during the tendering stage of this procurement exercise.

8.3 At any time before the deadline for receipt of tender returns the Council may modify the Invitation to Tender by amendment. Any such amendment shall be numbered and dated and issued by the Council to all participating tenderers. In order to give prospective Tenderers reasonable time in which to take the amendment into account in preparing its Tender return, the Council may in its sole discretion, extend the deadline for submission of the tender returns. The Council reserves the right to amend, withdraw, terminate or suspend all or any part of this procurement process at any time at its sole discretion.

9.0 Confidentiality

9.1 All information supplied by the Council in connection with or in these Tender Documents shall be regarded as confidential to the Council unless the information is already within the public domain or subject to the provisions of the Freedom of Information Act 2000.

9.2 The Contract documents and publications are and shall remain the property of the Council and must be returned upon demand.

9.3 Tenderers shall ensure that each and every sub-contractor, consortium member and/or professional advisor to whom it discloses these papers complies with the terms and conditions of this ITT.

9.4 The contents of this Invitation to Tender are being made available by the Council on condition that:

9.4.1 Tenderers shall at all times treat the contents of the Invitation to tender and any related documents as confidential, save in so far as they are already in the public domain and Tenderers shall not, subject to the provisions relating to professional advisors, sub-contractors or other persons detailed below, disclose, copy, reproduce, distribute or pass any of the contents of the Invitation to tender to any other person at any time or allow any of these things to happen;

9.4.2 Tenderers shall not use any of the information contained in this Invitation to tender for any purpose other than for the purposes of submitting (or deciding whether to submit) the tender; and

- 9.4.3** Tenderers shall not undertake any publicity activity within any section of the media.
- 9.5** Tenderers may disclose, distribute or pass this Invitation to tender to their professional advisors, sub-contractors or to another person provided that:
- 9.5.1** this is done for the sole purpose of enabling an Invitation to tender to be submitted and the person receiving the Information undertakes in writing to keep the Invitation to Tender confidential on the same terms as if that person were the Tenderer; or
- 9.5.2** the Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Invitation to Tender; or
- 9.5.3** the disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any Contract(s) which may arise from it; or
- 9.5.4** the Tenderer is legally required to make such a disclosure.
- 9.6** The Council may disclose detailed information relating to the Invitation to Tender to its officers, employees, agents, professional advisors or Governmental organisations and the Council may make any of the Contracts and procurement documents available for private inspection by its officers, employees, agents, professional advisors, contracting authorities or Governmental organisations.

9.7 Transparency of Expenditure

Further to its obligations regarding transparency of expenditure, the Council may be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

10.0 Freedom of Information

- 10.1** Please note that from 1 January 2005 under the provisions of the Freedom of Information Act 2000, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. One of the consequences of those new statutory responsibilities is that information about your organisation, which Shropshire Council may receive from you during this tendering process may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.
- 10.2** In certain circumstances, and in accordance with the Code of Practice issued under section 45 of the Act, Shropshire Council may consider it appropriate to ask you for your views as to the release of any information before we make a decision as to how to respond to a request. In dealing with requests for information under the Act, Shropshire Council has to comply with a strict timetable and it would therefore expect a timely response to any such consultation within five working days.

- 10.3** If, at any stage of this tendering process, you provide any information to Shropshire Council in the expectation that it will be held in confidence, then you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as “commercial in confidence” will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.
- 10.4** Shropshire Council will not be able to accept that trivial information or information which by its very nature cannot be regarded as confidential should be subject to any obligation of confidence.
- 10.5** In certain circumstances where information has not been provided in confidence, Shropshire Council may still wish to consult with you as to the application of any other exemption such as that relating to disclosure that will prejudice the commercial interests of any party. However the decision as to what information will be disclosed will be reserved to Shropshire Council.

For guidance on this issue see: <http://www.ico.gov.uk>

11.0 Disqualification

- 11.1** The Council reserves the right to reject or disqualify a Tenderer's Tender submission where:
- 11.1.1** The tenderer fails to comply fully with the requirements of this Invitation to tender or is in breach of clause 15 of the Council's General Terms and Conditions relating to Bribery and Corruption or is guilty of a serious or intentional or reckless misrepresentation in supplying any information required; or
- 11.1.2** The tenderer is guilty of serious or intentional or reckless misrepresentation in relation to its tender return and/or the procurement process.
- 11.1.3** The tenderer directly or indirectly canvasses any member, official or agent of the Council concerning the award of the contract or who directly or indirectly obtains or attempts to obtain information from any such person concerning any other Tender or proposed Tender for the services. The Canvassing Certificate must be completed and returned as instructed.
- 11.1.4** The Tenderer :
- a) Fixes or adjusts the amount of his Tender by or in accordance with any agreement or arrangements with any other person; or
 - b) Communicates to any person other than the Council the amount or approximate amount of his proposed Tender (except where such disclosure is made in confidence in order to obtain quotations necessary for preparation of the Tender for insurance purposes); or
 - c) Enters into an agreement or arrangement with any other person that he shall refrain from tendering or as to the amount of any Tender to be submitted; or

- d) Offers or agrees to pay or give or does pay or gives any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any Tender or proposed Tender for the services any act or omission.

11.2 Any disqualification will be without prejudice to any other civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract. The Non-Collusive Tendering Certificate must be completed and returned as instructed.

11.3 The Council reserves the right to disqualify an Applicant from further participating in this procurement process where there is a change in the control or financial stability of the Tenderer at any point in the process up to award of a contract and such change of control or financial stability has a materially adverse effect on the Tenderer's financial viability or ability to otherwise meet the requirements of the procurement process.

12.0 E-Procurement

As part of its procurement strategy Shropshire Council is committed to the use of technology that can improve the efficiency of procurement. Successful Tenderers may be required to send or receive documents electronically. This may include purchase orders, acknowledgements, invoices, payment advices, or other procurement documentation. These will normally be in the Council's standard formats, but may be varied under some circumstances so as not to disadvantage small and medium suppliers.

13.0 Award of Contract

13.1 Award Criteria

The Award Criteria has been set out within the Tender Response Document accompanying this invitation to tender. The Council is not bound to accept the lowest or any Tender.

13.2 Award Notice

The Council will publish the name and addresses of the successful Tenderers in the Official Journal of the European Union (OJEU) where appropriate. The Contracting Authority reserves the right to pass all information regarding the outcome of the Tendering process to the Office of Fair Trading to assist in the discharge of its duties. Additionally, the Council will adhere to the requirements of the Freedom of Information Act 2000 and Tenderers should note this statutory obligation.

13.3 Transparency of Expenditure

Further to its obligations regarding transparency of expenditure, the Council may also be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in

accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

14.0 Value of Contract

Shropshire Council cannot give any guarantee in relation to the value of this contract

15.0 Acceptance

15.1 Tenders must be submitted strictly in accordance with the terms of the Council's Invitation to Tender documentation and acceptance of the tender shall be conditional on compliance with this Tender Condition.

15.2 The Tender documentation including, the General and Special Terms and Conditions of Contract, the Tender Response document, these Instructions to Tender, together with the formal written acceptance by the Council will form a binding agreement between the Contractor and the Council.

15.3 The Tenderer shall be prepared to commence the provision of the supply and services on the start date of the contract being 1st June 2019.

16.0 Payment Terms

Tenderers should particularly note that the principles governing public procurement require that, as far as is reasonably possible, payments for Goods, Works or Services are made after the provision. Therefore any indication of a pricing strategy within a Tender which provides for substantial payments at the outset of the Contract will be examined carefully to decide whether or not a Tender in such form can be accepted. If in the opinion of the Council such substantial payments appear excessive in relation to the requirements of the Contract the Council reserves, without prejudice to any other right to reject any Tender it may have, the right to require the Tenderer to spread such proportion of the costs as are considered excessive over the duration of the Contract.

17.0 Liability of Council

17.1 The Council does not bind himself to accept the lowest or any tender.

17.2 The Council does not accept any responsibility for any pre-tender representations made by or on its behalf or for any other assumptions that Tenderers may have drawn or will draw from any pre-tender discussions.

17.3 The Council shall not be liable to pay for any preparatory work or other work undertaken by the Tenderer for the purposes of, in connection with or incidental to this Invitation to Tender, or submission of its Tender response or any other communication between the Council and any other party as a consequence of the issue of this Invitation to Tender.

17.4 The Council shall not be liable for any costs or expenses incurred by any Tenderer in connection with the preparation of a Tender return for this procurement exercise,

its participation in this procurement whether this procurement is completed, abandoned or suspended.

17.5 Whilst the Tender Documents have been prepared in good faith, they do not purport to be comprehensive nor to have been formally verified. Neither the Council nor any of its staff, agents, elected Members, or advisers accepts any liability or responsibility for the adequacy, accuracy or completeness of any information given, nor do they make any representation or given any warranty, express or implied, with respect to the Tender Documents or any matter on which either of these is based (including, without limitation, any financial details contained within the Specification and Contract Documentation). Any liability is hereby expressly disclaimed save in the event of fraud, or in the event of specific warranties provided within the Contract Documentation.

18.0 The Contractor agrees that where requested in writing during the term of any Agreement for the supply Goods Works or Services it will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council

19.0 Declaration

We, as acknowledged by the signature of our authorised representative, accept these Instructions to Tender as creating a contract between ourselves and the Council. We hereby acknowledge that any departure from the Instructions to Tender may cause financial loss to the Council.

Signed (1) Status.....

Signed (2) Status.....

(For and on behalf of)

Date



CMCV 038:

**Provision of specialist support for children and young people
(0-18) who display harmful sexual behaviour (HSB).**

Invitation to Tender:

Commissioning Intentions & Specification Document

The latest date for submission of applications will be 12 noon, 20th March 2019

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Shropshire Council seeks to procure this service externally on behalf of its Children's Social Care and Safeguarding Service.

We plan to start the contract on 1 June 2019 and end on 31 March 2021.

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1. Background

1.1 The National Society for the Prevention of Cruelty to Children (NSPCC) defines harmful sexual behaviours (HSB) as follows:

- using sexually explicit words and phrases
- inappropriate touching
- using sexual violence or threats
- full penetrative sex with other children or adults.

It goes on to say that “Children and young people who develop harmful sexual behaviour harm themselves and others.”

1.2 National research* suggests that

“... official statistics and existing research suggest that children and young people account for about a quarter of all convictions against victims of all ages and a third of all sexual abuse coming to the attention of the professional system in the UK .”

“In many cases, children and young people occupy dual identities as perpetrator of abuse and victim of harm. There is a developing body of research into the issue of children and young people as the perpetrators of acts of sexual abuse, but to date UK-based studies are limited. There is significant overlap between issues associated with sexual abuse by youth and the broader fields of child sexual exploitation, domestic violence, neglect and mental health.”

“Many families of young people with harmful sexual behaviours are described as multiply-troubled; a significant proportion are from highly problematic family backgrounds and have experienced multiple disadvantages and adversities. Facing up to a child’s harmful sexual behaviours can represent a profoundly difficult parenting experience and parenting competence and resources can be undermined.”

* Research in Practice: Children and young people with harmful sexual behaviours, Hackett 2014, executive summary

1.3 Shropshire Council has commissioned a specialist support service since 2010. The service has consisted of assessment, therapy and staff knowledge and skill building activities. On average, the service has supported on average 30 children, young people and their families a year.

Based on our management information from the current service, we know that the young people referred are a mixture of boys and girls. The majority of referrals are for teenagers. Having said that, the youngest person to be supported to date was 5 years old. A significant number of young people were on child protection plans. A significant number of young people were ‘looked after’ by Shropshire Council. We also know that young people with learning disabilities can be particularly vulnerable in this context.

2. Our vision: What we want to achieve in Shropshire

Shropshire Children's Trust (SCT) wants all children and young people to be happy, healthy, and safe and reach their full potential, supported by their families, friends and the wider community.

The trust works towards the following four outcome areas: children and young people

1. are safe and well looked after in a supportive environment
2. are resilient with good emotional wellbeing
3. are healthy and see health inequalities reduced
4. see the achievement gap in education narrowed and young people that are prepared for work

The work of the Shropshire's Safeguarding Children Board (SSCB) focuses on the first of these areas. Shropshire's Early Help offer focuses on the first and second outcome area.

To be an excellent organisation working with partners to protect the vulnerable, create the conditions for economic growth, and support communities to be resilient.

Shropshire Council's Mission Statement 2018/19

3. Our approach to achieving this

The service will be able to support CYP who either

- Display harmful sexual behaviour (HSB)
- Or have been the victim of HSB perpetrated by young people.

The service will be able to support at different levels of risk, so that early signs of HSB can be addressed early, as well as those presenting high level of risk to other children and young people.

Therefore, this service will strategically contribute to two of the trust's outcome areas and the main function of the SSCB

- 1) Ensuring all children and young people are safe and well looked after in a supportive environment
- 2) Ensuring the emotional wellbeing of children and young people by focussing on prevention and early intervention

It will also contribute to the following council outcomes

Your health – staying physically and mentally healthy
Your environment – live in a safe environment

4. Our commissioning intentions

We want to be able to refer to a service that has the specialist knowledge and skills to support children, young people and their families in this aspect. We expect that the service will implement evidence-based practice.

Where a child or young person is considered to be at high risk, we want the provider to attend and contribute to Looked-After-Children or Child Protection conferences.

Where it would be of benefit to the child or young person, we want the service to support other family members (e.g. parents, siblings), so that a complete safety package can be offered in the family element.

We also want to be able to learn from the provider's knowledge and skills to develop our staff in this aspect. By developing our staff, we mean raise awareness, knowledge and skills.

We want to have prompt and guaranteed access to this service. For this reason, we plan to block purchase the service for a minimum number of children and young people. We also want the option to buy additional interventions in case our demand is higher than currently predicted. For this reason, we are asking applicants to tender spot purchase prices as well.

5. Factors influencing future development

The service will have to evolve. What we mean by that is that we expect that there will be local and / or national developments throughout the term of the contract, which may affect the delivery of the service. There will be an expectation from us that the service will be able to respond to developments, such as

- Other council provision supporting families and children will continue to evolve
- Other public services, who we work in partnership with, will continue to evolve
- This service will be involved and will have to respond to learning from joint inspection of multi-agency arrangements for the protection of children (Ofsted)
- There may be changes in the legislative or national context
- The service will have to develop in response to feedback from service users, commissioners and stakeholders.

This list is not meant to be exhaustive. It is what we can anticipate at the time of tendering.

6. Specification for Service

This section specifies what is known at the time of procurement and the outcomes the service needs to achieve. The final contract specification will be an adaptation of this section. The council reserves the right to make amendments and add detail resulting from new legislation and guidance, as well as detail from the successful tender application.

6.1 Eligibility criteria

The service will consist of two elements. The first element is the direct support given to children, young people and families. The second element is the support given to council staff to support their knowledge and skills development.

Element 1: A minimum of 30 children and young people per annum, aged 0 up to 18th birthday, living in Shropshire and their families referred by Shropshire Council Children Services Safeguarding staff

Element 2: Shropshire Council Children Services staff

6.2 Referral process

Element 1: From social workers in Children Safeguarding Services

Council and Service Provider staff will ensure that initial conversations are conducted in the most timely and efficient way, so that the provider can maximise their resources for the direct work with families. This can mean that initial conversations are conducted by phone, as opposed to face-to-face.

The provider's referral form will be reviewed, to ensure that all essential information is shared with provider as early as possible.

Element 2: To be arranged with the council's service manager and subject to demand at the beginning of the contract.

6.3 Service requirements

Element 1:

a) Evidence based practice

b) Age and ability specific. Some CYP will have mild learning difficulties and we expect that the service will be able to accommodate this in their assessment and therapy.

c) Sessions are allocated according to need

- We assume that every case can have an allocation of 9 sessions.
- We further assume that all cases can be extended to 10 – 12 sessions, subject to review and approval by council team or service manager.

- Cases to be reviewed at 7 session mark, or earlier where appropriate.
- While we want to keep an eye on the number of families who are being supported, we'll monitor the capacity of the contract by sessions. This delivery model will be reviewed at case and contract reviews. Problems arising will be discussed and solved with the council's service manager. This includes discussions about service users failing to attend meetings with the provider.

d) Written report on each child or young person supported through assessment and therapy. Where relevant this must include information about the family context and any support given to the family as a whole. This can also include the provider's views of what worked well, what worked less well and recommendation as to next steps. Where appropriate next steps, can include reference to other provision.

e) Written updates for all statutory child protection and looked-after-children reviews, detailing practical activity relating to assessment and intervention.

f) Where appropriate and necessary, the provider will attend family specific reviews.

Element 2: This will depend on the demand and context for staff development. We will review our staff development needs with the provider at the start of the contract and agree a staff development plan.

6.4 Outcome requirements for the service

Element 1: Sufficient provision of assessment and therapy to improve CYP's outcomes. Parents are helped to understand why their behaviour is damaging to their children.

Element 2: Improved skills and knowledge for SC Children Services staff

6.5 Requirements for providers

6.5.1 The provider will have and maintain the specific knowledge, skills and experience.

6.5.2 The provider's practice is based on evidence of research and / or best practice.

6.5.3 The provider understands and complies with local safeguarding procedures as determined by Shropshire's Safeguarding Children Board.

6.5.4 In addition, the provider

- Will work with us and support our values and priorities
- Can work flexibly to adjust to changes
- Can reflect on experience, feedback from stakeholders and young people to continue to develop and quality assure their practice
- Considers quality of support and safeguarding as a basic requirement
- Demonstrate how their support contributes to any children and young people support plans

- Employs skilled staff and support them to provide basic and good practice requirements
- Demonstrates effective and pro-active leadership, management and communications
- Can demonstrate how their appointment might improve the economic, social and environmental well-being of the community in which they operate. The council's Social Value Commissioning & Procurement framework can be accessed via this link: <http://www.shropshire.gov.uk/media/1146871/Shropshire-Council-Social-Value-Framework.pdf>

6.5.5 The provider will be expected to participate as advised in Ofsted inspections of local authority's children's services.

6.6 Funding

We are making a maximum of £50,000 per annum available for the whole service. Applicants are encouraged to demonstrate value for money in their response to tender. By value for money we mean best use of resources to achieve outcomes. This includes minimising the cost of resources used while having regard to quality.

Applicants are reminded that the application with the best price will receive 30% of the total 100% of available marks.

6.7 Contract, contract review and monitoring

6.7.1 The contract will last for a period of 22 month, starting on 1 June 2019 and ending on 31 March 2021. At the council's discretion and subject to performance, there will be an option to extend by two further twelve months periods.

6.7.2 All applicants will need to be in a position to start delivery from 1 June 2019. This implies that they are able to participate in pre-contract communications and meetings. It also implies that they are able to participate in communications with the outgoing provider to achieve a hand-over of current caseloads.

6.7.3 The contract will consist of two delivery elements:

1. Assessment and therapy for a minimum of 30 (thirty) children or young people per annum and, where appropriate, other family members
2. Training and consultation opportunities for council staff

By consultation we mean providing the opportunity for the council staff to have specific conversation with the provider about aspects of HSB, which results in staff having better knowledge, skills or confidence in responding to need. By consultation, we do not mean the conversations staff will have with the provider when they make a referral.

6.7.4 Prices will be fixed for the duration of the contract.

6.7.5 We will also ask applicants to give us quotes for spot purchasing additional service capacity, in case demand exceeds the contract specification.

6.7.6 Our payment schedule looks as follows

		Maximum fund available
1 June 2019 – 31 March 2020	10 months	£41,667
1 April 2020 – 31 March 2021	12 months	£50,000

The council's payment terms are detailed in paragraph 16 of the 'Instructions for Tendering' document.

6.7.7 Contracts will be monitored regularly on a quarterly basis or more often if required. Contracts will be reviewed in relation to future commissioning needs.

7. Procurement process & tendering

7.1. Timescales and dates

	CMCV 038
20 Feb. 2019	Publish tender
	Providers have 30 days to respond
13 Mar.	Dead line for clarifying questions
20 Mar.	12 noon - deadline for submission of application
29 Mar. – 11 Apr.	Evaluation of tenders
10 Apr.	13:00-14:30 optional clarification meeting with applicants (At Shirehall, Shrewsbury, SY2 6ND)
By 11 Apr.	Contact all applicants of decision
11 Apr. – 20 Apr.	10 day mandatory stand still period
21 Apr.	Confirm successful bidder(s)
1 Jun 2019	Contract starts
31 March 2021	Contract ends

7.2. Documents

The Council is using an open, competitive tender process.

The tender response document will require that all applicants complete a service and price matrix that enables us to analyse providers' offers fairly and transparently.

Applicants will be sent

- Instructions for tendering
- Tender response document
- Commissioning Intentions & specification document
- Draft Form of Agreement

Applicants will be required to follow instructions precisely. Applicants are encouraged to familiarise themselves with all the information published in the documents, including links to websites and any appendices.

7.3. Evaluation of tenders

Tenders will be evaluated on the answers they provide in the Tender Response Document.

Our evaluation will consist of two steps

- 1) The initial selection criteria are made up of pass/fail questions which will provide proof of compliance and expertise.

Only applications, which have passed this step, will then continue to be evaluated by a panel made up of a commissioning officer, an Independent Reviewing Officer and a Safeguarding Team manager.

- 2) The subsequent evaluation criteria focus on price (30%) and quality (70%). The tender response document describes how quality questions will be weighted and scored.

Should this procurement does not result in meeting our requirements entirely, then the council reserves the right to approach specific providers.

7.4 Transfer of Undertakings Regulations 2006 (TUPE)

TUPE may apply. Potential providers are advised to seek their own counsel on employment legislation. The current provider has already indicated that no employees wish to exercise their right for TUPE. Therefore, the current provider has not provided details of their employees.



Tender Response Document

CMCV 038:

Provision of specialist support for children and young people (0-18) who display harmful sexual behaviour (HSB).

Name of TENDERING
ORGANISATION
(please insert)

Please also add your company name to the footer of each page of the returned document

Shropshire Council Tender Response Document

Contract Description:

Contract commissioned by Shropshire Council's Safeguarding Children Services.

Provision of specialist support for children and young people, who display harmful sexual behaviour (HSB) or have been the victim of other young people's HSB.

- 1) Assessment and support delivery to a minimum of 30 (thirty) children and young people per annum, aged 0 up to 18th birthday, living in Shropshire LA area. Where relevant, support needs to be extended to other family members.
- 2) Knowledge and skills development for Shropshire Council Children Services staff

Contract to start on 1 June 2019 and end on 31 March 2021. There is the option to extend for two further twelve months periods. The maximum contract value is £50,000 per year.

Instructions for the completion of this document

1. This document must be completed in its entirety with responses being given to all questions. If you are unsure of any section/question and require further clarification, please contact us via our Delta Tenderbox. You are recommended to keep a copy of all tender documents and supporting documents for your own records.
2. Tenderers must also complete and sign the four certificates in Sections A1 to A4. These must be signed;
 - a) Where the tenderer is an individual, by that individual;
 - b) Where the tenderer is a partnership, by two duly authorised partners;
 - c) Where the tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.
3. All questions require specific responses from you relating to the organisation named in Section B Part 1 Question 1.1 (a). All information supplied must be accurate and up to date. The Council reserves the right to refuse to consider your application if the Tender Response Document is not fully completed or is found to be inaccurate.
4. Where copies of certificates and other details are requested **a copy must** accompany your tender response.

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Section	Description	Page
A1	Form of Tender	6
A2	Non-Canvassing Certificate	7
A3	Non-Collusive Tendering Certificate	8
A4	Declaration of Connection with Officers or Elected Members of the Council	9
You must sign all 4 certificates in sections A1 to A4		
B Part 1	Supplier Information– For information only	12
B Part 2 Section 2	Grounds for <u>Mandatory</u> Exclusion	16
B Part 2 Section 3	Grounds for Discretionary Exclusion	19
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Evaluation Criteria

Tenders will be evaluated on the answers provided in this 'Tender Response Document'. The following criteria is made up of 'pass/fail' (selection criteria) questions and 'weighted marked' (award criteria) questions and shows how each section is to be marked.

Selection Criteria Pass/Fail Questions (Section B)

This information will be provided for proof of compliance and will be judged on a pass or fail basis. Applicants must comply with these issues to demonstrate their proven competency, financial stability, resources and other arrangements. Questions marked 'For information only' will not be assessed; however they must still be answered in full.

Section / Question No.	Selection Criteria
Section B Part 1	Supplier Information– For information only
Section B Part 2 Section 2	Grounds for <u>Mandatory</u> Exclusion
Section B Part 2 Section 3 - 8	Grounds for Discretionary Exclusion

In relation to discretionary exclusion grounds (section B part 3):-

Financial viability: Responses will be analysed and evaluated by the Authority's Audit sections and will include checks via an independent agency (currently Equifax).

If the financial analysis of the Applicant (please note financial information provided by consortium members will be evaluated to assess the Applicant consortium as a whole) gives cause for concern as to its ability to deliver the Contract, the Applicant will fail this section.

If the financial analysis of the Applicant does not give any cause for concern as to its ability to deliver the Contract – it shall be deemed to have passed the section.

Please note the Contracting Authority reserves the right to further check the Financial Stability and Capacity of an applicant prior to any award of contract in the manner set out above in order to ensure that they still pass that requirement.

For other Discretionary exclusion grounds: If in the opinion of the Contracting Authority the responses provided casts serious doubt on the Tenderer's ability to perform this contract, they may be excluded.

Award Criteria – Weighted Marked Questions

Tenders will be evaluated on the answers provided in this Tender Response Document and judged against the criteria shown in the table below. The following award criteria is made up of 'Quality' and 'Price' and shows how each criteria is to be weighted against each other.

Section C / Question No.	Award Criteria	Weighting / Max Marks Available
Price 30% (300 marks)		
Q 1.1	Price	300 max marks
Q 1.2	How funds will be used to resource service	For information only
Q 1.3	Spot purchase price	For Information only
Total for price		30% / 300 max marks
Quality 70% (700 marks)		
Q 2.1	Organisational suitability	70 max marks
Q 2.2	Service model, plan & capacity	90 max marks
Q 2.3	Service practice / method	70 max marks
Q 2.4	Case study	70 max marks
Q 2.5	Outcomes for element 1	70 max marks
Q 2.6	Children's plans	70 max marks
Q 2.7	Outcomes for element 2	70 max marks
Q 2.8	Communications	70 max marks
Q 2.9	Service development	70 max marks
Q 2.10	Social value	50 max marks
Total for quality		70% / 700 max marks

Quality Questions/ Scoring Scheme

Questions within the quality sections shown above will be scored using the following scoring scheme. Each answer from the questions identified below will be given a mark between 0 and 10 with the following meanings:

Assessment	Mark	Interpretation
Excellent	10	<i>Exceeds the requirement. Exceptional demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	9	
Good	8	<i>Satisfies the requirement with minor additional benefits Above average demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence</i>

		<i>to support the response.</i>
	7	
Acceptable	6	<i>Satisfies the requirement. Demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures, with evidence to support the response.</i>
	5	
Minor Reservations	4	<i>Satisfies the requirement with minor reservations Some minor reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with limited evidence to support the response.</i>
	3	
Serious Reservations	2	<i>Satisfies the requirement with major reservations. Considerable reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>
	1	
Unacceptable	0	<i>Does not meet the requirement Does not comply and/or insufficient information provided to demonstrate how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>

The use of odd numbers indicates an answer's allocated mark lies between definitions.

The tender receiving the highest initial mark for Quality Criteria overall will receive the full 700 marks available for Quality. Other tenders will receive a final mark that reflects the final % difference in the initial marks between those tenders and the tender receiving the highest initial mark for Quality overall.

Please note that some responses require a minimum score of 6. Any tender scoring less than 6 will be excluded from further evaluation.

Price Evaluation and scoring

Price will be evaluated by using the price tendered in Section C – Question 1.1. The most competitively priced tender will receive the maximum mark for price being 300. Less competitive tenders will receive a % of the maximum mark that represents the difference in cost between that tender and the most competitively priced tender.

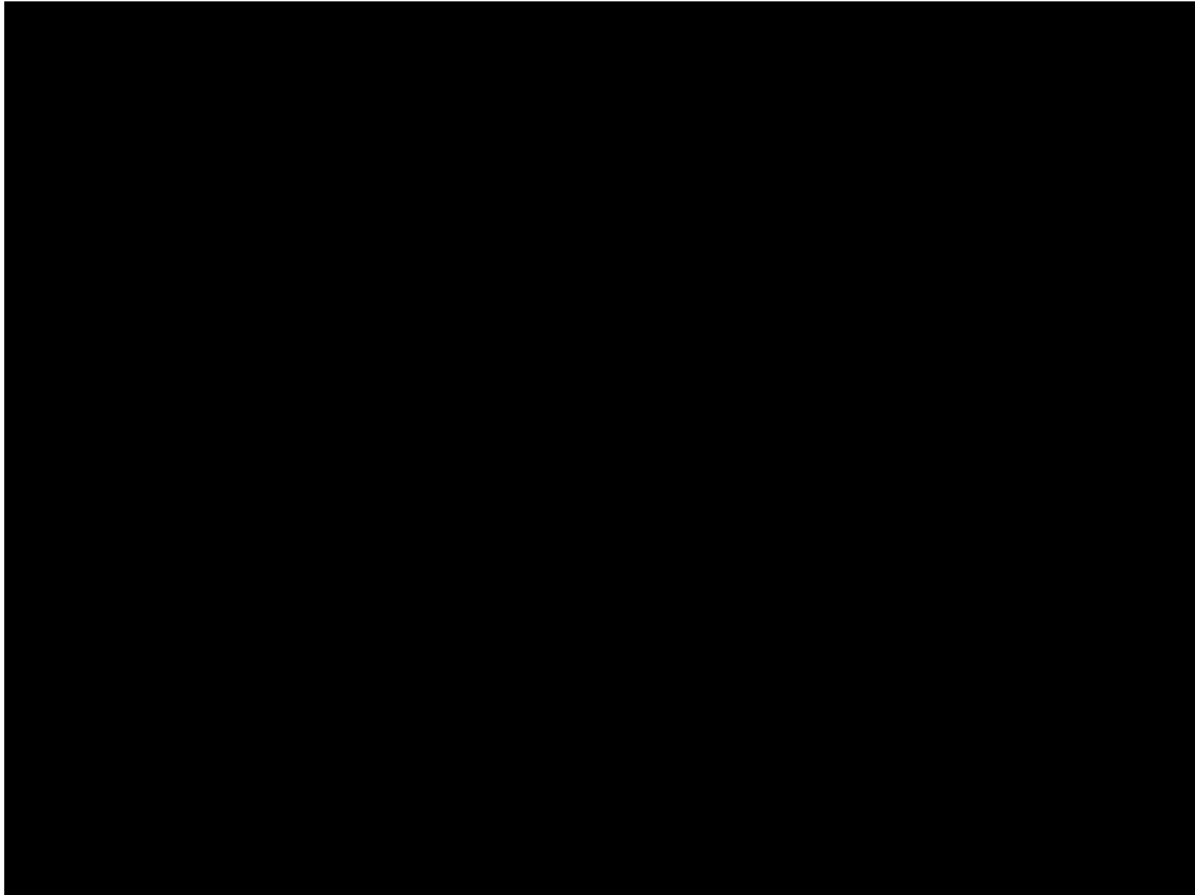
Section A:
1. Form of Tender

Form of Tender

Shropshire Council

Tender for CMCV 038 – Provision of specialist support for children and young people who display harmful sexual behaviour

We confirm that this, our tender, represents an offer to Shropshire Council that if accepted in whole, or in part, will create a binding contract for the Provision of specialist support for children and young people who display harmful sexual behaviour at the prices and terms agreed and subject to the terms of the invitation to tender documentation and the Terms and Conditions, copies of which we have received.



Section A:
2. Non – Canvassing Certificate

Non-Canvassing Certificate

To: Shropshire Council (hereinafter called “the Council”)

I/We hereby certify that I/We have not canvassed or solicited any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf has done any such act.

I/We further hereby undertake that I/We will not in the future canvass or solicit any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf will do any such act.

Non-collusive Tendering Certificate

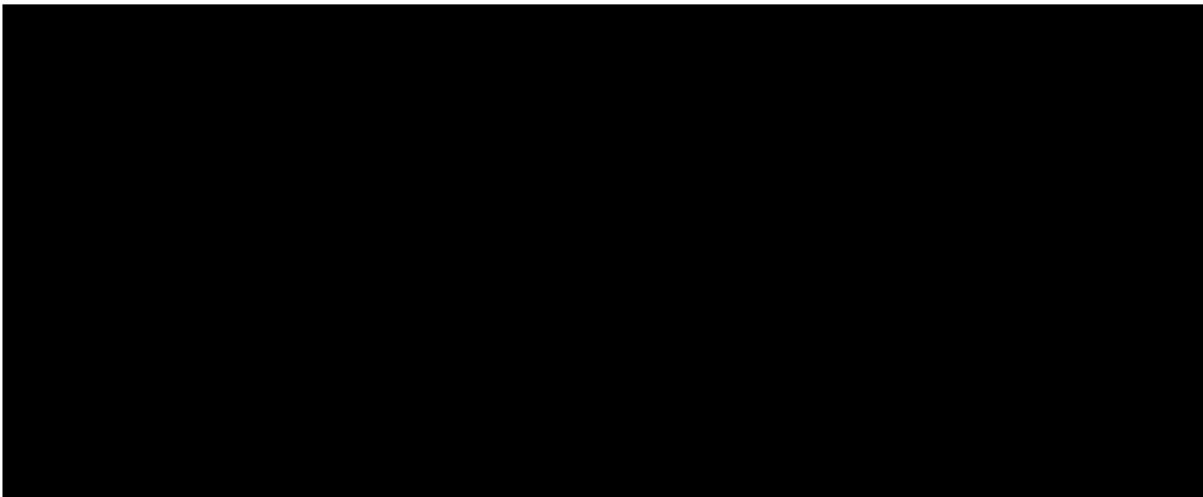
To: Shropshire Council (hereinafter called “the Council”)

The essence of selective tendering is that the Council shall receive bona fide competitive Tenders from all persons tendering. In recognition of this principle:

I/We certify that this is a bona fide Tender, intended to be competitive and that I/We have not fixed or adjusted the amount of the Tender or the rates and prices quoted by or under or in accordance with any agreement or arrangement with any other person.

I/We also certify that I/We have not done and undertake that I/We will not do at any time any of the following acts:-

- (a) communicating to a person other than the Council the amount or approximate amount of my/our proposed Tender (other than in confidence in order to obtain quotations necessary for the preparation of the Tender for insurance); or
- (b) entering into any agreement or arrangement with any other person that he shall refrain from Tendering or as to the amount of any Tender to be submitted; or
- (c) offering or agreeing to pay or give or paying any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender for the Services any act or omission.



Section A:
4. Declaration of Connection with Officers or Elected Members of the Council

Are you or any of your staff who will be affected by this invitation to tender related or connected in any way with any Shropshire Council Elected Councillor or Employee?

Yes / No

If yes, please give details:

Name	Relationship

Please note:

This information is collected to enable the Council to ensure that tenders are assessed without favouritism. Whether or not you have a connection with elected members or employees will have no bearing on the success of your tender, but your tender will not be considered unless this declaration has been completed.

SECTION B

Standard Selection Questionnaire

Potential Supplier Information and Exclusion Grounds: Part 1 and Part 2.

The standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that you do not meet any of the grounds for exclusion. If there are grounds for exclusion (there is an opportunity to explain the background and any measures you have taken to rectify the situation (we call this self-cleaning). For the list of exclusion please see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf

A completed declaration of Part 1 and Part 2 provides a formal statement that the organisation making the declaration has not breached any of the exclusions grounds. Consequently we require all the organisations that you will rely on to meet the selection criteria to provide a completed Part 1 and Part 2. For example these could be parent companies, affiliates, associates, or essential sub-contractors, if they are relied upon to meet the selection criteria. This means that where you are joining in a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Sub-contractors that you rely on to meet the selection criteria must also complete a self-declaration (although sub-contractors that are not relied upon do not need to complete the self-declaration).

When completed, this form is to be sent back to the contact point given in the procurement documents along with the selection information requested in the procurement documentation.

Supplier Selection Questions: Part 3

This document provides instructions on the selection questions you need to respond to and how to submit those responses. If you are bidding on behalf of a group (consortium) or you intend to use sub-contractors, you should complete all of the selection questions on behalf of the consortium and/or any sub-contractors.

If the relevant documentary evidence referred to in the Selection Questionnaire is not provided upon request and without delay we reserve the right to amend the contract award decision and award to the next compliant bidder.

Consequences of misrepresentation

If you seriously misrepresent any factual information in filling in the Selection Questionnaire, and so induce an authority to enter into a contract, there may be significant consequences. You may be excluded from the procurement procedure, and from bidding for other contracts for three years. If a contract has been entered into you may be sued for damages and the contract may be rescinded. If fraud, or fraudulent intent, can be proved, you or your responsible officers may be prosecuted and convicted of the offence of fraud by false representation, and you must be excluded from further procurements for five years.

Notes for completion

1. The “authority” means the contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable candidates to participate in this procurement process.
2. “You” / “Your” refers to the potential supplier completing this standard Selection Questionnaire i.e. the legal entity responsible for the information provided. The term “potential supplier” is intended to cover any economic operator as defined by the Public Contracts Regulations 2015 (referred to as the “regulations”) and could be a registered company; the lead contact for a group of economic operators; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.
3. Please ensure that all questions are completed in full, and in the format requested. If the question does not apply to you, please state ‘N/A’. Should you need to provide additional information in response to the questions, please submit a clearly identified annex.
4. The authority recognises that arrangements set out in section 1.2 of the standard Selection Questionnaire, in relation to a group of economic operators (for example, a consortium) and/or use of sub-contractors, may be subject to change and will, therefore, not be finalised until a later date. The lead contact should notify the authority immediately of any change in the proposed arrangements and ensure a completed Part 1 and Part 2 is submitted for any new organisation relied on to meet the selection criteria. The authority will make a revised assessment of the submission based on the updated information.
5. For Part 1 and Part 2 every organisation that is being relied on to meet the selection must complete and submit the self-declaration.
6. **Note for Contracting Authorities: The following paragraph is optional for inclusion if a decision has been made to request a self-declaration of the exclusion grounds from sub-contractors. All sub-contractors are required to complete Part 1 and Part 2¹.**
7. For answers to Part 3 - If you are bidding on behalf of a group, for example, a consortium, or you intend to use sub-contractors, you should complete all of the questions on behalf of the consortium and/ or any sub-contractors, providing one composite response and declaration.

The authority confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Cabinet Office and/or contracting authorities defined by the regulations, or pursuant to an order of the court or demand made by any competent authority or body where the authority is under a legal or regulatory obligation to make such a disclosure.

¹ See PCR 2015 regulations 71 (8)-(9)

Part 1: Potential supplier Information

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 1	Potential supplier information	
Question number	Question	Response
1.1(a)	Full name of the potential supplier submitting the information	
1.1(b) – (i)	Registered office address (if applicable)	
1.1(b) – (ii)	Registered website address (if applicable)	
1.1(c)	Trading status a) public limited company b) limited company c) limited liability partnership d) other partnership e) sole trader f) third sector g) other (please specify your trading status)	
1.1(d)	Date of registration in country of origin	
1.1(e)	Company registration number (if applicable)	
1.1(f)	Charity registration number (if applicable)	
1.1(g)	Head office DUNS number (if applicable)	
1.1(h)	Registered VAT number	
1.1(i) - (i)	If applicable, is your organisation registered with the appropriate professional or trade register(s) in the member state where it is established?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
1.1(i) - (ii)	If you responded yes to 1.1(i) - (i), please provide the relevant details, including the registration number(s).	
1.1(j) - (i)	Is it a legal requirement in the state where you are established for you to possess a particular authorisation, or be a member of a particular organisation in order to provide the services specified in this procurement?	Yes <input type="checkbox"/> No <input type="checkbox"/>
1.1(j) - (ii)	If you responded yes to 1.1(j) - (i), please provide additional details of what is required and confirmation that you have complied with this.	

1.1(k)	Trading name(s) that will be used if successful in this procurement.	
1.1(l)	Relevant classifications (state whether you fall within one of these, and if so which one) a) Voluntary Community Social Enterprise (VCSE) b) Sheltered Workshop c) Public Service Mutual	
1.1(m)	Are you a Small, Medium or Micro Enterprise (SME) ² ?	Yes <input type="checkbox"/> No <input type="checkbox"/>
1.1(n)	Details of Persons of Significant Control (PSC), where appropriate: ³ - Name; - Date of birth; - Nationality; - Country, state or part of the UK where the PSC usually lives; - Service address; - The date he or she became a PSC in relation to the company (for existing companies the 6 April 2016 should be used); - Which conditions for being a PSC are met; - Over 25% up to (and including) 50%, - More than 50% and less than 75%, - 75% or more. (Please enter N/A if not applicable)	
1.1(o)	Details of immediate parent company: - Full name of the immediate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	
1.1(p)	Details of ultimate parent company: - Full name of the ultimate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	

Please note: A criminal record check for relevant convictions may be undertaken for the preferred suppliers and the persons of significant in control of them.

² See EU definition of SME - https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en

³ UK companies, Societates European (SEs) and limited liability partnerships (LLPs) will be required to identify and record the people who own or control their company. Companies, SEs and LLPs will need to keep a PSC register, and must file the PSC information with the central public register at Companies House. See PSC guidance.

Please provide the following information about your approach to this procurement:

Section 1	Bidding Model																																																																
Question number	Question	Response																																																															
1.2(a) - (i)	Are you bidding as the lead contact for a group of economic operators?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide details listed in questions 1.2(a) (ii), (a) (iii) and to 1.2(b) (i), (b) (ii), 1.3, Section 2 and 3. If no, and you are a supporting bidder please provide the name of your group at 1.2(a) (ii) for reference purposes, and complete 1.3, Section 2 and 3.																																																															
1.2(a) - (ii)	Name of group of economic operators (if applicable)																																																																
1.2(a) - (iii)	Proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure.																																																																
1.2(b) - (i)	Are you or, if applicable, the group of economic operators proposing to use sub-contractors?	Yes <input type="checkbox"/> No <input type="checkbox"/>																																																															
1.2(b) - (ii)	If you responded yes to 1.2(b)-(i) please provide additional details for each sub-contractor in the following table: we may ask them to complete this form as well.																																																																
	<table border="1"> <tr> <td>Name</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Registered address</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Trading status</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Company registration number</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Head Office DUNS number (if applicable)</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Registered VAT number</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Type of organisation</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>SME (Yes/No)</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>The approximate % of contractual obligations assigned to each sub-contractor</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>					Name						Registered address						Trading status						Company registration number						Head Office DUNS number (if applicable)						Registered VAT number						Type of organisation						SME (Yes/No)						The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables						The approximate % of contractual obligations assigned to each sub-contractor					
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Contact details and declaration

I declare that to the best of my knowledge the answers submitted and information contained in this document are correct and accurate.

I declare that, upon request and without delay I will provide the certificates or documentary evidence referred to in this document.

I understand that the information will be used in the selection process to assess my organisation's suitability to be invited to participate further in this procurement.

I understand that the authority may reject this submission in its entirety if there is a failure to answer all the relevant questions fully, or if false/misleading information or content is provided in any section.

I am aware of the consequences of serious misrepresentation.

Section 1	Contact details and declaration	
Question Number	Question	Response
1.3(a)	Contact name	
1.3(b)	Name of organisation	
1.3(c)	Role in organisation	
1.3(d)	Phone number	
1.3(e)	E-mail address	
1.3(f)	Postal address	
1.3(g)	Signature (electronic is acceptable)	
1.3(h)	Date	

Part 2: Exclusion Grounds

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 2	Grounds for mandatory exclusion	
Question number	Question	Response
2.1(a)	<p>Regulations 57(1) and (2) The detailed grounds for mandatory exclusion of an organisation are set out on the webpage (see link on page 11), which should be referred to before completing these questions. Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed on the webpage.</p>	
	Participation in a criminal organisation.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Corruption.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Fraud.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Terrorist offences or offences linked to terrorist activities	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Money laundering or terrorist financing	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Child labour and other forms of trafficking in human beings	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
2.1(b)	If you have answered yes to question 2.1(a), please provide further details. Date of conviction, specify which of the grounds listed the conviction was for, and the reasons for conviction, Identity of who has been convicted If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.	
2.2	If you have answered Yes to any of the points above have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self	Yes <input type="checkbox"/> No <input type="checkbox"/>

	Cleaning)	
2.3(a)	<p>Regulation 57(3) Has it been established, for your organisation by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions?</p>	Yes <input type="checkbox"/> No <input type="checkbox"/>
2.3(b)	If you have answered yes to question 2.3(a), please provide further details. Please also confirm you have paid, or have entered into a binding arrangement with a view to paying, the outstanding sum including where applicable any accrued interest and/or fines.	
2.4	Please confirm that you have in place, or that you will have in place by contract award, the human and technical resources to perform the contract to ensure compliance with the General Data Protection Regulation and to ensure the protection of the rights of data subjects	Yes <input type="checkbox"/> No <input type="checkbox"/>
2.4(a)	Please provide details of the technical facilities and measures (including systems and processes) you have in place, or will have in place by contract award, to ensure compliance with the General Data Protection Regulation and to ensure the protection of the rights of data subjects. Your response should include, but should not be limited to facilities and measures: <ul style="list-style-type: none"> ○ to ensure ongoing confidentiality, integrity, availability and resilience of processing systems and services; ○ to comply with the rights of data subjects in respect of receiving privacy information, and access, rectification, deletion and portability of personal data; ○ to ensure that any consent based processing meets standards of active, informed consent, and that such consents are recorded and auditable; ○ to ensure legal safeguards are in place to legitimise transfers of personal data outside the EU (if such transfers will take place); ○ to maintain records of personal data processing activities; and ○ to regularly test, assess and 	

	evaluate the effectiveness of the above measures.	
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Please Note: The authority reserves the right to use its discretion to exclude a potential supplier where it can demonstrate by any appropriate means that the potential supplier is in breach of its obligations relating to the non-payment of taxes or social security contributions.

Section 3	Grounds for discretionary exclusion	
Question number	Question	Response
	<p>Regulation 57 (8) The detailed grounds for discretionary exclusion of an organisation are set out on this webpage (see link on page 11), which should be referred to before completing these questions.</p> <p>Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation.</p>	
3.1(a)	Breach of environmental obligations?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(b)	Breach of social obligations?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(c)	Breach of labour law obligations?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(d)	Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation's assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(e)	Guilty of grave professional misconduct?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(f)	Entered into agreements with other economic operators aimed at distorting competition?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(g)	Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(h)	Been involved in the preparation of the procurement procedure?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(i)	Shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2

3.1(j)	Please answer the following statements	
3.1(j) - (i)	The organisation is guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria.	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(j) - (ii)	The organisation has withheld such information.	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(j) –(iii)	The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(j)-(iv)	The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2

3.2	If you have answered Yes to any of the above, explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant	
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Section 4	Economic and Financial Standing	
Question number	Question	Response
4.1	Are you able to provide a copy of your audited accounts for the last two years, if requested? If no, can you provide one of the following: answer with Y/N in the relevant box.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	(a) A statement of the turnover, Profit and Loss Account/Income Statement, Balance Sheet/Statement of Financial Position and Statement of Cash Flow for the most recent year of trading for this organisation.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	(b) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	(c) Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or	Yes <input type="checkbox"/> No <input type="checkbox"/>

	an alternative means of demonstrating financial status).	
4.2	Where we have specified a minimum level of economic and financial standing and/ or a minimum financial threshold within the evaluation criteria for this procurement, please self-certify by answering 'Yes' or 'No' that you meet the requirements set out.	Yes <input type="checkbox"/> No <input type="checkbox"/>

Section 5	If you have indicated in the Selection Questionnaire question 1.2 that you are part of a wider group, please provide further details below:	
Name of organisation		
Relationship to the Supplier completing these questions		

5.1	Are you able to provide parent company accounts if requested to at a later stage?	Yes <input type="checkbox"/> No <input type="checkbox"/>
5.2	If yes, would the parent company be willing to provide a guarantee if necessary?	Yes <input type="checkbox"/> No <input type="checkbox"/>
5.3	If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank)?	Yes <input type="checkbox"/> No <input type="checkbox"/>

Section 6	Technical and Professional Ability	
6.1	<p>Relevant experience and contract examples</p> <p>Please provide details of up to three contracts, in any combination from either the public or private sector; voluntary, charity or social enterprise (VCSE) that are relevant to our requirement. VCSEs may include samples of grant-funded work. Contracts for supplies or services should have been performed during the past three years. Works contracts may be from the past five years.</p> <p>The named contact provided should be able to provide written evidence to confirm the accuracy of the information provided below.</p> <p>Consortia bids should provide relevant examples of where the consortium has delivered similar requirements. If this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle is to be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).</p> <p>Where the Supplier is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the main intended provider(s) or sub-contractor(s) who will deliver the contract.</p> <p>If you cannot provide examples see question 6.3</p>	

	Contact 1	Contact 2	Contact 3
Name of customer organisation			
Point of contact in the organisation			
Position in the organisation			
E-mail address			
Description of contract			
Contract Start date			
Contract completion date			
Estimated contract value			

6.2	<p>Where you intend to sub-contract a proportion of the contract, please demonstrate how you have previously maintained healthy supply chains with your sub-contractor(s)</p> <p>Evidence should include, but is not limited to, details of your supply chain management tracking systems to ensure performance of the contract and including prompt payment or membership of the UK Prompt Payment Code (or equivalent schemes in other countries)</p>

6.3	<p>If you cannot provide at least one example for questions 6.1, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up or you have provided services in the past but not under a contract.</p>

Section 7	Modern Slavery Act 2015: Requirements under Modern Slavery Act 2015	
	Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	If you have answered yes to question 7.1 are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015?	Yes <input type="checkbox"/> Please provide the relevant url to view the statement ... No <input type="checkbox"/> Please provide an explanation

8. Additional Questions

Suppliers who self-certify that they meet the requirements to these additional questions will be required to provide evidence of this if they are successful at contract award stage.

Section 8	Additional Questions	
8.1	Insurance	
	Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated below: Y/N Employer's (Compulsory) Liability Insurance = £5m Public Liability Insurance = £5m Professional Indemnity Insurance = £2m *It is a legal requirement that all companies hold Employer's (Compulsory) Liability Insurance of £5 million as a minimum. Please note this requirement is not applicable to Sole Traders.	
8.2	Skills and Apprentices 4 –	
A.	Do you have a process in place to ensure that your supply chain supports skills, development and apprenticeships in line with PPN 14/15 (see guidance) and can provide evidence if requested?	Yes <input type="checkbox"/> No <input type="checkbox"/>

8.3 – Compliance with equality legislation

For organisations working outside of the UK please refer to equivalent legislation in the country that you are located.		
1.	In the last three years, has any finding of unlawful discrimination been made against your organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or in comparable proceedings in any jurisdiction other than the UK)?	<input type="checkbox"/> Yes <input type="checkbox"/> No

2.	<p>In the last three years, has your organisation had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds or alleged unlawful discrimination?</p> <p>If you have answered “yes” to one or both of the questions in this module, please provide, as a separate Appendix, a summary of the nature of the investigation and an explanation of the outcome of the investigation to date.</p> <p>If the investigation upheld the complaint against your organisation, please use the Appendix to explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring. You may be excluded if you are unable to demonstrate to the Authority’s satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.	<p>If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

8.4 – Environmental Management

1.	<p>Has your organisation been convicted of breaching environmental legislation, or had any notice served upon it, in the last three years by any environmental regulator or authority (including local authority)? If your answer to the this question is “Yes”, please provide details in a separate Appendix of the conviction or notice and details of any remedial action or changes you have made as a result of conviction or notices served. The Authority will not select bidder(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless the Authority is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.	<p>If you use sub-contractors, do you have processes in place to check whether any of these organisations have been convicted or had a notice served upon them for infringement of environmental legislation?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

8.5 – Health & Safety

1.	<p>Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.	<p>Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?</p> <p>If your answer to this question was “Yes”, please provide details in a separate Appendix of any enforcement/remedial orders served and give details of any remedial action or changes to procedures you have made as a result.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

	The Authority will exclude bidder(s) that have been in receipt of enforcement/remedial action orders unless the bidder(s) can demonstrate to the Authority's satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.	
3.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	<input type="checkbox"/> Yes <input type="checkbox"/> No

8.6 Safeguarding of adults and children

(for services where staff come into regular contact with children and adults)

*	<p><i>Why do we need to know this?</i> <i>The safeguarding duties placed on public authorities require the Council and its partners to work to the following guidance:</i></p> <p>Safeguarding children http://westmidlands.procedures.org.uk/#</p> <p>Safeguarding adults http://keepingadultssafeinshropshire.co.uk/multi-agency-procedures/</p> <p><i>We need to ensure all companies that work with Shropshire Council are clear about our safeguarding expectations and are committed to meet our expectations. The Council also needs to ensure that your organisation has a good record for safeguarding children and adults</i></p>	
1	<p>Do you have a Safeguarding Policy or statement for safeguarding children? Do you have a Safeguarding Policy or statement for safeguarding adults?</p>	<p>Enclosed YES/NO Enclosed YES/NO</p>
2	<p>For information: our requests for references will include a question relating to your organisation's record for safeguarding.</p>	
3	<p>As a contractor providing a public service on behalf of a Shropshire Council, we expect that you will be familiar and committed to the local safeguarding procedures as prescribed by Shropshire's Safeguarding Children Board (SSCB) and http://www.safeguardingshropshireschildren.org.uk/scb/index.html Shropshire Council's approach to adult protection http://www.shropshire.gov.uk/adultcarer.nsf/open/F54E8A80CF1343BC80257AAF0058F760</p> <p>I/We certify that I/We are familiar with and committed to deliver our service in compliance with local safeguarding processes.</p> <p>Signed</p> <p>Status.....</p> <p>(For and on behalf of</p> <p>.....)</p> <p>Date</p>	
4	<p>In the previous section we said that all applicants can demonstrate understanding and compliance with local safeguarding procedures as determined by Shropshire's Safeguarding Children Board.</p>	

	Please describe how your organisation will ensure that it can meet this requirement from the start and throughout the contract. (maximum 1000 words).	
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SECTION C – TENDER SCHEDULE

1.	Pricing Schedule																											
	Please refer to page 4 of this document, where we describe how we will evaluate and score price.																											
1.1	<p>The maximum value that applicants can apply for is £91,667 for the contract period of 22 months (1 June 2019 – 31 March 2021). This is equivalent to £50,000 per annum.</p> <p>What is the amount of money you are tendering for in the 22 months contract period?</p> <p>£ _____ (exclusive of VAT)</p> <p>Describe below how they may use their own or additional resources to complement the council’s funding and add value to the service.</p>	300																										
1.2	<p>Describe how you plan to use the funding to resource the service by completing, and where relevant adding to, the table below:</p> <table border="1" data-bbox="308 983 1222 1473"> <thead> <tr> <th>Provide detail on</th> <th>Cost per annum (£)</th> </tr> </thead> <tbody> <tr> <td>Total Staff</td> <td></td> </tr> <tr> <td>Post 1</td> <td></td> </tr> <tr> <td>Post 2</td> <td></td> </tr> <tr> <td>(insert posts as applicable)</td> <td></td> </tr> <tr> <td>Organisational costs</td> <td></td> </tr> <tr> <td>Costs 1</td> <td></td> </tr> <tr> <td>Costs 2</td> <td></td> </tr> <tr> <td>(insert costs as applicable)</td> <td></td> </tr> <tr> <td>Other resources</td> <td></td> </tr> <tr> <td>Resource 1</td> <td></td> </tr> <tr> <td>Resource 2</td> <td></td> </tr> <tr> <td>(insert resources as applicable)</td> <td></td> </tr> </tbody> </table> <p>Briefly outline below how you have derived your cost figures.</p>	Provide detail on	Cost per annum (£)	Total Staff		Post 1		Post 2		(insert posts as applicable)		Organisational costs		Costs 1		Costs 2		(insert costs as applicable)		Other resources		Resource 1		Resource 2		(insert resources as applicable)		FIO
Provide detail on	Cost per annum (£)																											
Total Staff																												
Post 1																												
Post 2																												
(insert posts as applicable)																												
Organisational costs																												
Costs 1																												
Costs 2																												
(insert costs as applicable)																												
Other resources																												
Resource 1																												
Resource 2																												
(insert resources as applicable)																												
1.3	<p>In section 4 of the invitation to tender, we said that we want to have the option to buy additional interventions with CYP in case our demand is higher than currently predicted.</p> <p>What is your spot purchase price for supporting one additional young person?</p> <p>£ _____ (exclusive of VAT)</p>	FIO																										

2.	Tender Specification Response (The following questions refer to sections in the Invitation to Tender (ITT) document)	
2.1	Please provide a brief history of your organisation and details of any previous similar contracts and experience in order to illustrate that your organisation has the knowledge, proven competency and experience to deliver this specific service. (maximum 1500 words)	70 max marks Min. score of 6
2.2	Service model, plan and service capacity In sections 6.3 of the invitation to tender, we have listed the essential requirements for the service. In section 6.4 we list the outcome requirements for this service. In section 6.1 we state that the service needs to support a minimum of 30 (thirty) children and young people per annum. a) Please describe your delivery model and plan. Your plan should include how you would start, maintain and conclude the service within the contract period in order to meet these requirements. Provide a timeline to illustrate your delivery plan. Provide the staffing model for your service.	90 max marks Min. score of 6
2.3	Service practice / method In section 6.3 a-b, we said that the service needs to be based on evidence-based practice / methods and can be applied in a way that is suitable for the age and ability of the child or young person. a) Please describe the practice you would implement. b) Please describe how your practice links to evidence and good outcomes for CYP and their families. c) Provide two examples to support your answer, which illustrate your ability to provide age and ability specific support. Mention any tools you have used.	70 max marks Min. score of 6
2.4	Case study: A social worker is supporting a 12 year boy and his family. During the course of the work, the boy has made comments, which lead the social worker to believe that the boy may be engaging in HSB. The social worker has attempted on a few occasions to introduce the subject, but the boy refuses to be drawn into the conversation. On occasion he refuses to speak or has become verbally aggressive. Please describe what you would do to engage the boy?	70 max marks

2.5	<p>Service outcomes for element 1:</p> <p>In section 6.4, we said that element 1 of the service is to achieve the outcome that we have sufficient provision of assessment and therapy to improve CYP's outcomes. Parents are helped to understand and modify their behaviour, which is damaging to their children.</p> <p>a) Please describe how your service can improve outcomes for children and young people.</p> <p>b) Please provide three diverse case studies from the last two years to support your response. Please add your views on what worked well and less well.</p> <p>c) Please provide a case study where your service did not achieve this outcome. Add your views on what worked well and less well. Describe how your practice improve as a result of this.</p>	70 max marks Min. score of 6
2.6	<p>Contribution to children's plans</p> <p>In section 6.5.4, we said that we require that the support contributes to children and young people support plans, such as Children in Need plans, Child Protection plans and LAC plans. In those plans outcomes will be described in a SMART¹ way.</p> <p>Please describe how your service will meet this requirement.</p> <p>¹ SMART = Specific, measurable, achievable, realistic, timed</p>	70 max marks
2.7	<p>Service outcomes for element 2</p> <p>In section 6.4, we said that element 2 of the service is to achieve the outcome that SC Children Services staff have improved skills and knowledge relating to HSB.</p> <p>1) Please describe how you would approach the delivery of this element.</p> <p>2) Please provide three diverse examples from your own practice in the last two years that demonstrate how your service has achieved this outcome. Please add your views on what worked well and less well. Please describe how you amended your approach based on what worked less well.</p> <p>3) If the budget for element 2 was £3000 per annum, describe what types and quantity of staff development activities you can offer.</p>	70 max marks

2.8	<p>In section 6.5.4, we said that we want to work with providers who can demonstrate effective and pro-active leadership, management and communications.</p> <p>1) Please describe your approach to this</p> <p>2) Please provide one recent example, which demonstrates how your approach has worked effectively in the past.</p> <p>3) Please provide one recent example, where your approach has worked less well. Describe how this experience has improved your practice as a result.</p>	70 max marks
2.9	<p>In section 6.5.4, we said we want to work with a provider, who can reflect on experience, feedback from stakeholders and young people to continue to develop and quality assure their practice.</p> <p>1) Please describe how you quality assure your work and how you would meet this requirement.</p> <p>2) Please provide one recent example, which demonstrates how your approach has worked effectively in the past.</p> <p>3) Please provide one recent example, where your approach has worked less well. Describe how this experience has improved your practice as a result.</p>	70 max marks
2.10	<p>Section 6.5.4: Please tell us how your appointment as service provider could be of benefit to the outcomes described the council's Social Value Commissioning & Procurement framework. https://shropshire.gov.uk/social-value/</p>	50 max marks
Quality marks to add up to 700		

Dated.....20...

CONTRACT

BETWEEN

SHROPSHIRE COUNCIL

and

[add in legal entity of the Service Provider]

CMCV 038

For the Provision of Specialist Support for Children and Young People who Display
Harmful Sexual Behaviour

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DRAFT

Contract	means this agreement in writing between the Parties
Contract Documents	means this Contract including the Schedules and any other documents annexed to it
'Council'	means the party named above and includes its employees, officers, servants and agents acting on its behalf
Council Data	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (a) supplied to the Service Provider by or on behalf of the Council; or which the Service Provider is required to generate, process, store or transmit pursuant to this Contract; or (b) any Personal Data for which the Council is the Data Controller.
Council Software	software which is owned by or licensed to the Council, including software which is or will be used by the Service Provider for the purposes of providing the Services but excluding the Service Provider Software
Data Controller	shall have the meaning given to the term "controller" as set out in Article 4 of the GDPR.
Data Processor	shall have the meaning given to the term "processor" as set out in Article 4 the GDPR
Data Protection Impact Assessment	an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data
Data Protection Legislation	means: i) all applicable Law about the processing of personal data and privacy; and ii) The Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 including if applicable legally binding guidance and codes of practice issued by the Information Commissioner; and iii) to the extent that it relates to processing of personal data and privacy, any Laws that come into force which amend, supersede or replace existing Laws including the GDPR, the (LED Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing Laws as amended from time to time including the DPA 2018
Data Protection Officer	shall have the meaning given in the GDPR
Data Subject	shall have the same meaning as set out in the GDPR

Data Subject Request	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
EIR	means the Environmental Information Regulations 2004 (as may be amended from time to time)
Employment Checks	Means the pre-appointment checks that are required by law and applicable guidance, including without limitation, verification of identity checks, right to work checks, registration and qualification checks, employment history and reference checks, disclosure and barring checks and occupational health checks.
Exempt Information	Any information or class of information (including but not limited to any document, report or other material containing information) relating to this Contract or otherwise relating to the Parties to this Contract which potentially falls within an Exemption to FOIA (as set out therein)
Financial Year	means the period of 12 months from and including 1 st April in one year and ending on 31 st March in the next
FOIA	means the Freedom of Information Act 2000 and all subsequent regulations made under this or any superseding or amending enactment and regulations; any words and expressions defined in the FOIA shall have the same meaning in this clause.
FOIA notice	means a decision notice, enforcement notice and/or an information notice issued by the Information Commissioner.
Funding	NOT USED
GDPR	means the General Data Protection Regulation in force in the UK with effect from 25th May 2018
Initial Expiry Date	31 st March 2021
Initial Term	means a period of 1 year and 10 months commencing on the Commencement Date and expiring on the Initial Expiry Date
Intellectual Property Rights	means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable
Law	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Service Provider is bound to comply
LED Officer(s)	Law Enforcement Directive (Directive (EU) 2016/680) those officers of the Council who are authorised by the Council to perform functions in connection with this Contract

Option to Extend	means the Council's option to extend the Initial Term by period of up to 2 years commencing from 1 st April 2021
Outcomes	means the targets, results or objectives as specified in the Specification
Party or Parties	means with respect to Party the Council or the Service Provider and Parties both the Council and the Service Provider together
Payment	the payment to the Service Provider as detailed in Clause 2
Personal Data	shall have the same meaning as set out in the GDPR
Personal Data Breach	means anything which constitutes a "personal data breach" as set out in Article 4 of the GDPR
Prohibited Act	<p>the following constitute Prohibited Acts:</p> <p>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to:</p> <p style="padding-left: 20px;">(i) induce that person to perform improperly a relevant function or activity; or</p> <p style="padding-left: 20px;">(ii) reward that person for improper performance of a relevant function or activity;</p> <p>(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract;</p> <p>(c) committing any offence:</p> <p style="padding-left: 20px;">(i) under the Bribery Act 2010;</p> <p style="padding-left: 20px;">(ii) under legislation creating offences concerning fraudulent acts;</p> <p style="padding-left: 20px;">(iii) at common law concerning fraudulent acts relating to this Contract or any other contract with the Council; or</p> <p>(d) defrauding, attempting to defraud or conspiring to defraud the Council.</p>
Processor Personnel	means all directors, officers, employees, agents, consultants and contractors of the Data Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement
Protective Measures	appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it [including those outlined in Schedule 8 (Security).]
Public Body	as defined in the FOIA 2000

Receiving Party	a party to this Contract to whom a Request for Information is made under FOIA, and who thereafter has overall conduct of the request and any response
Regulated Activity	in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults, as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.
Regulatory Bodies	those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Council and "Regulatory Body" shall be construed accordingly;
Regulated Provider	as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006
Request For Information	a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
Relevant Transfer	means a relevant transfer for the purposes of TUPE
Report	means a formal Report to be prepared by the Service Provider recording and evaluating the Outcomes together with recommendations for future actions
Review	means a formal review of the progress of the Services and the achievement of the Outcomes
Service(s)	the Service(s) as described in the Specification and schedules of this Contract
'Service Provider'	means the party named above and includes its Staff, employees, officers, servants and agents acting on its behalf paid or unpaid
Service Provider's Representative	means the representative appointed by the Service Provider to liaise with the Authorised Representative with regard to the management of this Contract
Service Users	the persons or client group designated from time to time by the Council to receive the Service which shall include where the context so admits, carers/guardians/parents of children and young people in receipt of the Services
Specification	the Specification contained in Schedule 1 to this Contract
Staff	All those persons paid or unpaid who deliver the Service on behalf of the Service Provider including a Subcontractor and other agents acting on its behalf
Subcontractors	Any person(s) that the Service Provider contracts with to provide the Service either directly or indirectly for which the Service Provider is responsible under this Contract

Sub-processor	any third party appointed to process Personal Data on behalf of the Service Provider related to this Agreement.
Term	means the period commencing on the Commencement date and ending on the Expiry Date
Tender	means the tender dated submitted by The accepted by the Council
Third Party	a person (other than the Service User or the Council) who agrees to make a contribution to the cost of the Service
TUPE	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) and the Acquired Rights Directive
Working Days	Monday to Friday inclusive (not including public or bank holidays)
Writing	Includes, unless otherwise specifically stated, facsimile transmission and electronic mail, providing that the electronic mail is acknowledged and confirmed as being received.

Interpretation

In this Contract unless the context otherwise requires:

words importing any gender include every gender
words importing the singular number include the plural number and vice versa
words importing persons include firms, companies and corporations and unincorporated body of persons or any state or any agency of any person
reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
reference to a holding company or subsidiary means a holding company or subsidiary as defined in section 1159 of the Companies Act 2006.
In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that:
(i) references in sub-sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and
(ii) the reference in sub-section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
references to numbered clauses and schedules are references to the relevant clause in or schedule to this Contract
reference in any schedule to this Contract to numbered paragraphs relate to the numbered paragraphs of that schedule
any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done
the headings to the clauses, schedules and paragraphs of this Contract are not to affect the interpretation
reference to a statute or statutory provision is a reference to it as it is in force

for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

where the word 'including' is used in this Contract, it shall be understood as meaning 'including without limitation'

Where any statement is qualified by the expression so far as the Service Provider is aware or to the Service Provider's knowledge or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.

WHEREAS

- (A) The Council in the exercise of performing its obligations requires the Services to be delivered for the benefit of children and young people ('the Service Users') within its administrative area
- (B) The Service Provider is willing to provide the Service in accordance with the terms of this Contract and the Council is willing to engage the Service Provider to provide the Services.

1 CONTRACT AND TERM

- 1(a) In consideration of the Payment the Service Provider will provide the Service in accordance with the terms of this Contract
- 1(b) It is agreed between the Parties that this Contract will be for the Initial Term commencing on the Commencement Date and ending on the Initial Expiry Date unless otherwise terminated under Clauses 10 (Breach) 11 (Prevention of Bribery) and 13 (Termination) in accordance with the terms of this Contract.
- 1(c) It is further agreed between the Parties that, subject to mutual agreement, the Council may exercise its Option to Extend this Contract after the expiry of the Initial Term for a further period of up to 2 years commencing on 1st April 2021
- 1(d) If the Council decides to exercise its Option to Extend the Initial Term it shall notify the Service Provider in writing at least 3 months in advance of the expiry date of the Initial Term. Where the Parties agree an extension of the Initial Term the terms of this Contract shall be the terms applied to the extended contract period, save for any variations to the terms of the Contract which may be agreed by the Parties in writing to apply during the extension period.
- 1.(e) If the Council decides that it does not wish to exercise its Option to Extend then this Contract shall terminate on the Initial Expiry Date and the provisions of clause 14 shall apply

2 PAYMENT

- 2(a) During the period between 1st June 2019 and 31st March 2020 Financial Year a maximum of £XXXXXX per annum shall be payable by the Council to the Service Provider for the Service
During the period 1st April 2020 and 31st March 2021 a maximum of £XXXXXX per annum shall be payable by the Council to the Service Provider for the Service
- 2(b) Payment will be made **quarterly in arrears** upon receipt of a **satisfactory invoice**
- 2(c) The Service Provider shall not make a charge to the Service User or any third party for the Service provided.
- 2(d) The Council reserves the right to set off against the Payment any sums owed or becoming due to the Council from the Service Provider.
- 2(e) The Service Provider shall not charge and the Council shall not be liable, for any expenses, charges, costs, fees except the Payment as set out in this Contract

- 2 (f) Unless otherwise agreed in writing by the Council, the Service Provider will pay any of its appointed Sub-contractors within the time period specified within the Sub-Contract but in any event no later than 30 days from receipt of an undisputed invoice.
- 2 (g) If either Party fails to make any Payment to the other Party under this Contract within 30 days of receipt of an undisputed invoice then the Party who should make payment shall pay interest on the overdue amount at the statutory rate above the Bank of England base rate from time to time further to the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after Judgment.

3 VAT

The Payment does not include VAT and if VAT is payable then the Council will pay this in addition to the Payment provided that the Service Provider supplies the Council with an appropriate VAT notice

4 COMPLIANCE

- 4(a) The Council undertakes to:
- 4(a)(i) make the Payments to the Service Provider in accordance with Clause 2
 - 4(a)(ii) liaise with the Service Provider regarding the provision of the Service where appropriate
 - 4(a)(iii) Save as provided in this Contract, no representations, warranties or conditions are given or assumed by the Council in respect of any information which is provided to the Service Provider by the Council and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.
 - 4(b)(iv) The Services shall only be performed/delivered by the Service Provider unless otherwise agreed in writing between the Parties
 - 4(b)(v) To support the national agenda of Public Health England the Service Provider will engage with relevant future public health initiatives .
 - 4(b)(vi) In performing his obligations under this Agreement, the Service Provider shall and shall ensure that each of its sub-contractors shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015
- 4(b) The Service Provider undertakes to comply with the following in the provision of the Service:
- 4(b)(i) provide the Service in accordance with the Specification and the Tender with all due diligence care and skill expected of a suitable and experienced provider of such services
 - 4(b)(ii) provide the Service in accordance with all current and relevant statutory provisions, regulations or other legislation from time to time in force relating to the provision of the Service to include but not limited to:
 - all standards required by Ofsted /Regulatory Bodies in order to maintain registration thereunder
 - the Data Protection Act Legislation and the Caldicott Principle
 - the Human Rights Act 1998. The Service Provider shall not do anything in breach of the Act.
 - the Health and Safety at Work Act 1974 and any relevant health and safety regulations approved codes of practice and HSE guidance and provide evidence of doing so to the Council at any time upon request

- Safeguarding Vulnerable Groups Act 2006; and
 - Where appropriate the Care Act 2014
- 4(b)(iii) ensure that every person employed by it in the provision of the Services is properly trained and instructed with regard to his/her tasks in relation to the Services and that its Staff, Subcontractors and agents will have the necessary skills, professional qualifications and experience to deliver the Service
- 4(b)(iv) ensure that it carries out its own risk assessments relevant to the Service
- 4(b)(v) ensure that it has a written procedure for dealing with complaints about the Service in accordance with clause 39 (Complaints) and shall provide a copy of the procedure and details of any complaints made about the Service to the Council upon request
- 4(b)(vi) ensure that no aspect of the Service funded by the Payment is or appears to be party political in intention use or presentation
- 4(b)(vii) acknowledge in all publicity wherever reasonably practicable the Council's funding of the Service
- 4(b)(viii) the Council's Multi Agency Adult Protection Policy and Procedures
- 4(b)(ix) ensure that Staff and Subcontractors are made aware of the Council's policy "Speaking Up About Wrongdoing" and that the details of this policy are fully explained to them and shall provide the Council with evidence of doing so upon request
- 4(b)(x) it will complete the Services by the Expiry Date
- 4(b)(xi) it will use its best endeavours to achieve and meet the Performance Indicators/Outcomes
- 4(b)(xii) it has full capacity and authority to enter into this Contract
- 4(b)(xiii) it has obtained all necessary and required licences, consents and permits to provide the Service and shall maintain such licences, consents and permits throughout the duration of the Term
- 4(b)(xiv) it shall be responsible for all costs, fees, expenses and charges for training necessary or required for its Staff , Subcontractors or agents to perform the Service
- 4(b)(xv) it warrants that none of its current Directors have been involved in liquidation or receivership or have any criminal convictions
- 4(b)(xvi) it will have adequate numbers of Staff to provide the Service
- 4(b)(xvii) before it engages or employs any person in the provision of the Services, or in any activity related to, or connected with, the provision of the Services the Service Provider must without limitation, complete the Employment Checks and any other checks required by the Disclosure and Barring Service; and shall procure in respect of all staff or potential staff or other persons intended to perform any part of the Services:
- 4(b)(xvii)(1) that each person being considered for engagement be questioned as to whether he/she has any convictions; and
- 4(b)(xvii)(2) that the results of a Disclosure and Barring Service (DBS) check of the most extensive available kind is obtained in accordance with Part V of the Police Act 1997 (as amended) and that each DBS check should include a search of the list held pursuant to the Protection of Children Act 1999 where the performance of the Service may involve contact with children and/or Safeguarding Vulnerable Groups Act 2006 where the performance of the Service may involve contact with vulnerable adults;and

4(b)(xvii)(3) where applicable, provide a copy of the DBS check results to the Council if requested

4(b)(xv11)(4) In line with the Council's requirements, DBS checks must be repeated by the Service Provider at its own expense every three (3) years

- 4 (c) the Service Provider warrants that the signing of this Contract on its behalf has been validly authorised and the obligations expressed as being assumed by the Service Provider under this Contract constitute valid legal and binding obligations of the Service Provider enforceable against the Service Provider in accordance with their terms.
- 4(d) If for any reason the Service Provider is unable to comply with any of its obligations under this Contract it shall notify the Authorised Officer forthwith in writing of its failure and the reasons. Compliance with this clause shall not prejudice the Council's rights under clauses 10 (Breach) and 13 (Termination)
- 4(e) The Service Provider shall provide to the Council a Parent Company Guarantee in the form annexed to this Contract or in a form agreed in writing by the Council upon the signing of this Contract] [NOT USED]
- 4(f) The Parties agree that there shall be, on dates to be agreed, regular informal reviews of the progress of the development of the Services between the Service Provider and the Council to ensure that the Performance Indicators/Outcomes* are being achieved. [NOT USED]
- 4(g) In the event that an informal review reveals that Performance Indicators/Outcomes* are not being met, a formal Review meeting shall take place between the Parties upon 14 days written notice being given to the Service Provider by the Council [NOT USED]
- 4.(h) The Review meeting shall record in writing any amendments to the Performance Indicators/Outcomes* agreed between the Council and the Service Provider. [NOT USED]
- 4.(i) Where following a Review, the Council acting reasonably determines that the Service Provider has not met the Performance Indicators/Outcomes* the Council may:
- 4.(i).(i) serve the Service Provider with a written notice ("Notice") within one month of the Review meeting specifying which of the Performance Indicators/Outcomes* it considers that the Service Provider has not met or failed to achieve and giving the Service Provider one calendar month from the date of the Notice to remedy the failure
- 4.(i).(ii) if after one calendar month from the date of the Notice the Service Provider has failed to remedy the failure specified in the Notice then this will be considered to be a breach of the terms of this Contract and the Contract may be terminated in accordance with the provisions contained in clause 13 (Termination) herein
- 4.(i).(iii) The Council shall take into account any verbal or written representations made by the Service Provider before proceeding to take any action to terminate this Contract pursuant to this clause.
- 4(j) The Service Provider acknowledges and confirms that:
- 4(j)(i) it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Council all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this Contract;
- 4(j)(ii) it has received all information requested by it from the Council pursuant to sub-clause 4(j)(i) to enable it to determine whether it is able to provide the Services in accordance with the terms of this Contract;
- 4(j)(iii) it has made and shall make its own enquiries to satisfy itself as

- to the accuracy and adequacy of any information supplied to it by or on behalf of the Council pursuant to sub-clause 4(j)(ii)
- 4(j)(iv) it has raised all relevant due diligence questions with the Council before the Commencement Date; and
- 4(j)(v) it has entered into this Contract in reliance on its own diligence as at the Commencement Date, the Service Provider warrants and represents that all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Council prior to execution of the Contract AND shall promptly notify the Council in writing if it becomes aware during the performance of this Contract of any inaccuracies in any information provided to it by the Council during such due diligence which materially and adversely affects its ability to perform the Services
- 4(j)(vi)
- 4(j)(vii) The Service Provider shall not be entitled to recover any additional costs from the Council which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Council by the Service Provider in accordance with sub-clause 4(j)(vi) save where such additional costs or adverse effect on performance have been caused by the Service Provider having been provided with fundamentally misleading information by or on behalf of the Council and the Service Provider could not reasonably have known that the information incorrect or misleading at the time such information was provided.
- 4(k) NOT USED
- 4(l) Within twenty six weeks of the last date of delivery of the Service and prior to the Expiry Date, the Council reserves the right to request the Service Provider to prepare and deliver to the Council a satisfactory Report recording the Outcomes/Performance together with its recommendations following the delivery of the Service.
- 4(m) If for any reason the Service Provider is unable to comply with any of its obligations under this Contract it shall notify the Council's Contracts Manager and appropriate Care Manager forthwith in Writing of its failure and the reasons. Compliance with this clause shall not prejudice the Council's rights under clauses 10 (Breach) and 16 (Termination, Extension & Suspension).
- 4(n) The Service Provider warrants that the signing [execution] of this on its behalf has been validly authorised and the obligations expressed as being assumed by the Service Provider under this Contract constitute valid legal and binding obligations of the Service Provider enforceable against the Service Provider in accordance with their terms.
- 4(o) The Service Provider warrants that:
- 4(o)(i) it has full capacity and authority to enter into this Contract
- 4(o)(ii) it has obtained all necessary and required licences, consents and permits to provide the Services
- 4(o)(iii) it shall be responsible for all costs, fees, expenses and charges for training necessary or required for the Staff to perform the Services
- 4(o)(iv) that none of its current Directors have been involved in liquidation or receivership or have any criminal convictions
- 4(p) The Service Provider will ensure that they make themselves aware, and operate to, local and national best practice guidelines, policies and protocols that are issued from time to time. The Service Provider should note that the Council may choose to undertake targeted monitoring around this requirement

5. AUTHORISED OFFICER AND SERVICE PROVIDER REPRESENTATIVE:

- 5(a) The Authorised Officer shall be appointed by the Council to act in the name of the Council for the purposes of the contract evidenced by this Contract.
- 5(b) The Service Provider shall appoint a Service Provider Representative to act in the name of the Service Provider for the purposes of the contract evidenced by this Contract
- 5(c) The Parties shall notify each other in writing of any replacement Authorised Officer or Service Provider Representative or if any person ceases to be either the Authorised Officer or Service Provider Representative.
- 5.(d) The Authorised Officer shall monitor on behalf of the Council, the provision of the Services supplied by the Service Provider and act as liaison officer with the Service Provider's Representative in respect of the operation of the Services. Any issues raised by the Authorised Officer with regard to the delivery of the Services shall in the first instance be addressed and dealt with by the Service Provider's Representative on the Service Provider's behalf.

6 VARIATION

This Contract may only be varied by consent of both of the Parties and any such variation must be in Writing and be annexed to this Contract.

7 AGENCY

- 7(a) The Service Provider is an independent party and nothing in this Contract shall render it an agent of the Council or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties and the Service Provider shall not hold itself out as the Council's agent nor shall it have the power or the right to bind the Council to any obligation.
- 7(b) Under the terms of this Contract the Service Provider shall not have and shall in no way represent itself as having the power to make vary discharge or waive any by-law or regulation of any kind

8 ACCOUNTING [NOT USED]

9 NOTICES

- 9(a) The Service Provider shall comply with and give any Notices required under the Contract or required by any Act of Parliament any instrument rule or order made under any Act of Parliament or any regulation or by-law of any local authority which may have jurisdiction in respect of the Service Provider.
- 9(b) Any Notice under this Contract must be in Writing (which for the purpose of this clause 9 does not include email transmissions) and must only be sent by:
9(b)(i) recorded delivery post or
9(b)(ii) personal delivery
- 9(c) The Service Provider's address for the purpose of delivery of a Notice is as set out above and all Notices sent to the Service Provider under this Contract must be sent to the Service Provider's Representative
- 9(d) The Council's address for the purpose of delivery of a Notice is Nigel Denton Procurement Manager, Shropshire Council Shirehall, Abbey Foregate, Shrewsbury SY2 6ND and a separate copy must also be sent to the Authorised Officer Service Manager – Children's Social Work Case Management and Disabled Children Team at Mount McKinley Building, Shrewsbury Business Park, Shrewsbury SY2 6FG
- 9(e) All such Notices if delivered by hand shall be deemed to be served immediately and if posted shall be deemed to have been served two days after the date when posted unless the party upon whom the Notice was purported to be served has informed the serving party within 24 hours of partial receipt that the Notice was not received in full.

10 BREACH

- 10(a) If the Council identifies areas of the Services which do not comply with the requirements of this Contract (including any Schedules to this Contract) it

- may send the Service Provider a non-compliance notice detailing
- (i) the areas of non-compliance;
 - (ii) the action to be taken; and
 - (iii) the date by which the action must be taken (which for the avoidance of doubt must not be a date less than 14 days from the date of the notice).
- 10(b) If the Service Provider fails to take any or all of the necessary action by the date given in the non-compliance notice, the Council may send the Service Provider a final non-compliance notice detailing
- (i) the areas of non-compliance;
 - (ii) the action to be taken; and
 - (iii) the date by which action must be taken (which for the avoidance of doubt must not be a date less than 14 days from the date of the notice).
- 10(c) If, in the reasonable opinion of the Council, the Service Provider fails to undertake all of the remedial actions in the [final] non-compliance notice by the due date the Council shall be entitled to take either of the following steps depending on the seriousness of the non-compliance (which in the event of dispute shall be determined in accordance with clause 15 (Disputes):
- (a) to make arrangements to take its own corrective action either itself or through the appointment of another Service Provider and to either:
 - (i) deduct all costs in connection therewith from any sums due or to become due to the Service Provider under the terms of this Contract;
 - or
 - (ii) to recover such sums from the Service Provider as a debt; and/or
 - (b) to terminate the Contract in accordance with clause 13 (Termination)
- 10(d) The following obligations are conditions of this Contract and any breach of them shall be deemed a fundamental breach which shall determine this Contract immediately by the giving of a written notice:
- 10(d)(i) Failure to comply with a Notice to remedy a breach 10(a)
 - 10(d)(ii) Assignment by the Service Provider of any of his obligations under this Contract without the prior written consent of the Council
 - 10(d)(iii) If the Service Provider is convicted of any offence the effect of which under the provisions of any legislation would prevent the Council from contracting with him or maintaining any existing contractual relationship
 - 10(d)(iv) If the Service Provider is issued with a notice from the Health and Safety Executive or Regulatory Bodies prohibiting it from operating

11 PREVENTION OF BRIBERY

- 11(a) The Service Provider:
- (i) shall not, and shall procure that all Service Provider Staff shall not, in connection with this Contract commit a Prohibited Act;
 - (ii) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Contract, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Contract.
- 11(b) The Service Provider shall:
- i) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
 - ii) the Service Provider shall, within 10 Working Days of a request from the Council, certify to the Council in writing (such certification to be signed by an officer of the Service Provider) the Service Provider's

compliance with this clause 11 and provide such supporting evidence of compliance with this clause 11 by the Service Provider as the Council may reasonably request.

- 11(c) If any breach of clause 11.1 is suspected or known, the Service Provider must notify the Council immediately.
- 11(d) If the Service Provider notifies the Council that it suspects or knows that there may be a breach of clause 11.1, the Service Provider must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for two years following the expiry or termination of this Contract.
- 11(e) The Council may terminate this Contract by written notice with immediate effect, and recover from the Service Provider the amount of any loss directly resulting from the cancellation, if the Service Provider or Staff (in all cases whether or not acting with the Service Provider's knowledge) breaches clause 11.1. At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 11.5, the Council shall give consideration, where appropriate, to action other than termination of this Contract unless the Prohibited Act is committed by the Service Provider or a senior officer of the Service Provider or by Staff, an employee, Sub-Contractor or supplier not acting independently of the Service Provider. The expression "not acting independently of" (when used in relation to the Service Provider or a Sub-Contractor) means and shall be construed as acting:
- a) with the authority; or,
 - b) with the actual knowledge;
- of any one or more of the directors of the Service Provider or the Sub-Contractor (as the case may be); or
- c) in circumstances where any one or more of the directors of the Service Provider ought reasonably to have had knowledge.
- 11(f) Any notice of termination under clause 11.5 must specify:
- (i) the nature of the Prohibited Act;
 - (ii) the identity of the party whom the Council believes has committed the Prohibited Act; and
 - (iii) the date on which this Contract will terminate.
- 11(g) Despite clause 15 (Disputes), any dispute relating to:
- (i) the interpretation of clause 11; or
 - (ii) the amount or value of any gift, consideration or commission,
- shall be determined by the Council and its decision shall be final and conclusive.
- 11(h) Any termination under clause 11.5 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

12 INDEMNITY AND INSURANCE

- 12(a) The Service Provider shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover, or in accordance with any legal requirement for the time being in force, in respect of all legal liability which may be incurred by the Service Provider, arising out of the Service Provider's performance of this Contract, including death or personal injury, loss of or damage to property or any other loss, and unless otherwise agreed with the Council such policy or policies of Public Liability and Employers Liability insurance shall provide for a minimum indemnity limit of £5,000,000 (FIVE MILLION POUNDS).
- 12(b) The Service Provider shall take out and maintain such insurances as are necessary to include any third party and passenger liability in respect of all vehicles used in the provision of the Service and any other category of insurance which the Council may reasonably require from time to time.

- 12(c) [NOT USED]
- 12(e) The Service Provider warrants that it has complied with this clause 12 and warrants that any insurance policy or policies effected and maintained in accordance with this clause do not contain any endorsements or exclusions which have the effect of voiding, reducing or limiting the cover required in respect of the Services.
- 12(f) The Service Provider shall prior to commencement of this Agreement provide the Council and thereafter upon request, or at least annually during the Term, with:
- (a) copies of the relevant insurance policy documents (including details of any warranties or exclusions); and
 - (b) receipts or other evidence of payment of the latest premiums due under those policies; and
 - (c) any other evidence reasonably requested by the Council to confirm that the required insurances are in force and effect and meet in full the requirements of this Clause 12.
- Receipt of such evidence by the Council shall not in itself constitute acceptance by the Council or relieve the Service Provider of any of its liabilities and obligations under this Agreement.
- 12(g) The Service Provider shall:
- (a) ensure nothing is done to invalidate any insurance policy or cause the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part, including ensuring that any warranties under the policy are complied with;
 - (b) notify the Council as soon as reasonably practicable when it becomes aware of any relevant fact, circumstance or matter which, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind suspend or void any insurance, or any cover or claim under any insurance in whole or in part.
- 12(h) For the avoidance of doubt, the terms of any insurance or the amount of cover shall not relieve the Service Provider of any liabilities under this Agreement.
- 12(i) Where the minimum limit of indemnity required in relation to any of the insurances is specified as being "in the aggregate":
- 12(i)(i) if a claim or claims which do not relate to this Agreement are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Service Provider shall immediately submit to the Council:
 - (a) details of the policy concerned; and
 - (b) its proposed solution for maintaining the minimum limit of indemnity specified; and
 - 12(i)(ii) if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Agreement are paid by insurers, the Service Provider shall:
 - (a) ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Agreement; or
 - (b) if the Service Provider is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to the Council full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

- 12(j) The Service Provider shall indemnify the Council against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Council arising out of or in connection with:
- (a) The performance, defective performance or otherwise of this Contract by the Service Provider or the Service Provider Personnel
 - (b) Any claim made against the Council for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with the provision of the Services
 - (c) Any claim made against the Council by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Contract by the Service Provider or the Service Provider Personnel; and
 - (d) Any claim made against the Council by a third party for death, personal injury or damage to property arising out of, or in connection with the delivery of the Services and performance of this Contract to the extent that the defective performance is attributable to the acts or omissions of the Service Provider or the Service Provider Personnel
- 12(k) The Council shall indemnify the Service Provider against all reasonable claims, costs and expenses which the Service Provider may incur and which arise, directly from the Council's breach of any of its obligations under this Contract
- 12(l) Nothing in this Contract shall limit or exclude the liability of either Party for:
- (a) death or personal injury resulting from negligence; or
 - (b) fraud or fraudulent misrepresentation; or
 - (c) the indemnities given in this clause 12

13 TERMINATION

- 13(a) This Contract may be terminated prior to the Expiry Date in the following circumstances:-
- 13(a)(i) by either the Council or the Service Provider upon giving 9 months' Notice in Writing to the other Party
 - 13(a)(ii) by the Council giving the Service Provider written notice to terminate if, in the reasonable opinion of the Council as a result of any investigations undertaken in accordance with its safeguarding procedures, it considers there is or has been any improper conduct on the part of the Service Provider or its Staff to the effect that it is no longer practicable for the Council to maintain a satisfactory or viable relationship with the Service Provider. Improper conduct includes any unlawful or fraudulent act or any action which the Council considers to be to the detriment of the welfare of any Service User either by action or neglect.
 - 13(a)(iii) in accordance with clause 10 (Breach) or Clause 11 (Prevention of Bribery)
 - 13(a)(iv) if the Service Provider becomes the subject of a voluntary arrangement under section 1 Insolvency Act 1986 or is unable to pay its debts within the meaning of section 123 Insolvency Act 1986; has a receiver manager administrator or administrative receiver appointed over all or any parts of its undertaking assets or income; has passed a resolution for its winding up; has a petition presented to any court for its winding up or for an administration order; or if any distraint execution or other process is levied or

enforced on any property of the other and is not paid out withdrawn or discharged within 14 days

- 13(a)(v) the Service Provider ceases to carry on its business or substantially the whole of its business
 - 13(a)(vi) the other Party commits a series of minor breaches which, when taken together, amount to a material breach;
 - 13(a)(vii) either Party commits a material breach of this Contract which cannot be remedied under any circumstances
 - 13(a)(viii) The Council may terminate this Contract forthwith by notice where the Service Provider commits a material breach as a result of a failure to comply with a non-compliance notice issued in accordance with clause 10.
 - 13(a)(viii)by the Council if in the reasonable opinion of the Council it is no longer practicable to maintain a satisfactory or viable relationship with the Service Provider because the Service Provider or its Staff have acted unlawfully or fraudulently or there has been a serious breakdown of mutual trust between the Parties
- 16(f) Whilst this Contract affords the Council and the Service Provider reciprocal rights to terminate as per the terms of Clause 16(b)(i) the Parties acknowledge that the expectation of most Service Users is that the Parties will not act unreasonably or to the prejudice of the Service Users so far as is reasonably **practicable**.
- 13(b) In the event of this Contract being terminated at any time prior to the Expiry Date for any reason then the Council's obligations under Clause 2 (Payment) will cease no further Payments will be made and the Service Provider shall repay to the Council all (if any) of the Payments already received (after the liabilities of the Service Provider in the provision of the Service in accordance with this Contract have been met)
- 13(c) Without prejudice to the generality of the foregoing the Council reserves the right to suspend referrals to the Service where in the reasonable opinion of the Council there is any improper conduct on the part of the Service Provider or its Staff and this will be considered a breach of this Contract which may result in the suspension of referrals and or reduction / clawback of part of the Payment consistent with the reduction in Service. Improper conduct includes any action which the Council may reasonably consider to be to the detriment of the welfare of Service Users either by action or neglect including but not limited to:
- 13(c)(i) Fraud or theft from Service Users
 - 13(c)(ii) Neglect of Service Users
 - 13(c)(iii) Cruelty and assault to or upon Service Users including verbal and any other forms of psychological abuse
 - 13(c)(iv) Financial malpractice
 - 13(c)(v) Sexual relationships between Staff and Service Users
 - 13(c)(vi) Racial harassment
 - 13(c)(vii) Loss of registration with Regulatory Bodies
 - 13(c)(viii) Under investigation by the Council
- 13(d) In the event that the Contract is terminated pursuant to Clause 10(Breach) or 11 (Prevention of Bribery) above or this Clause 13 (Termination) the Council shall:
- 13(d) (i) cease to be under any obligation to make further Payment until the cost loss and/or damage resulting from or arising out of the termination of the Contract shall have been calculated and provided such

- calculation shows a sum or sums due to the Service Provider;
- 13(d) (ii) be entitled to make other arrangements and if necessary pay other persons to provide the Service
- 13(d) (iii) be entitled to deduct from any sum or sums which would have been due from the Council to the Service Provider under this Contract or be entitled to recover the same from the Service Provider as a debt any loss or damage to the Council resulting from or arising out of the termination of this Contract and further such loss or damage shall include the reasonable cost to the Council of the time spent by its officers in terminating this Contract and in making alternative arrangements for the provision of the Service provided that the Council will be under a duty to take all reasonable action to mitigate the loss or damage pursuant to this clause.
- 13(e) Where notice to terminate is given pursuant to this clause 13, this Contract shall terminate with effect on the date specified in the notice
- 13(f) NOT USED
- 13(g) Whilst this Contract affords the Council and the Service Provider reciprocal rights to terminate as per the terms of Clause 13(a)(i) the Parties acknowledge that the expectation of most Service Users is that the Parties will not act unreasonably or to the prejudice of the Service Users so far as is reasonably **practicable**.

14 CONSEQUENCES OF TERMINATION

- 14(a) Other than as set out in this Contract, neither Party shall have any further obligations to the other under this Contract after its termination
- 14(b) Any provision of this Contract which expressly or by implication is intended to come into or continue in force on or after termination of this Contract shall remain in full force and effect
- 14(c) Termination of this Contract for any reason, shall not affect the accrued rights, remedies obligations or liabilities of the Parties existing at termination
- 14(d) Notwithstanding its obligations in this clause 14 if a Party is required by law, regulation, or government or regulatory body to retain any documents or materials containing the other Party's Confidential Information, it shall notify the other Party in writing of such retention, giving details of the documents and/or materials it must retain.
- 14 (e) upon termination of this Contract for any reason, the Service Provider shall, at its own cost, deliver, and require that its employees, agents and sub-contractors deliver, to the Council all information and any other property of the Council which are in the possession or control of the Service Provider or the Service Provider's Staff or Sub-Contractors at the date of termination.

15 DISPUTES

- 15(a) If any dispute or difference shall arise between the Parties as to the construction of this Contract or any matter or thing of whatever nature arising under this Contract or in connection with it then the same shall be dealt with as follows:-
- 15(a)(i) in the first instance a special meeting of both the Parties shall be arranged on 14 days written notice to the other party and the matter shall be discussed and the Authorised Officer and the Service Provider's Representative shall use their reasonable endeavours to resolve the dispute
- 15(b) If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Service Manager – Children's Social Work Case Management and Disabled Children Team at Mount McKinley Building, Shrewsbury Business Park, Shrewsbury SY2 6FG and the

Service Provider's [add in here senior but current post] with notice of the dispute and they shall then appoint their representative to adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such notice

- 15(c) if the Council's [SENIOR OFFICER] and the Service Provider [SENIOR OFFICER TITLE] are for any reason unable to resolve the Dispute within [30] days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than [NUMBER] days after the date of the ADR notice
- 15(d) The commencement of mediation shall not prevent the parties commencing or continuing [court or arbitration] proceedings in relation to the Dispute under clause 21 which clause shall apply at all times

16 ASSIGNMENT AND SUB-CONTRACTING

- 16(a) Neither Party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Contract without the prior written consent of the other Party PROVIDED that the Council may,
- (a) assign any of its rights under this Contract; or
 - (b) transfer all of its rights or obligations by novation, to another person.
- without the Service Provider's consent where such assignment, transfer or novation is to an Associated Person of the Council;
- 16(b) Any consent required under Clause 16(a) must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.
- 16(c) The Service Provider will not, without the written consent of the Council, sub-contract its right or obligations under this Contract nor allow Services to be provided other than through the Service Provider's Staff and using its own equipment.
- 16(d) In the event that consent is given by either Party to the other Party to the placing of sub-contracts, copies of each sub-contract and order shall be sent by the sub-contracting Party to the consenting Party immediately it is issued
- 16(e) In the event that either Party wishes to assign its rights and obligations under this Contract, the assignor must obtain a written undertaking from the assignee to the consenting Party that it will be bound by the obligations of the assignor under this Contract.
- 16(f) The Service Provider must notify the Council if:
- 16(f)(i) there is a change in the control of the majority of the shares in or the voting rights amongst shareholders or members of the Service Provider's organisation
 - 16(f)(ii) it merges with another organisation
 - 16(f)(iii) it transfers its engagements to another organisation
 - 16(f)(iv) it in any way transfers its business to another organisation
 - 16(f)(v) as a result of any misconduct or mismanagement on the part of the Service Provider or a Regulatory Bodies directing an inquiry into or making an order of any kind in relation to the Service Provider's affairs; or
 - 16(f)(vi) any registration which the Service Provider must maintain in order to provide any of the Service is withdrawn or cancelled or is threatened to be withdrawn or cancelled
- 16(g) The Council reserves the right to share any information with any Regulatory Bodies about the Service Provider, Service Provider Staff or Service Users

regarding the provision of the Service to investigate and safeguard the well-being of Service Users

- 16(h) If 20% of the Service Provider's overall workforce is made up of people from agencies (or not employed directly by the Service Provider) then this may be considered assignment or subcontracting of the Service Provider's obligations under this Contract and require written consent of the Council which it shall be absolutely entitled to withhold.
- 16(i) If the Council does give consent to subcontract the carrying out of the Service Provider's obligations under this Contract the Council can subsequently withdraw its consent provided that it acts reasonably in doing so and gives reasonable notice. The Service Provider will be required to terminate the subcontract in these circumstances.
- 16(j) In the event that consent is given by the Council it will not relieve the Service Provider of its obligations under this Contract and the Service Provider will remain responsible for the acts, defaults and neglect of any Sub Contractor or any employee agent of each Sub Contractor as if they were the acts defaults and neglect of the Service Provider. If consent is given to subcontract any part of the Service the Service Provider will ensure that the Sub Contractor agrees with the Council that it will carry out the obligations to the standard required of the Service Provider under the terms of this Contract

17 FORCE MAJEURE

- 17(a) Subject to the provisions of clause 17(b) neither the Service Provider nor the Council shall be liable for any delay or failure in performing its obligations hereunder for any circumstances beyond its reasonable control such as (but not restricted to) flood fire and civil unrest but the Council shall in such circumstances be entitled to take such action as is reasonable and necessary to protect the interest of the Service Users
- 17(b) Save where such delay or failure is caused by the act or omission of the other Party (in which event the rights remedies and liabilities of the Parties shall be those conferred and imposed by the other terms of this Contract and by law):-
- 17(b)(i) any charges arising from such delay or failure shall be borne by the Party incurring the same
- 17(b)(ii) either Party may if such delay or failure continues for more than 90 (ninety) days terminate this Contract forthwith on giving Notice (as determined by Clause 9) to the other Party in which event neither Party shall be liable to the other by reason of such termination
- 17(c) For the avoidance of doubt "force majeure" shall not include any labour dispute between the Council and its Staff or Service Provider and its Staff or the failure to provide the Service by any of the Service Provider's Subcontractors

18 WAIVER

Failure at any time by either Party to enforce at any time or for any period any one or more of the provisions hereof shall not be construed as a waiver of any such provisions and shall not affect the validity or any part of it or the right of either party to enforce any provision of this Contract in accordance with its terms at any time

19 SEVERANCE

If any provision of this Contract prohibited by law or judged by any court of competent jurisdiction to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Contract and rendered ineffective as far as possible without modifying the remaining provisions of this Contract and shall not in any way affect any other circumstances of or the validity or enforcement of this Contract

20 STATUTORY DUTIES

- 20(a) The Council has various statutory duties in relation to this Contract including (but not exclusively) under Part 1 of the Local Government Act 1999 (Best Value) to carry out a regular review of the Service
- 20(b) The Service Provider their staff and Subcontractors must fully co-operate with the Council in complying with any such statutory duty and subject to the provision of the Data Protection Act Legislation the Service Provider must provide to the Council any information facilities and assistance that the Council may reasonably request provided the Council has given the Service Provider reasonable notice and also provided that this does not put the Service Provider to unnecessary cost

21 GOVERNING LAW

It is the responsibility of the Service Provider to comply with all relevant European and English legislation. This Contract shall be governed by and construed in accordance with English Law and the Parties agree to submit to the exclusive jurisdiction of the English and Welsh Courts.

22 CONFLICT OF TERMS

If there is any ambiguity or inconsistency in or between the Contract Documents the Council shall determine, at its sole discretion, the priority of the documents.

23 RIGHTS OF THIRD PARTIES

The Parties to this Contract, except where otherwise expressly stated in this Contract, do not intend that any of its terms will be enforceable by any person not a party to it by virtue of the Contract (Rights of Third Parties) Act 1999 (or any amendment or re-enactment thereof)

24 REMEDIES CUMULATIVE

Any remedy or right which either party may exercise in relation to a breach shall be in addition to and shall be capable of being exercised without prejudice to all other rights and remedies available under the Contract

25 COUNCIL COMMITTEE MEETINGS

The Service Provider agrees that where requested in writing during the term of this Contract it will ensure that an appropriately authorised representative of the Service Provider shall attend a Committee meeting of the Council, at its own expense, upon being invited to do so by the Council

26 CONCLUSION OF CONTRACT

Upon the expiry or termination of this Contract and upon the Council's request the Service Provider must give (or at the written request of the Council destroy) to the Authorised Officer or any person the Council specifies all data information files records documents and the like (in whatever form that they may be held) which the Council earlier supplied to the Service Provider for the purposes of this Contract or which were produced or augmented by the Service Provider in connection with the carrying out of obligations under this Contract

27 SUSTAINABILITY

The Service Provider will at all times use its best endeavours to source all materials used to provide the Service from sustainable and renewable source and will demonstrate how they contribute to the achievements of the Council's Sustainability Policy and guidance notes

28 FREEDOM OF INFORMATION ACT 2000 (FOIA) AND ENVIRONMENTAL REGULATIONS 2004 (EIR)

- 28(a) The Service Provider acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.
- 28(b) The Service Provider shall notify the Council of any Commercially Sensitive Information provided to the Council together with details of the reasons for its

- sensitivity and the Service Provider acknowledges that any lists or schedules of Commercially Sensitive Information so provided are of indicative value only and that the Council may be obliged to disclose such information.
- 28(c) The Service Provider shall :
- 28(c)(i) transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
 - 28(c)(ii) provide the Council, at the Service Provider's expense, with a copy of all Information in its possession, or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council's request; and
 - 28(c)(iii) provide, at the Service Provider's expense, all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
 - 28(c)(iv) ensure that any Subcontractor also complies with the provisions detailed above
- 28(d) The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations and in considering any response to a Request for Information the Council may consult with the Service Provider prior to making any decision or considering any exemption.
- 28(e) In no event shall the Service Provider respond directly to a Request for Information unless expressly authorised to do so by the Council.
- 28(f) The Service Provider acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Service Provider or the Services:
- 28(f)(i) in certain circumstances without consulting the Service Provider; or
 - 28(f)(ii) following consultation with the Service Provider and having taken their views into account; provided always that where sub-clause 28(f)(i) above applies the Council shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Service Provider advanced notice, or failing that, to draw the disclosure to the Service Provider's attention after any such disclosure.
- 28(g) The Service Provider shall ensure that all Information required to be produced or maintained under the terms of this Contract, or by Law or professional practice or in relation to the Contract is retained for disclosure for at least the duration of the Contract plus one year together with such other time period as required by the Contract, law or practice and shall permit the Council to inspect such records as requested from time to time.
- 28(h) The Council shall in no event be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA, or any other Law, of any information (including Exempt Information) whether relating to this Contract or otherwise relating to any other party.

29 CONFIDENTIAL INFORMATION

- 29(a) The Service Provider will keep confidential any information it becomes aware of by reason of the operation of this Contract and any other information which the Council may from time to time determine as relevant to this Contract and shall not use divulge or communicate the same to any third party without the consent in writing of the Council.
- 29(b) The Service Provider shall at all times keep confidential all information held or known in respect of its past or present Service Users.
- 29(c) NOT USED
- 29(d) Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each Party shall:
 - 29(d)(i) treat the other Party's Confidential Information as confidential; and
 - 29(d)(ii) not disclose the other Party's Confidential Information to any other person without the owner's prior written consent
- 29(e) Clause 29(d) shall not apply to the extent that:
 - 29(e)(i) such disclosure is a requirement of law placed upon the party making the disclosure, including any requirements for disclosure under the Audit Commission Act 1998 or under the FOIA or the Environmental Information Regulations pursuant to the above clause regarding Freedom of Information
 - 29(e)(ii) such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner
 - 29(e)(iii) such information was obtained from a third party without obligation of confidentiality
 - 29(e)(iv) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract
 - 29(e)(v) it is independently developed without access to the other party's Confidential Information.
- 29(f) The Service Provider may only disclose the Council's Confidential Information to the Service Provider's Staff who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Service Provider's Staff are aware of and shall comply with these obligations as to confidentiality.
- 29(g) The Service Provider shall not, and shall procure that the Service Provider's Staff do not, use any of the Council's Confidential Information received otherwise than for the purposes of this Contract.
- 29(h) The Service Provider shall ensure that its Staff, employees and agents are aware of and comply with this Clause 29 and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of confidence by the Service Provider, its Staff or agents.
- 29(i) The Service Provider shall ensure that its Staff and agents are aware of and comply with **Schedule 3 Service Standards** and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of confidence by such persons mentioned above.
- 29(j) The Service Provider its Staff and any person employed or engaged by the Service Provider in connection with this Contract shall:
 - 29(j)(i) only use the Confidential Information for the purposes of this Contract
 - 29(j)(ii) not disclose any of the Confidential Information to any third party without the prior written consent of the Council which consent the Council shall be absolutely entitled to refuse
 - 29(j)(iii) not use the Confidential Information for the solicitation of business from the Council

- 29(k) Nothing in this Contract shall prevent the Council from disclosing the Service Provider's Confidential Information:
- 29(k)(i) to any consultant, contractor or other person engaged by the Council
 - 29(k)(ii) for the purpose of the examination and certification of the Council's accounts or any other form of audit of the Council.
- 29(l) The Council shall use all reasonable endeavours to ensure that any government department, employee, third party or Sub-contractor to whom the Service Provider's Confidential Information is disclosed pursuant to this Contract is made aware of the Council's obligations of confidentiality.
- 29(m) The provisions of this Clause shall survive the expiration or termination of this Contract.

30 CONTRACT STATUS AND TRANSPARENCY

- 30(a) Further to the Local Government Transparency Code 2015 the Council is obliged to publish details of expenditure exceeding £500. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract and any associated tender documentation provided by the Service Provider (the Tender Submission)] is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Contract or the tender submission is exempt from disclosure in accordance with the provisions of the FOIA.
- 30(b) Notwithstanding any other term of this Contract, the Service Provider hereby gives his consent for the Council to publish this Contract and any tender submission in its entirety, including from time to time agreed changes to the Contract, to the general public.
- 30(c) The Council may consult with the Service Provider to inform its decision regarding any exemptions but the Council shall have the final decision in its absolute discretion.
- 30(d) The Service Provider shall assist and cooperate with the Council to enable the Council to publish this Contract and any tender Submission.

31 COUNCIL DATA

- 31(a) The Service Provider shall not delete or remove any copyright or proprietary notices contained within or relating to the Council Data.
- 31(b) The Service Provider shall not store, copy, disclose, or use the Council Data except as necessary for the performance by the Service Provider of its obligations under this Contract or as otherwise expressly authorised in writing by the Council and in particular the Service Provider shall not store any Council Data, which the Council has notified the Service Provider requires storage in an encrypted format, on any portable device or media unless that device is encrypted.
- 31(c) To the extent that Council Data is held and/or processed by the Service Provider, the Service Provider shall supply that Council Data to the Council as requested by the Council in any format specified reasonably requested by the Council.
- 31(d) The Service Provider shall take responsibility for preserving the integrity of Council Data and preventing the corruption or loss of Council Data and shall take such back- up copies of the Council Data at regular intervals appropriate to the frequency of the revision of the Council Data.
- 31(e) The Service Provider shall ensure that any system on which the Service Provider holds any Council Data, including back-up data, is a secure system that complies with the Council's security policy to include, but not limited to, the following requirements:
- 31(e)(i) Access to the system is restricted to Service Provider Staff with a legitimate need to access the Council Data

- 31(e)(ii) The system is kept up to date with the latest versions of operating system and anti-virus updates
- 31(e)(iii) Transfer of data to and from the system is conducted in a secure manner
- 31(f) If the Council Data is corrupted, lost or sufficiently degraded as a result of the Service Provider's default so as to be unusable, the Council may:
 - 31(f)(i) require the Service Provider (at the Service Provider's expense) to restore or procure the restoration of Council Data as soon as practicable; and/or
 - 31(f)(ii) itself restore or procure the restoration of Council Data, and shall be repaid by the Service Provider any reasonable expenses incurred in doing so including the restoration of the Council's Data.
- 31(g) If at any time the Service Provider suspects or has reason to believe that Council Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Service Provider shall notify the Council via the Council's ICT Helpdesk immediately and inform the Council of the remedial action the Service Provider proposes to take.
- 31(h) The Service Provider shall check for and delete Malicious Software and if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Council Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.
- 31(i) Any cost arising out of the actions of the parties taken in compliance with the provisions of sub-clause 31(h) above shall be borne by the Parties as follows:
 - 31(i)(i) by the Service Provider where the Malicious Software originates from the Service Provider Software, the Third Party Software or the Council Data (whilst the Council Data was under the control of the Service Provider); and
 - 31(i)(ii) by the Council if the Malicious Software originates from the Council Software or the Council Data (whilst the Council Data was under the control of the Council).

32 PROTECTION OF PERSONAL DATA

- 32(a) The Service Provider shall:
 - 32(a)(i) Process the Personal Data only in accordance with the Data Protection Legislation and in particular GDPR
 - 32(a)(ii) Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by law or any regulatory body
 - 32(a)(iii) Implement appropriate technical and organisational measures, including but not limited to ensuring that Personal Data is not stored on any portable equipment or storage device or media unless encrypted, to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected
 - 32(a)(iv) Take reasonable steps to ensure the reliability of any Service Provider Staff who have access to the Personal Data
 - 32(a)(v) Obtain prior written consent from the Council in order to transfer the Personal Data to any Sub-contractors or agents for the provision of the Services.

- 32(a)(vi) Ensure that all Service Provider Staff required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Protection of Personal Data clause.
- 32(a)(vii) The sharing of individual identifiable information between organisations for the provision of coordinated and seamless care must comply with the necessary statutory legal requirement and satisfy the Caldicott principles of safeguarding confidential information.
- 32(a)(viii) Notify the Council (within five Working Days) if it receives:
 - a) a request from a Data Subject to have access to that person's Personal Data; or
 - b) a complaint or request relating to the Council's obligations under the Data Protection Legislation.
- 32(a)(ix) Provide the Council with full cooperation and assistance in relation to any complaint or request made, including by:
 - a) providing the Council with full details of the complaint or request
 - b) complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Council's instructions
 - c) providing the Council with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Council)
 - d) providing the Council with any information requested by the Council
- 32(a)(x) Permit the Council (subject to reasonable and appropriate confidentiality undertakings) to inspect and audit the Service Provider's data processing activities (and/or those of its agents, subsidiaries and Sub-Contractors) and comply with all reasonable requests or directions by the Council to enable the Council to verify and/or procure that the Service Provider is in full compliance with its obligations under this Contract.
- 32(a)(xi) Provide a written description of the technical and organisational methods employed by the Service Provider for processing Personal Data (within the timescales required by the Council).
- 32(a)(xii) Not process Personal Data outside the United Kingdom without the prior written consent of the Council and, where the Council consents to a transfer, to comply with:
 - a) the obligations of a Data Controller under the GDPR by providing an adequate level of protection to any Personal Data that is transferred; and
 - b) any reasonable instructions notified to it by the Council
- 32(b) The Service Provider shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Council to breach any of its applicable obligations under the Data Protection Legislation.
- 32(c) The Service Provider shall ensure that its Staff, employees and agents are aware of and comply with this clause and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of this clause.

33 DATA PROTECTION

- 33(a) Both parties will comply with all applicable requirements of the Data Protection Legislation and agree to take account of any guidance issued by

the Information Commissioner's Office. This clause 33 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

- 33(b) Where there is any conflict, ambiguity or inconsistency between this clause (including any associated definitions) and the remainder of this Agreement this clause 33 shall take precedence.
- 33(c) The Parties acknowledge that for the purposes of the Data Protection Legislation, the Council is the Data Controller and the Service Provider is the Data Processor unless otherwise specified in **Schedule 8**. The only processing that the Data Processor is authorised to do is listed in **Schedule 8** by the Data Controller and may not be determined by the Processor.
- 33(d) The Service Provider shall notify the Council immediately if it considers that any of the Council's instructions infringe the Data Protection Legislation.
- 33(e) The Service Provider shall provide all reasonable assistance to the Council in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Council, include:
 - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 33(f) The Data Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
 - (a) process that Personal Data only in accordance with Schedule 6 unless the Processor is required to do otherwise by Law. If it is so required the Data Processor shall promptly notify the Data Controller before processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the
 - (i) the nature of the data to be protected;
 - (ii) the harm that might result from a Data Loss Event;
 - (iii) the state of technological development; and
 - (iv) the cost of implementing any measures;
 - (c) ensure that :
 - (i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (**and in particular Schedule 8**);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Data Processor's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Data Processor or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in

- writing to do so by the Data Controller or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
 - (E) are obliged to keep the Personal Data confidential; and
 - (F) shall not store any Personal Data on any portable device or media unless that device is encrypted and
 - (d) not transfer Personal Data outside of the EU unless the prior written consent of the Data Controller has been obtained and the following conditions are fulfilled:
 - (i) the Data Controller or the Data Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Data Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Data Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Data Controller in meeting its obligations); and
 - (iv) the Data Processor complies with any reasonable instructions notified to it in advance by the Data Controller with respect to the processing of the Personal Data;
 - (e) at the written direction of the Data Controller, delete or return Personal Data (and any copies of it) to the Data Controller on termination of the Agreement unless the Data Processor is required by Law to retain the Personal Data.
- 33(g) Subject to clause 33(h), the Data Processor shall notify the Data Controller immediately if it:
 - (a) receives a Data Subject Request (or purported Data Subject Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - (f) becomes aware of a Data Loss Event.
- 33(h) The Data Processor's obligation to notify under clause 33(g) shall include the provision of further information to the Data Controller in phases, as details become available.
- 33(i) Taking into account the nature of the processing, the Data Processor shall provide the Data Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 33(g) (and insofar as possible within the timescales reasonably required by the Data Controller) including by promptly providing:
 - (a) the Data Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Data Controller to enable the Data Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection

- Legislation;
 - (c) the Data Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Data Controller following any Data Loss Event;
 - (e) assistance as requested by the Data Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Data Controller with the Information Commissioner's Office.
- 33(j) The Data Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Data Controller determines that the processing is not occasional;
 - (b) the Data Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
 - (c) the Data Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 33(k) The Data Processor shall allow for audits of its Data Processing activity by the Data Controller or the Data Controller's designated auditor.
- 33(l) Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
- 33(m) Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Data Processor must:
- (a) notify the Data Controller in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Data Controller;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 34(l) such that they apply to the Sub-processor; and
 - (d) provide the Data Controller with such information regarding the Sub-processor as the Data Controller may reasonably require.
- 33(n) The Data Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 33(o) The Data Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 33(p) The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Data Controller may on not less than 30 Working Days' notice to the Data Processor amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 33(q) **Where the Parties include two or more Joint Controllers as identified in Schedule 9 in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Schedule 9 in replacement of Clauses 33(a)-33(p) for the Personal Data under Joint Control.]**

34 COUNCIL DATA AND PERSONAL INFORMATION AUDITS

- 34(a) Except where an audit is imposed on the Council by a Regulatory body, the Council may, acting reasonably, conduct an audit for the following purposes:
- 34(a)(i) to review the integrity, confidentiality and security of the Council Data;

- 34(a)(ii) to review the Service Provider's compliance with the Data Protection Act Legislation, the Freedom of Information Act 2000 in accordance with the Protection of Personal Data and Freedom of Information clauses and any other legislation applicable to the Services;
- 34(b) The Council shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Service Provider or delay the provision of the Services.
- 34(c) Subject to the Council's obligations of confidentiality, the Service Provider shall on demand provide the Council (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
 - 34(c)(i) All information requested by the Council within the permitted scope of the audit;
 - 34(c)(ii) Reasonable access to any sites controlled by the Service Provider and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
 - 34(c)(iii) Access to Service Provider Personnel
- 34(d) The Service Provider shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Service Provider's performance of the Services.
- 34(e) The Council shall endeavour to (but is not obliged to) provide at least 5 Working Days notice of its intention to conduct an audit.
- 34(f) The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause.
- 34(g) This clause shall not apply to any audit or inspection regarding the provision of the Services specified in the Service Specification or elsewhere in this Contract which may be conducted as specified in this Contract.

35 EMERGENCY PLANNING

The Service Provider will ensure that it has business continuity plans in place for a range of emergency situations should they arise ie pandemic influenza, powers cuts etc and a copy must be sent to the Council upon request.

36 SAFEGUARDING

- 36(a) Where the Service or activity being undertaken in this Contract is a Regulated Activity the Service Provider shall :
 - 36(a)(i) ensure that all individuals engaged in the provision of the Service or activity, and prior to commencing the provision of the service or activity, are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list or the children's barred list, as appropriate; and
 - 35(a)(ii) monitor the level and validity of the checks under this clause 36(a) for each member of the Service Provider's Staff.
- 36(b) The Service Provider warrants that at all times for the purposes of this Contract it has no reason to believe that any person who is or will be employed or engaged by the Service Provider in the provision of a Service or activity that is a Regulated Activity is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
- 36(c) The Service Provider shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 37 have been met.
- 36(d) The Service Provider shall refer information about any person carrying out the Services or the activity to the Disclosure and Barring Service where it removes permission for such person to carry out the Services or activity (or

- would have, if such person had not otherwise ceased to carry out the Services or the activity) because, in its opinion, such person has harmed or poses a risk of harm to the Service Users, children or vulnerable adults.
- 36(e) The Service Provider shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Service Users.
- 36(f) Where the Service Specification specifies that the Service or activity to be provided under this Contract involves a Regulated Activity, or the Council otherwise notifies the Service Provider, acting reasonably, that the Service Provider's Staff are required to be subject to a Disclosure and Barring Service check, the Service Provider shall comply with clause 35(b) above..
- 36(g) The Service Provider shall in addition to clauses 35 (a)-(f) above comply with the requirements set out in Schedule 7 (Safeguarding) to this Contract

37 EQUALITIES

- 37(a) The Service Provider and any Subcontractor employed by the Service Provider shall not unlawfully discriminate either directly or indirectly on such grounds as race or ethnic origin, disability, gender, sexual orientation, religion or belief, or age
- a) in the supply and provision of Service under this Contract, and
- b) in its employment practices.
- 37(b) Without prejudice to the generality of the foregoing, the Service Provider shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 (or other relevant legislation, or any statutory modification or re-enactment thereof).
- 37(c) In addition, the Service Provider and any sub-contractor or person(s) employed by or under the control of the Service Provider in providing services to the Council will comply with the general duty imposed on local authorities by Section 149 of the Equality Act 2010 to eliminate discrimination, harassment and victimisation and promote equality of opportunity between persons who share a protected characteristic and those who do not share it and to foster good relations between persons who share a protected characteristic and those who do not share it
- 37(d) The Service Provider and any Subcontractor will take all reasonable steps to observe as far as possible the Codes of Practice produced by Equality and Human Rights Commission, which give practical guidance to Councils on the elimination of discrimination.
- 37(e) In the event of any finding of unlawful discrimination being made against the Service Provider and any Subcontractor during the contract period, by any court or employment tribunal, or any adverse finding or formal investigation by the Equality and Human Rights Commission over the same period, the Service Provider and any Subcontractor shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
- 37(f) The Service Provider and any Subcontractor will take all reasonable steps to observe as far as possible the Codes of Practice produced by Equality and Human Rights Commission, which give practical guidance to Councils on the elimination of discrimination.
- 37(f) The Service Provider and any Subcontractor employed by the Service Provider will provide a copy of its policies to the Council at any time upon request. In addition, the Council may reasonably request other information from time to time for the purpose of assessing the Service Provider's compliance with the above conditions.

38 COMPLAINTS PROCEDURE

- 38(a) The Service Provider shall:
- 38(a)(i) inform complainants that they may refer their complaint in respect of the services provided under this Agreement direct to the Council;
 - 38(a)(ii) promptly (and in any event within two Working Days of receipt) refer all Formal Complaints received in respect of the services provided on behalf of the Council under this Agreement to the Council for resolution and
 - 38(a)(iii) co-operate fully in any Council investigation into a complaint referred to the Council and provide any documents or information reasonably requested by the Council in relation to the complaint within the timescales specified by the Council.
- 38(b) The Service Provider shall operate a complaints procedure in respect of any services provided under this Agreement, to the entire satisfaction of the Council, and comply with the requirements of any regulatory body to which the Service Provider is subject (including any change in such requirements) and ensure that its complaints procedure meets the following minimum standards:
- 38(b)(i) is easy to access and understand;
 - 38(b)(ii) informs complainants that they may refer their complaint in respect of services provided under this Agreement direct to the Council;
 - 38(b)(iii) clearly sets out time limits for the Service Provider to respond to complaints referred to it and for keeping the complainant and the Council informed of progress with such complaints;
 - 38(b)(iv) provides confidential record keeping to protect employees under this contract and the complainant
 - 38(b)(v) provides information to management so that services can be improved
 - 38(b)(vi) provides effective and suitable remedies
 - 38(b)(vii) is regularly monitored and audited and which takes account of complainant and Council feedback.
- 38(c) The Service Provider shall make its complaints procedure available upon request.
- 38(d) The Service Provider shall ensure that all its employees and persons employed in the performance of this Agreement are made aware of its complaints procedure.
- 38(e) Where the Service Provider is undertaking an investigation into a complaint, the Service Provider shall ensure that, under no circumstances, is the complaint investigated by a member of its staff who may be part of the complaint and that the investigation is carried out by someone who is independent of the matter complained of.
- 38(f) The Service Provider shall keep accurate and complete written records of all complaints received and the responses to them and shall make these records available to the Council on request or at 12 monthly intervals in any event.
- 38(g) The Service Provider should note that if a complaint is made to the Council by a third party relating to the goods, services or works provided on behalf of the Council under this Agreement, the Local Government Ombudsman has the power to investigate such a complaint and the Council requires the Service Provider to fully to co-operate in any such investigation. If the Council is found guilty of maladministration or injustice by the Local Government Ombudsman because of the act or default of the Service Provider the Service Provider shall indemnify the Council in respect of the costs arising from such maladministration or injustice.

39 INTELLECTUAL PROPERTY

- 39(a) In the absence of prior written agreement by the Council to the contrary, all Intellectual Property created by the Service Provider or any employee, agent or subcontractor of the Service Provider:
- 38(a)(i) in the course of performing the Services; or
 - 38(a)(ii) exclusively for the purpose of performing the Services, shall vest in the Council on creation.
- 39(b) Unless stated expressly in writing in this Contract, neither Party will acquire any ownership interest in or licence of the other's Intellectual Property by virtue of this Contract
- 39 (c) The Service Provider shall indemnify the Council against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the availability of the Services, except to the extent that they have been caused by or contributed to by the Council's acts or omissions.
- 39(d) This provision shall survive the expiration or termination of the Contract

40 PUBLIC INTEREST DISCLOSURE ('Whistleblowing')

The Service Provider will ensure that its Staff and Sub-contractors are made aware of the Council's policy "Speaking Up About Wrongdoing" and that the details of this policy are fully explained to them and shall provide the Council with evidence of doing so upon request.

41 PROJECT MATERIALS [NOT USED]

42 TUPE

Where a Relevant Transfer applies Schedule 5 of this Contract will apply.

43 ENTIRE AGREEMENT

This Contract contains the entire agreement between the Parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written.

SCHEDULE 1 : THE SPECIFICATION

PLEASE SEE SPECIFICATION IN INVITATION TO TENDER DOCUMENT

DRAFT

SCHEDULE 2 : PERFORMANCE AND MONITORING

During the Term of the Contract the Council may monitor the provision of the Service to the Service Users as follows:

- 1.1 Quarterly monitoring and evaluation meetings may be held between the Service Provider and the Authorised Officer
- 1.2 The Service Provider may be asked to draft a written report for the Council on the provision of the Service to the Service users and email this to the Council's [officer name, title and office location] at least 2 weeks in advance of the meeting detailing the following:
 - update of the provision the Service to Service Users by the Service Provider
 - progress on meeting the Performance Indicators detailed above
 - Service User feedback on the Service
 - compliance with the contract ie Insurance requirements, payments etc
 - any issues, complaints, comments or compliments regarding the Service
 - finance report on expenditure
 - staff & volunteer that provide the Service (inc training and development)
- 1.3 The Council's [officer name, title and office location] is to be sent, annually and at the earliest opportunity following completion, two copies of the Service Provider's Annual Audited Accounts.
- 1.4 Other monitoring processes and visits to the Service may be undertaken by the Authorised Officer. The Service Provider must undertake to co-operate and allow reasonable access to staff and service records upon request, for monitoring purposes.
- 1.5 A Service Review may take place 12 months prior to the end of the Term to evaluate the effectiveness of the Service and a report will be required of the Service Provider detailing:

aggregated monitoring information for the Term
a report against the Performance Indicators/Outcomes and Outputs
the changing need/demand of Service Users using the Service (and) likely to be using the Service in the future
improvements new initiatives and problems that need to be considered or resolved
evaluation participation: Hear by Right standards & satisfaction survey

Officers of the Council may seek to monitor this Contract by:

- 1.6 visiting the premises where the Service is provided (announced or unannounced from time to time) to undertake a review on any or all aspects of the operation of the Service and compliance by the Service Provider with the terms set out in this Contract. The Council will have careful regard to the nature of the Service provided and shall when on premises controlled by the Service Provider respect Service Provider's rules as to security health and safety.
- 1.7 carrying out a quality assurance exercise which may involve contacting Service Users and/or their families and friends and ascertaining their views on the provision of the Service at the premises where the Service is provided.

The Service Provider will:

- 1.8 allow Officers of the Council access to the premises where the Service is provided (upon the production by Council Officers of an identity badge) to carry out a monitoring visit. This may include viewing the premises and all areas used for the provision of the Service such as Service Users' bedrooms (Council Officers shall have regard to Service Users' privacy) communal areas, kitchen, bathrooms, halls (and any areas that a Service User can gain access to) to

- monitor and observe the provision of the Service to Service Users as required under the terms of this Contract.
- 1.9 give assistance to Council Officers and prompt access to any file information or record it holds in respect of the Service User or the provision of Service to the Service Users as required by this Contract.
 - 1.10 Provide information to the Council that evidences that systems are in place and being used and the Service is being provided as required by this Contract
 - 1.11 allow Officers of the Council to speak to Service User's and Staff in private (the Council shall have regard to the Service Users needs and Staff needed on duty to provide the Service)
 - 1.12 access to all records or information on Service Users or the provision of the Service (this may include informal records such as staff handover book, staff rota)
 - 1.13 upon request provide photocopies of documentation (subject to the Council contributing to the Service Provider's reasonable photocopy costs)
 - 1.14 supplying to the Council upon request the names of Service Users who utilise the Service and/or any contact details the Service Provider holds for next of kin or family / friends of the Service User for the purpose of contacting them to ascertain their views of the Service provided.
 - 1.15 meet reasonable requests by Officers for information in order to investigate complaints made by Service Users; or to assess the financial viability of the Service Provider, the reliability of care provision throughout the Contract period, consistency and standards of care, the Service User's and/or their representative's views of the Service.
 - 1.16 The Service Provider will ensure that it obtains any necessary consent from Staff and/or Service Users to allow the Council access to files to monitor the provision of the Service.
 - 1.17 Will supply information which the Council may request from time to time in order to comply with Department of Health or Department of Children, Schools and Families requirements

SCHEDULE 3 : SERVICE STANDARDS

1. GUIDING PRINCIPLES FOR CHILDREN SERVICES

The Service Provider will provide a Service that is:

- 1.1 Safe – the Service Provider ensure the safety of Service Users and support Staff in the provision of the Service. This includes practice around needs assessments, risk assessments, safe recruitment, adherence to the procedures prescribed by Shropshire’s Safeguarding Children Board (SSCB) in relation to keeping children safe and general Health and Safety.
- 1.2 Inclusive – the Service Provider will seek to address and avoid ways in which children and young people (Service Users) are marginalised and subjected to discrimination. This includes conduct by Staff and a can-do approach, which seeks make children feel accepted and included.
- 1.3 Enabling – the Service Provider will encourage the rights of children and young people (Service Users) to make decisions about their own lives. This includes respect for confidentiality, fostering independence, enabling children and young people to reach their potential in childhood and subsequent adulthood. This also includes working in partnership with parents to achieve the same outcome.
- 1.4 Cooperative – the Service Provider will work in partnership with the key stakeholders in the Service : the commissioning organisation, the referrer , parents, children (Service Users), representatives from inspection or development agencies, representatives from forums representing Service Users and others, when necessary. This includes regular contract monitoring with the commissioning organisation and TUPE arrangements relating to change of providers. It also includes a commitment to work with and thus develop resources in the local community, for the long term benefit of families and children living in Shropshire.
- 1.5 Compliant – the Service Provider will work within the terms of this Contract, with skill, care and diligence. This includes compliance quality standards within this Contract, all statutory provision and guidance which apply to the Service and are issued by a registration body.

It is essential that all Staff that provide the Service are recruited to the Service meet the requirements of any relevant legislation (such as the Care Standards Act 2000 National Minimum Standard) and that all current Staff actively work towards these. It is essential that the Service Provider can prove that all managers can manage and are supported to achieve a Level 4 equivalent management qualification.

The Service Provider will ensure that all Staff receive effective supervision, appraisal and training on a regular basis.

- 1.6 Flexible – the Service Provider shall be able to respond quickly, thoughtfully and positively to the changing needs of the stakeholders and the wider strategic context. This principle is particularly important in the current context of further expected change: development of personalisation, SEND reforms, changes to public services and the ongoing challenge to seek more efficient ways of working
- 1.7 Transparent – the Service Provider will produce accurate, timely and comprehensive information about their Service in clear and simple language. This includes dealing with complaints and feedback, information about income and costs of the Service. Information will be required on time and in line with Schedule 2 Performance and Monitoring.

- 1.8 Self-aware – the Service Provider will promote a culture of learning and active participation with children (Service Users) and parents. It includes actively seeking feedback on its own performance, strengths and weaknesses. It uses the findings to improve performance, efficiency and to keep its range of activities fresh and popular.
- 1.9 Accountable – The Service Provider will have a reliable, trustworthy and robust infra-structure and leadership to manage the contractual requirements which contribute to the delivery of a safe and high quality Service. This includes assessment of Service Users needs, risk assessment of activities, management of finance and budget, management of information (service users, activities, impact) and relationship with stakeholders, approach to organisational policies and procedures, quality assurance and safe record keeping.
- 1.10 Good value for money – The Service Provider will make the best use of its resources and gives consideration to long-term sustainability. This includes seeking to avoid duplication, seeking best value with Subcontractors and its supply chain. This also includes putting any contributions made by parents to best use. This can also include seeking additional income from other sources to support the provision.

2. INFORMATION FOR SERVICE USERS

The Service Provider will produce information detailing the Services its philosophy and operation and ensure that it is available in an accessible format to all Service Users the Council and relevant agencies. The information must identify how a Service Users can make a complaint and policies concerning equal opportunities and confidentiality and when confidentiality will be breached.

3. PARTICIPATION

The Service Provider will ensure that:

- 3.1 Views (including complaints) of children/young people/families/carers about the Service are sought and recorded.
- 3.2 Children/young people/families/carers participate in the life of the Service in a range of ways.
- 3.3 The participation of children/young people/families/carers has made a difference to the way the Service is delivered.
- 3.4 The participation of children/young people/families/carers has made a difference to the way influencing on policy or practice locally or nationally is done.

4. COMPLAINTS

The Service Provider will in addition to its obligations under clause 38 (Complaints) ensure that:

- 4.1 ensure that it has an effective and easy to use complaints procedure.
- 4.2 make it easy for children, young people, Service Users and their families to raise concerns.
- 4.3 ensure that the Complaints Procedure follows specified timescales and has informal and formal parts.
- 4.4 make information about the complaints procedure widely known and may include information about the Social Services Complaints Procedure under Section 26 of the Children Act.
- 4.4 ensure that a suitable person investigates all aspect of the complaint promptly, decides whether the complaint is upheld and recommend remedies to be carried out within a specified timescale. That same person should ensure the child or young person Service User gets feedback about the outcome of his/her complaint and knows what to do if he/she is dissatisfied with the outcome.
- 4.5 make sure that any solutions are put in place straight away or within a set timescale.

- 4.6 record all complaints, both formal and informal and analyses the data annually and ensure that lessons are learned from the analysis and action taken where necessary.
- 4.7 keep accurate and complete written records of all complaints received and the responses to them and if required to do so by a Council' Officer shall make such records available to the Council.
- 4.8 assist the Council investigating a complaint by a Service User and participate in all complaint investigations within the timescales requested by the Council in accordance with SSCB procedures.
- 4.9 ensure that any complaint regarding possible physical, psychological, financial, sexual or discriminatory abuse or neglect should be reported immediately to COMPASS on 0345 678 9021 or 0345 678 9040 (after 5pm or weekends) and confirmed in writing as soon as reasonably practical but no later than five working days.
- 4.10 ensure that where a complaint is made against a member of the Staff this shall be investigated in accordance with the documented complaints procedure of the Service Provider. The Council's Multi Agency Adult Protection Policies and Procedures or Local Safeguarding Children Board Procedures should be followed and strictly adhered to in any case of actual or suspected abuse in all such cases the Service Provider shall notify the Council's Commissioning and Procurement Team of any complaints and actions taken in individual cases and the nature of the complaint if it is from a Service User.

5. POLICIES, PROCEDURES AND GUIDANCE

- 5.1 The Service Provider will ensure that it has appropriate policies, procedures and guidance in place for the provision of the Service and as a minimum on:
 - 5.1.1 Operational policies on the recruitment, management and training of Staff .
 - 5.1.2 Grievance and disciplinary procedures.
 - 5.1.3 Health and Safety Policy
 - 5.1.4 Confidentiality record keeping and security policy.
 - 5.1.5 Lone/out of hours working policy.
 - 5.1.7 Risk Management policy and procedure.
 - 5.1.8 Complaints Policy
- 5.2 The Service Provider will ensure that all Staff used to provide the Service have access to copies of the Council's Safeguarding Children's Board Procedures and the Whistleblowing Policy
- 5.3 The Service Provider will ensure that all Staff have seen copies of the policies and procedures listed above in 5.1 and 5.2 (that are relevant to their duties and responsibilities) and sign a form (which will be held on their Staff file) which indicates that they have seen read and understood them

6. STAFF AND TRAINING

The Service Provider will ensure that:

- 6.1 all Staff are trained to do their job to a high standard and will access the appropriate and required training offered by the Council.
- 6.2 all Staff have clear job descriptions and person specifications and are sufficiently skilled with the required knowledge experience and training to undertake the role.
- 6.3 all Staff understand service structure, lines of accountability, policies and procedures and how their role is to be carried out and the responsibilities and outcomes for Service Users are achieved.
- 6.4 all Staff working in the Service with direct contact with Service Users undergo an enhanced search by the Disclosure and Barring Service (DBS)

- 6.5 it follows guidance issued by the DBS as to the level of disclosure required for each staff post and ensure that the code of practice for the DBS is strictly adhered to.
- 6.6 it keeps itself informed of and complies with all current legislation regarding the vetting and barring of Staff in particular the Safeguarding Vulnerable Groups Act 2006
- 6.7 the identity of all Staff will be verified prior to employment as will the authenticity of qualifications.
- 6.8 in the event of agency staff being used the Service Provider must ensure that the Agency has carried out thorough checks, including references and DBS clearance and that those staff are suitably skilled and trained to deliver the service.
- 6.9 conditions of service, salaries, taxes, National Insurance and all levies of any kind relating to the employment of persons employed by the Service Provider.
- 6.10 it notifies the Council of any of its Staff whose conduct places a Service User at risk or might bring the Council into disrepute and will ensure that they are the subject of immediate investigation by the Service Provider and dealt with to the satisfaction of the Council which might direct that the employee be removed from activities or the provision of the Service.

7 RECORD KEEPING

- 7.1 The Service Provider's facilities for storing records such as filing cabinets must be lockable and in a secure environment. Evidence must be available that any statutory requirements relating to the premises have been complied with.
- 7.2 Information recorded in respect of each Service User will meet regulatory standards in the case of regulated Services. Non statutory Services will ensure that essential records are kept regarding the support of all Service Users including identifying data, referral and allocation documents, support plans and service commencement date and termination date.
- 7.3 A register of all Staff must be maintained which should include the following information
 - 7.3.1 name, address and telephone number
 - 7.3.2 position held and hours worked
 - 7.3.3 emergency contact - name, address and telephone number
 - 7.3.4 date of issue of identification and retrieval if appropriate
 - 7.3.5 recruitment details including references, evidence of DBS disclosure and interview
 - 7.3.6 induction and training records
 - 7.3.7 copies of training certificates and qualifications
- 7.4 The Service Provider will ensure that each member of Staff are made aware that their files (with their permission) may be inspected by officers of the Council for the purpose of monitoring
- 7.5 In accordance with Caldicott recommendations and confidentiality requirements the Service Provider will ensure that:
 - 7.5.1 Service Users are able to find out how the Service Provider deals with confidential and sensitive information about them and should be given a leaflet (or other communication relevant to their level of understanding) that clearly explains what information is kept on them and how they can access this.
 - 7.5.2 Service Users and Staff have access to their personal records in private and as quickly as possible if requested and no later than 40 days whilst considering the interest of any third party information which can only be given with the third party's permission.
 - 7.5.3 When the Service User has examined the records they are signed and dated by a member of Staff to show they have been examined and by the Service User when possible.

- 7.5.4 Staff are required to sign and date an acknowledgement that they have examined records pertaining to them upon the fulfilment of their request.
- 7.5.5 It has a policy document that details Staff Code of Conduct in relation to confidentiality. This document must be shared with and understood by Staff used to provide the Service and regularly updated.
- 7.5.6 Staff induction contains training on confidentiality procedures. Staff files should evidence the date and nature of the induction on confidentiality that was given to new Staff.
- 7.5.7 Confidential and security training needs should be assessed on an ongoing basis taking into account the role of each member of Staff used to provide the Service and this should be done annually
- 7.5.8 Staff contracts explicitly mention confidentiality and disclosure issues
- 7.5.9 The flows of Service User information are reviewed
- 7.5.10 Information collections have a named owner (member of Staff) who is responsible for protecting access
- 7.5.11 Confidential information on Service Users is safeguarded so that unauthorised people do not gain access to it.
- 7.5.12 Protocols governing the sharing of Service User information with other organisations is agreed and understood
- 7.5.13 A named individual is appointed who will have responsibility for data security
- 7.5.14 It has a programme to review typical risks regarding Service Users identifiable information
- 7.5.15 Incidents involving security breaches are anticipated and dealt with appropriately
- 7.5.16 Security issues are monitored and reported
- 7.5.17 Passwords are used to safeguard information held on computer regarding the Service
- 7.5.18 Only authorised persons have access to information and only if they need it to carry out their roles.
- 7.5.19 If it is uncertain about the application of the above to the provision of the Service it will immediately contact the Council for clarification

SCHEDULE 4 : FINANCE

NOT USED

DRAFT

SCHEDULE 5 – TUPE

EMPLOYMENT PROVISIONS

Unless otherwise stated, the following definitions shall apply:

Data Protection Legislation: the Data Protection Act 1998 GDPR, the Data Protection Directive (95/46/EC), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

"Direct Loss" all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of reasonably and necessarily incurred legal or professional services), proceedings, demands and charges whether arising under statute, contract or at common law but, to avoid doubt, excluding Indirect Losses;

Effective Date: the date(s) on which the Services (or any part of the Services), transfer from the Council or any Former Provider to the Service Provider or Sub-Contractor, and a reference to the Effective Date shall be deemed to be the date on which the employees in question transferred or will transfer to the Service Provider or Sub-Contractor.

Employee Liability Information: the information that a transferor is obliged to notify to a transferee under regulation 11 of the Employment Regulations :

- (a) the identity and age of the employee;
- (b) the employee's written statement of employment particulars (as required under section 1 of the Employment Rights Act 1996);
- (c) information about any disciplinary action taken against the employee and any grievances raised by the employee, where a Code of Practice issued under Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 relating exclusively or primarily to the resolution of disputes applied, within the previous two years;
- (d) information about any court or tribunal case, claim or action either brought by the employee against the transferor within the previous two years or where the transferor has reasonable grounds to believe that such action may be brought against the Service Provider arising out of the employee's employment with the transferor;
- (e) information about any collective agreement that will have effect after the Effective Date or the Service Transfer Date, as the case may be, in relation to the employee under regulation 5(a) of TUPE.

Employee Liabilities: all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following:

- (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- (b) unfair, wrongful or constructive dismissal compensation;
- (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- (d) compensation for less favourable treatment of part-time workers or fixed term employees;
- (e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;
- (f) employment claims whether in tort, contract or statute or otherwise;
- (g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

Employment Regulations: the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other regulations implementing the Acquired Rights Directive ;

Former Provider: a provider supplying services to the Council before the Service Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such Provider (or any sub-contractor of any such sub-contractor);

Indirect Losses means loss of profits (other than profits directly and solely attributable to carrying on of the Business), loss of use, loss of production, increased operating costs, loss of business, loss of business opportunity, loss of reputation or goodwill or any other consequential or indirect loss of any nature, whether arising in tort or on any other basis;

Notified Sub-contractor: a Sub-contractor identified in Annex D to whom Transferring Council Employees and/or Transferring Former Provider Employees will transfer on a Relevant Transfer Date;

Service Provider Personnel: all directors, officers, employees, agents, consultants and contractors of the Service Provider and/or any Sub-contractor engaged in the performance of the Service Provider's obligations under this Contract;

Service Provider's Final Personnel List: a list provided by the Service Provider of all Service Provider Personnel who will transfer under the Employment Regulations on the Service Transfer Date;

Service Provider's Provisional Personnel List: a list prepared and updated by the Service Provider of all Service Provider Personnel who are engaged in or wholly or mainly assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Service Provider and who are expected, if they remain in the employment of the Service Provider or of any sub-contractor as the case may be until immediately before the termination date or the expiry date of the (as appropriate), would be Transferring Service Provider Employees;

Redundancy Costs: statutory redundancy payments, contractual redundancy payments and contractual notice pay payable by the Service Provider to the Redundant Transferring Employees, but excluding any payments or liabilities arising from any claim as to the fairness of the dismissal and/or unlawful discrimination.

Redundant Transferring Employees: Transferring Council Employees whom the Service Provider has dismissed following a lawful redundancy within [NUMBER] months of the Effective Date.

Relevant Transfer: a transfer of employment to which the Employment Regulations applies;

Replacement Services: any services which are the same as or substantially similar to the Services and which the Council receives in substitution for any of the Services following the expiry or termination of Partial Termination of this Contract, whether those services are provided by the Council internally and/or by any third party;

Replacement Provider: any third party provider of Replacement Services appointed by the Council from time to time (or where the Council is providing replacement Services for its own account, the Council);

Replacement Sub-contractor: a sub-contractor of the Replacement Provider to whom Transferring Service Provider Employees will transfer on a Service Transfer Date (or any sub-contractor of any such Sub-contractor);

Retendering Information: as defined in paragraph 6.10;

Service Transfer: any transfer of the Services (or any part of the Services), for whatever reason, from the Service Provider or any Sub-contractor to a Replacement Provider or a Replacement Sub-contractor;

Service Transfer Date: the date on which the Services (or any part of the Services), transfer from the Service Provider or Sub-Contractor to the Council or any Replacement Provider giving rise to a Relevant Transfer;

Staffing Information: in relation to all persons identified on the Service Provider's Provisional Personnel List or Service Provider's Final Personnel List, as the case may be, such information as the Council may reasonably

request (subject to all applicable provisions of the Data Protection Legislation, but including in an anonymised format:

- (a) their ages, dates of commencement of employment or engagement and gender;
- (b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;
- (c) the identity of the employer or relevant contracting Party;
- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other Employee Liability Information

Sub-Contractor: the contractors engaged by the Service Provider to provide goods, services or works to, for or on behalf of the Service Provider for the purposes of providing the Services to the Council.

Transferring Council Employees: employees of the Council whose contracts of employment transfer with effect from the Effective Date to the Service Provider by virtue of the application of the Employment Regulations. A list of the Transferring Council Employees, as at the date of execution of the Contract, is attached at Annex B.

Transferring Former Provider Employees: employees of a Former Provider whose contracts of employment transfer with effect from the Effective Date to the Service Provider or Sub-Contractor by virtue of the application of the Employment Regulations. An indicative list of the Transferring Former Provider Employees, as at the date of execution of the Contract, is attached at Annex C.

Transferring Service Provider Employees: those employees of the Service Provider and/or the Service Provider's Sub-contractors wholly or mainly engaged in the provision of the Services as the case may be as immediately before the expiry date or the termination date of the Contract to whom the Employment Regulations will apply on the Service Transfer Date whose contracts of employment transfer with effect from the Service Transfer Date to the Council or a Replacement Service Provider

2. INTERPRETATION

Where a provision in this Schedule imposes an obligation on the Service Provider to provide an indemnity, undertaking or warranty, the Service Provider shall procure that each of its Sub-contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Council, Former Provider, Replacement Provider or Replacement Sub-contractor, as the case may be.

3. PROCEDURE IN THE EVENT OF TRANSFER

3.1 The Council and the Service Provider agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Council and/or any Former Provider.

3.2 If any employee of the Council and/or a Former Provider claims, or it is determined in relation to any employee of the Council and/or a Former Provider, that his/her contract of employment has been transferred from the Council and/or the Former Provider to the Service Provider and/or any Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

- (a) the Service Provider shall, and shall procure that the relevant Sub-contractor shall, within five Working Days of becoming aware of that fact, give notice in writing to the Council and, where required by the Council, give notice to the Former Provider; and
- (b) the Council and/or the Former Provider may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Service Provider or the Sub-contractor (as appropriate) or take such other reasonable steps as the Council or Former Provider (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

3.3 If an offer referred to in clause 3.2(b) is accepted (or if the situation has otherwise been resolved by the Council and/or the Former Provider), the Service Provider shall, or shall procure that the Sub-contractor shall, immediately release the person from his/her employment or alleged employment.

3.4 If by the end of the 15 Working Day period specified in clause 3.2(b):

- (a) no such offer of employment has been made;
- (b) such offer has been made but not accepted; or
- (c) the situation has not otherwise been resolved,

the Service Provider and/or the Sub-contractor may within five Working Days give notice to terminate the employment or alleged employment of such person.

4. INDEMNITIES

4.1 Subject to the Service Provider and/or the relevant Sub-contractor acting in accordance with the provisions of clause 3.2 to clause 3.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to clause 4.4, the Council shall:

(a) indemnify the Service Provider and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any employees of the Council referred to in clause 3.2 made pursuant to the provisions of clause 3.4 provided that the Service Provider takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities; and

(b) procure that the Former Provider indemnifies the Service Provider and/or any Notified Sub-contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Provider made pursuant to the provisions of clause 3.4 provided that the Service Provider takes, or shall procure that the relevant Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

4.2 If any such person as is described in clause 3.2 is neither re employed by the Council and/or the Former Provider as appropriate nor dismissed by the Service Provider and/or any Sub-contractor within the 15 Working Day period referred to in clause 3.4 such person shall be treated as having transferred to the Service Provider and/or the Sub-contractor (as appropriate) and the Service Provider shall, or shall procure that the Sub-contractor shall, comply with such obligations as may be imposed upon it under Law.

4.3 Where any person remains employed by the Service Provider and/or any Sub-contractor pursuant to clause 4.2, all Employee Liabilities in relation to such employee shall remain with the Service Provider and/or the Sub-contractor and the Service Provider shall indemnify the Council and any Former Provider, and shall procure that the Sub-contractor shall indemnify the Council and any Former Provider, against any Employee Liabilities that either of them may incur in respect of any such employees of the Service Provider and/or employees of the Sub-contractor.

4.4 The indemnities in clause 4.1:

(a) shall not apply to:

(i) in any case in relation to any alleged act or omission of the Service Provider and/or any Sub-contractor, any claim for: (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees; or

(ii) any claim that the termination of employment was unfair because the Service Provider and/or any Sub-contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in clause 3.2(a) is made by the Service Provider and/or any Sub-contractor to the Council and, if applicable, Former Provider within six months of the Effective Date.

3. TRANSFER OF EMPLOYEES TO THE PROVIDER ON THE EFFECTIVE DATE

3.1 The Council and the Service Provider agree that where the identity of the provider of any of the Services changes, this shall constitute a Relevant Transfer and the contracts of employment of any Transferring Council Employees [and Transferring Former Provider Employees] shall transfer to the Service Provider or Sub-Contractor. The Service Provider shall comply and shall procure that each Sub-Contractor shall comply with their obligations under the Employment Regulations. The [first] Relevant Transfer shall occur on the [Effective Date OR [DATE]].

3.2 The Council shall be responsible for all remuneration, benefits, entitlements and outgoings in respect of the Transferring Council Employees, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions, pension contributions and otherwise, up to the Effective Date. The Council shall provide and, where necessary, update the Employee Liability Information for the Transferring Council Employees to the Service Provider, as required by the Employment Regulations. The Council shall warrant that such information is complete and accurate as it is aware or should reasonably be aware as at the date it is disclosed.

3.3 Subject to paragraph 3.4, the Council shall indemnify and keep indemnified the Service Provider against any losses, except indirect losses incurred by the Service Provider or any relevant Sub-Contractor in connection with any claim or demand by any Transferring Council Employee arising out of the employment of any Transferring Council Employee. This indemnity shall apply provided that it arises from any act, fault or omission of the Council in relation to any Transferring Council Employee prior to the Effective Date (except where such act, fault or omission arises as a result of the Service Provider or any relevant Sub-Contractor's failure to comply with regulation 13 of the Employment Regulations) and any such claim is not in connection with the transfer of the Services by virtue of the Employment Regulations on the Effective Date.

[OPTIONAL CLAUSE 3.3A]

[3.3A The Council shall indemnify the Service Provider against [(NUMBER%)] of the Redundancy Costs reasonably and properly incurred by the Service Provider provided that the Service Provider has:

(a) complied with its legal obligations and used all reasonable endeavours to avoid a redundancy situation and to re-deploy and/or re-train any Transferring Council Employees at risk of redundancy; and

(b) used all reasonable endeavours to limit the Council's liability under this paragraph 3.3A.]

3.4 The Service Provider shall be liable for and indemnify and keep indemnified the Council [and any Former Provider] against any Employment Liabilities arising from or as a consequence of:

- (i) any proposed changes to terms and conditions of employment the Service Provider or Sub-Contractor may consider taking on or after the Effective Date;
- (ii) any of the employees informing the Council [and any Former Provider] they object to being employed by the Service Provider or Sub-Contractor; and
- (iii) any change in identity of the Transferring Council Employees' [and Transferring Former Provider Employees] employer as a result of the operation of the Employment Regulations or as a result of any proposed measures the Service Provider or Sub-Contractor may consider taking on or after the Effective Date.

3.5 The Service Provider shall be liable for and indemnify and keep indemnified the Council [and any Former Provider] against any failure to meet all remuneration, benefits, entitlements and outgoings for the Transferring Council Employees, [the Transferring Former Provider Employees], and any other person who is or will be employed or engaged by the Service Provider or any Sub-Contractor in connection with the provision of the Services, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions, pension contributions, termination costs and otherwise from and including the Effective Date.

3.6 The Service Provider shall immediately on request by the Council [and/or the Former Provider] provide details of any measures that the Service Provider or any Sub-Contractor of the Service Provider envisages it will take in relation to any Transferring Council Employees [and any Transferring Former Provider Employees], including any proposed changes to terms and conditions of employment. If there are no measures, the Service Provider will give confirmation of that fact, and shall indemnify the Council [and any Former Provider] against all Employment Liabilities resulting from any failure by it to comply with this obligation.

4. NOT USED

5. PROCUREMENT OBLIGATIONS

Where in this schedule the Council accepts an obligation to procure that a Former Provider does or does not do something, such obligation shall be limited so that it extends only to the extent that the Council's contract with the Former Provider contains a contractual right in that regard which the Council may enforce, or otherwise so that it requires only that the Council must use reasonable endeavours to procure that the Former Provider does or does not act accordingly.

6. RETENDERING AND PRE-SERVICE TRANSFER OBLIGATIONS

6.1 The Service Provider agrees that within 20 Working Days of the earliest of:

- (a) receipt of a notification from the Council of a Service Transfer or intended Service Transfer;
- (b) receipt of the giving of notice of early termination or any Partial Termination of this Contract;
- (c) the date which is 12 months before the end of the Term; and
- (d) receipt of a written request of the Council at any time (provided that the Council shall only be entitled to make one such request in any six month period),

it shall provide at no cost to the Council and in a suitably anonymised format so as to comply with the Data Protection Legislation, the Service Provider's Provisional Personnel List, together with the Staffing Information in relation to the Service Provider's Provisional Personnel List and it shall provide an updated Service Provider's Provisional Personnel List at such intervals as are reasonably requested by the Council.

6.2 At least 28 Working Days prior to the Service Transfer Date, the Service Provider shall provide to the Council or at the direction of the Council to any Replacement Provider and/or any Replacement Sub-contractor:

- (a) the Service Provider's Final Personnel List, which shall identify which of the Service Provider Personnel are Transferring Service Provider Employees; and
- (b) the Staffing Information in relation to the Service Provider's Final Personnel List (insofar as such information has not previously been provided).

6.3 The Council shall be permitted to use and disclose information provided by the Service Provider under clause 6.1 and clause 6.2 for the purpose of informing any prospective Replacement Provider and/or Replacement Sub-contractor.

6.4 The Service Provider:

- (a) shall promptly notify the Council forthwith in writing of any material changes to the information provided pursuant to clause 6.1 and clause 6.2 as and when such changes arise; and

- (b) warrants, for the benefit of the Council, any Replacement Provider, and any Replacement Sub-contractor that all information provided pursuant to clause 6.1 and clause 6.2 shall be true and accurate in all material respects at the time of providing the information.

6.5 From the date of the earliest event referred to in clause 6.1(a), clause 6.1(b) and clause 6.1(c), the Service Provider agrees, that it shall not, and agrees to procure that each Sub-contractor shall not, assign any person to the provision of the Services who is not listed on the Service Provider's Provisional Personnel List and shall not without the approval of the Council (not to be unreasonably withheld or delayed):

- (a) replace or re-deploy any Service Provider Personnel listed on the Service Provider Provisional Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
- (b) make, promise, propose or permit any material changes to the terms and conditions of employment of the Service Provider Personnel (including any payments connected with the termination of employment);
- (c) increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Service Provider Personnel save for fulfilling assignments and projects previously scheduled and agreed;
- (d) introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Service Provider's Provisional Personnel List;
- (e) increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- (f) terminate or give notice to terminate the employment or contracts of any persons on the Service Provider's Provisional Personnel List save by due disciplinary process, and shall promptly notify, and procure that each Sub-contractor shall promptly notify, the Council or, at the direction of the Council, any Replacement Provider and any Replacement Sub-contractor of any notice to terminate employment given by the Service Provider or relevant Sub-contractor or received from any persons listed on the Service Provider's Provisional Personnel List regardless of when such notice takes effect.

6.6 During the Term, the Service Provider shall provide, and shall procure that each Sub-contractor shall provide, to the Council any information the Council may reasonably require relating to the manner in which the Services are organised, which shall include:

- (a) the numbers of employees engaged in providing the Services;
- (b) the percentage of time spent by each employee engaged in providing the Services; and
- (c) a description of the nature of the work undertaken by each employee by location.

6.7 The Service Provider shall provide, and shall procure that each Sub-contractor shall provide, all reasonable cooperation and assistance to the Council, any Replacement Provider and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Service Provider Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Service Provider Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Service Provider shall provide, and shall procure that each Sub-contractor shall provide, to the Council or, at the direction of the Council, to any Replacement Provider and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Service Provider's Final Personnel List who is a Transferring Service Provider Employee:

- (a) the most recent month's copy pay slip data;
- (b) details of cumulative pay for tax and pension purposes;
- (c) details of cumulative tax paid;
- (d) tax code;
- (e) details of any voluntary deductions from pay; and
- (f) bank/building society account details for payroll purposes.

6.8 The Council regards compliance with this paragraph 6 as fundamental to the Contract. In particular, failure to comply with paragraphs 6.1 and 6.2 in respect of the provision of accurate information about the Transferring Service Provider Employees shall entitle the Council to suspend payment of the Charges until such information is provided, or indefinitely. The maximum sum that may be retained under this paragraph 6.8 shall not exceed an amount equivalent to the Charges that would be payable in the three month period following the Service Provider's failure to comply with paragraphs 6.1 or 6.2, as the case may be.

6.9 Any change to the Staffing Information which would increase the total employment costs of the staff in the six months prior to termination of this Contract shall not (so far as reasonably practicable) take place without the Council's prior written consent, unless such changes are required by law. The Service Provider shall supply to the Council full particulars of such proposed changes and the Council shall be afforded reasonable time to consider them.

6.10 The Service Provider shall indemnify and shall keep indemnified in full the Council and at the Council's request any Replacement Provider against all Direct Losses arising from any claim by any party as a result of the Service Provider or sub-contractor failing to provide or promptly to provide the Council and/or any Replacement Provider where requested by the Council with any information required under this Clause 6.1 to 6.4 inclusive ("the Retendering Information") and/or Employee Liability Information or to provide full Retendering Information and/or Employee Liability Information or as a result of any material inaccuracy in or omission from the Retendering Information and/or Employee Liability Information provided that this indemnity shall not apply to the extent that such information was originally provided to the Service

Provider or any sub-contractor by the Council and was materially inaccurate or incomplete when originally provided.

7. EMPLOYMENT REGULATIONS EXIT PROVISIONS

7.1 The Council and the Service Provider acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Provider and/or a Replacement Sub-contractor. Such change in the identity of the provider of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Council and the Service Provider further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Service Provider and the Transferring Service Provider Employees (except in relation to any contract terms disappplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Provider and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Service Provider Employee.

7.2 The Service Provider shall, and shall procure that each Sub-contractor shall, comply with all its obligations in respect of the Transferring Service Provider Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Service Provider Employees and other employees or former employees of the Service Provider or each Sub-contractor (who had been engaged in the provision of the Services) arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Service Provider and/or the Sub-contractor (as appropriate); and (ii) the Replacement Provider and/or Replacement Sub-contractor.

7.3 Subject to clause 7.4, the Service Provider shall indemnify the Council and/or the Replacement Provider and/or any Replacement Sub-contractor against any Employee Liabilities in respect of any Transferring Service Provider Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

- (a) any act or omission of the Service Provider or any Sub-contractor whether occurring before, on or after the Service Transfer Date;
- (b) the breach or non-observance by the Service Provider or any Sub-contractor occurring on or before the Service Transfer Date of:

- (i) any collective agreement applicable to the Transferring Service Provider Employees; and/or
- (ii) any other custom or practice with a trade union or staff association in respect of any Transferring Service Provider Employees which the Service Provider or any Sub-contractor is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Service Provider Employees arising from or connected with any failure by the Provider or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
- (d) any proceeding, claim or demand by HMRC or other statutory Council in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Service Provider Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Service Provider Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Service Provider to the Council and/or Replacement Provider and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
- (e) a failure of the Service Provider or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Service Provider Employees in respect of the period up to (and including) the Service Transfer Date);
- (f) any claim made by or in respect of any person employed or formerly employed by the Service Provider or any Sub-contractor other than a Transferring Service Provider Employee for whom it is alleged the Council and/or the Replacement Provider and/or any Replacement Sub-contractor may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
- (g) any claim made by or in respect of a Transferring Service Provider Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Service Provider Employee relating to any act or omission of the Service Provider or any Sub-contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Council and/or Replacement Provider to comply with regulation 13(4) of the Employment Regulations.

7.4 The indemnities in clause 7.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Provider and/or any Replacement Sub-contractor whether

occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:

- (a) arising out of the resignation of any Transferring Service Provider Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Provider and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or
- (b) arising from the Replacement Provider's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.

7.5 If any person who is not a Transferring Service Provider Employee claims, or it is determined in relation to any person who is not a Transferring Service Provider Employee, that his/her contract of employment has been transferred from the Service Provider or any Sub-contractor to the Replacement Provider and/or Replacement Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:

- (a) the Council shall procure that the Replacement Provider shall, or any Replacement Sub-contractor shall, within five Working Days of becoming aware of that fact, give notice in writing to the Service Provider; and
- (b) the Service Provider may offer (or may procure that a Sub-contractor may offer) employment to such person within 15 Working Days of the notification by the Replacement Provider and/or any and/or Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

7.6 If such offer is accepted, or if the situation has otherwise been resolved by the Service Provider or a Sub-contractor, the Council shall procure that the Replacement Provider shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.

7.7 If after the 15th Working Day period specified in clause 7.5(b) has elapsed:

- (a) no such offer of employment has been made;
- (b) such offer has been made but not accepted; or
- (c) the situation has not otherwise been resolved

the Council shall advise the Replacement Provider and/or Replacement Sub-contractor, as appropriate that it may within five Working Days give notice to terminate the employment or alleged employment of such person.

7.8 Subject to the Replacement Provider and/or Replacement Sub-contractor acting in accordance with the provisions of clause 7.5 to clause 7.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Service Provider shall indemnify the Replacement Provider and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination pursuant to the provisions of clause 7.7 provided that the Replacement Provider takes, or shall procure that the Replacement

Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

7.9 The indemnity in clause 7.8:

(a) shall not apply to:

(i) in any case in relation to any alleged act or omission of the Replacement Provider and/or Replacement Sub-contractor, any claim for: (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees; or

(ii) any claim that the termination of employment was unfair because the Replacement Provider and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in clause 7.5(a) is made by the Replacement Provider and/or Replacement Sub-contractor to the Provider within six months of the Service Transfer Date.

7.10 If any such person as is described in clause 7.5 is neither re-employed by the Service Provider or any Sub-contractor nor dismissed by the Replacement Provider and/or Replacement Sub-contractor within the time scales set out in clause 7.5 to clause 7.7, such person shall be treated as a Transferring Service Provider Employee and the Replacement Provider and/or Replacement Sub-contractor shall comply with such obligations as may be imposed upon it under applicable Law.

7.11 Not Used.

7.12 The Service Provider shall, and shall procure that each Sub-contractor shall, promptly provide to the Council and any Replacement Provider and/or Replacement Sub-contractor, in writing such information as is necessary to enable the Council, the Replacement Provider and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Council shall procure that the Replacement Provider and/or Replacement Sub-contractor, shall promptly provide to the Service Provider and each Sub-contractor in writing such information as is necessary to enable the Service Provider and each Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

7.13 Subject to clause 7.14, the Council shall procure that the Replacement Provider indemnifies the Service Provider on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities in respect of each Transferring Service Provider Employee (or, where applicable any employee representative (as defined in the Employment Regulations) of any Transferring Service Provider Employee) arising from or as a result of:

(a) any act or omission of the Replacement Provider and/or Replacement Sub-contractor;

- (b) the breach or non-observance by the Replacement Provider and/or Replacement Sub-contractor on or after the Service Transfer Date of:
- (i) any collective agreement applicable to the Transferring Service Provider Employees; and/or
 - (ii) any custom or practice in respect of any Transferring Service Provider Employees which the Replacement Provider and/or Replacement Sub-contractor is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Service Provider Employees arising from or connected with any failure by the Replacement Provider and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
- (d) any proposal by the Replacement Provider and/or Replacement Sub-contractor to change the terms and conditions of employment or working conditions of any Transferring Service Provider Employees on or after their transfer to the Replacement Provider or Replacement Sub-contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Service Provider Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
- (e) any statement communicated to or action undertaken by the Replacement Provider or Replacement Sub-contractor to, or in respect of, any Transferring Service Provider Employee on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Service Provider in writing;
- (f) any proceeding, claim or demand by HMRC or other statutory Council in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (i) in relation to any Transferring Service Provider Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Service Provider Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Service Provider or Sub-contractor, to the Replacement Provider or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
- (g) a failure of the Replacement Provider or Replacement Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Service Provider Employees in respect of the period from (and including) the Service Transfer Date; and
- (h) any claim made by or in respect of a Transferring Service Provider Employee or any appropriate employee representative (as defined in the

Employment Regulations) of any Transferring Service Provider Employee relating to any act or omission of the Replacement Provider or Replacement Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations.

7.14 The indemnities in clause 7.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Service Provider and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Service Provider and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations.

7.15 The parties shall co-operate to ensure that any requirement to inform and consult with the employees and or employee representatives in relation to any Relevant Transfer to a Replacement Provider will be fulfilled.

7.16 The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to clause 6 and 7, to the extent necessary to ensure that any Replacement Provider shall have the right to enforce the obligations owed to, and indemnities given to, the Replacement Provider by the Service Provider or the Council in its own right under section 1(1) of the Contracts (Rights of Third Parties) Act 1999.

7.17 Despite clause 7.16, it is expressly agreed that the parties may by agreement rescind or vary any terms of this Contract without the consent of any other person who has the right to enforce its terms or the term in question despite that such rescission or variation may extinguish or alter that person's entitlement under that right.

Section.2 Pensions

Section 2 (A) - Local Authority Pension Scheme

1. Definitions and Interpretation:

The definitions and rules of interpretation in this Schedule apply in this Contract:

Admission Agreement: the agreement to be entered into in accordance with regulation 3 of the Local Government Pension Scheme Regulations 2013, as amended, by the Administering Authority, the Council and the Service Provider or Sub-Contractor, as appropriate in the Administering Authority's standard form

Administering Authority: means Shropshire Council

Appropriate Pension Provision: in respect of Eligible Employees, either:
(a) membership, continued membership or continued eligibility for membership of their Legacy Scheme; or

(b) membership or eligibility for membership of a pension scheme, which is certified by the Government Actuary's Department (GAD) as being broadly comparable to the terms of their Legacy Scheme.

Cessation Date: any date on which the Service Provider or the relevant Sub-Contractor ceases to be an Admission Body other than as a result of the termination or expiry of this Contract or because it ceases to employ any Eligible Employees;

Eligible Employees:

(a) the Transferring Council Employees who are active members of (or are eligible to join) the LGPS on the date of a Relevant Transfer including the Effective Date; and/or

(b) the Transferring Former Provider Employees who are former employees of the Council and who were active members of (or who were eligible to join) the LGPS on the date of a previous Relevant Transfer of the Services.

Legacy Scheme: the pension scheme of which the Eligible Employees are members, or are eligible for membership of, or are in a waiting period to become a member of, prior to the Relevant Transfer.

LGPS: Local Government Pension Scheme

LGPS Regulations: the Local Government Pension Scheme Regulations 2013 (SI 2013/2356)

2. PENSIONS

4.1 The Service Provider shall or shall procure that any relevant Sub-Contractor shall ensure that all Eligible Employees are offered Appropriate Pension Provision from the Effective Date.

4.2 The provisions of clauses 2, 3, 4 and clause 5 shall be directly enforceable by an affected employee against the Service Provider or any relevant Sub-Contractor and the parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to the extent necessary to ensure that any affected employee shall have the right to enforce any obligation owed to such employee by the Service Provider or Sub-Contractor under those paragraphs in his own right under section 1(1) of the Contracts Rights of Third Parties Act 1999.

3. ADMITTED BODY STATUS TO THE LOCAL GOVERNMENT PENSION SCHEME

3.1 Where the Service Provider or Sub-Contractor wishes to offer the Eligible Employees membership of the LGPS, the Service Provider shall or shall procure that it and/or each relevant Sub-Contractor shall enter into an Admission Agreement to have effect from and including the Effective Date or, if the Relevant Transfer occurs after the Effective Date, from and including the

date of that Relevant Transfer. The Service Provider or Sub-Contractor will bear the cost of any actuarial assessment required in order to assess the employer's contribution rate and Bond value] in respect of any Eligible Employee who elects to join the LGPS [on or after] the Effective Date.

3.2 For the purposes of calculating the employer's contribution rate, any termination payment, and any other sums due to the Administering Authority under the Admission Agreement, the Council shall ensure that the Eligible Employees' past service benefits accrued prior to the Effective Date are fully funded as at the Effective Date by crediting the Service Provider at the Relevant transfer Date with a notional fund within the Legacy Scheme of such amount to meet the cost of those past service benefits as determined by the Fund's actuary. For the avoidance of doubt, the notional fund referred to in this Clause 3.2 shall only apply to the value attributed to the notional fund as at the Relevant Transfer Date and any future changes to the funding within the Legacy Scheme in respect of providing the benefits accrued prior to the Relevant Transfer Date shall be for the account of the Service Provider or any Sub-Contractor as an Admission Body.

3.3 The Service Provider shall indemnify and keep indemnified the Council and/or any Replacement Provider and, in each case, their providers, from and against all direct losses suffered or incurred by it or them, which arise from any breach by the Service Provider or Sub-Contractor of the terms of the Admission Agreement, to the extent that such liability arises before or as a result of the termination or expiry of this Contract.

3.4 The Service Provider shall and shall procure that it and any Sub-Contractor shall prior to the Effective Date or, if the Relevant Transfer occurs after the Effective Date, from and including the date of that Relevant Transfer, obtain any indemnity or bond in the Administering authority's standard form as required in accordance with the Admission Agreement. The Service Provider or Sub-Contractor will bear the cost of any actuarial assessment required in order to assess the value of the Bond or guarantee.

3.5 The Service Provider shall and shall procure that any relevant Sub-Contractor shall award benefits (where permitted) to the Eligible Employees under the LGPS Regulations in circumstances where the Eligible Employees would have received such benefits had they still been employed by the Council and where such benefits are of a discretionary nature they shall be awarded on the basis of the Council's written policy in relation to such benefits at the time of the Effective Date. The Service Provider shall be responsible for meeting all costs associated with the award of such benefits.

3.6 The Council shall have a right to set off against any payments due to the Service Provider under this Contract an amount equal to any overdue employer and employee contributions and other payments (and interest payable under the LGPS Regulations) due from the Provider or from any relevant sub-contractor (as applicable) under the Admission Agreement.

4 SERVICE PROVIDER CEASES TO BE AN ADMISSION BODY

- 4.1 If the Service Provider or any Sub-Contractor employs any Eligible Employees from the Effective Date and:
- 4.1.1 the Service Provider or any relevant Sub-Contractor does not wish to offer all or some of those Eligible Employees membership of the Legacy Scheme;
- 4.1.2 the Council, the Service Provider or any relevant Sub-Contractor are all of the opinion that it is not possible to operate the provisions of Clause 3 (Admitted Body Status to the Local Government Pension Scheme); or
- 4.1.3 if for any reason after the Effective Date the Provider or any relevant Sub-Contractor ceases to be an Admission Body other than on the date of termination or expiry of this Contract or because it ceases to employ any Eligible Employees,

then the provisions of Clause 3 (Admitted Body Status to the Local Government Pension Scheme) shall not apply (without prejudice to any rights of the Council under those clauses) and the provisions of Clause 5 (Provider Pension Scheme) shall apply.

5. SERVICE PROVIDER PENSION SCHEME

5.1 Where this clause applies the Service Provider shall or shall procure that any relevant Sub-Contractor shall offer the Eligible Employees membership of an occupational pension scheme with effect from the Effective Date or, if the Relevant Transfer occurs after the Effective Date, from and including the date of that Relevant Transfer. Such an occupational pension scheme must be:

- (a) established no later than three months prior to the date of the Relevant Transfer; and
- (b) a registered pension scheme for the purposes of Part 4 of the Finance Act 2004; and
- (c) certified by the GAD or any actuary nominated by the Council in accordance with relevant guidance produced by the GAD as providing benefits that are broadly comparable to those provided by the Legacy Scheme,

and the Service Provider shall produce evidence of compliance with this clause 5 to the Council prior to the date of the Relevant Transfer.

5.2 The Council's actuary shall determine the terms for bulk transfers from the LGPS to the Service Provider's scheme following the Effective Date and any subsequent bulk transfers on termination or expiry of this Contract.

5.3 The Service Provider undertakes to the Council (for the benefit of the Council itself and for the Council as agent and trustee for the benefit of the

Eligible Employees) that it shall and shall procure that any relevant Sub-Contractor shall procure that:

- (a) if the Service Provider Scheme is terminated, a replacement pension scheme shall be provided with immediate effect for those Eligible Employees who are still employed by the Service Provider or relevant Sub-Contractor. The replacement scheme must comply with this Clause 5 (Service Provider Pension Scheme); and
- (b) where the Service Provider Pension Scheme has not been established at the Effective Date or Cessation Date (as the case may be), the Eligible Employees shall be provided with benefits in respect of death-in-service which are no less favourable than the death-in-service benefits provided by the Legacy Scheme immediately before the Effective Date or Cessation Date (as the case may be). Such benefits will continue to be provided until death-in-service benefits are provided by the Service Provider Pension Scheme; and
- (c) all information which the Council or the Administering Authority or their respective professional advisers may reasonably request from the Service Provider or any relevant Sub-Contractor for the administration of the Legacy Scheme or concerning any other matters raised in this Clause 5 or in relation to calculating the bulk transfer terms shall be supplied to them as expeditiously as possible.

5.4 The Service Provider shall and shall procure that any relevant Sub-Contractor shall award benefits (where permitted) to the Eligible Employees which are identical to the benefits the Eligible Employees would have received under the LGPS Regulations in circumstances where the Eligible Employees would have received such benefits had they still been employed by the Council and where such benefits are of a discretionary nature they shall be awarded on the basis of the Council's written policy in relation to such benefits at the time of the Effective Date. The Service Provider shall be responsible for meeting all costs associated with the award of such benefits.

6. TRANSFER TO ANOTHER EMPLOYER

6.1 Save on expiry or termination of this Contract, if the employment of any Eligible Employee transfers to another employer (by way of a transfer under TUPE) the Service Provider shall and shall procure that any relevant Sub-Contractor shall:

- (a) consult with and inform those Eligible Employees of the pension provisions relating to that transfer; and
- (b) procure that the employer to which the Eligible Employees are transferred (the New Employer) complies with the provisions of this Clauses 2 to 7 inclusive provided that references to the "sub-contractor" will become references to the New Employer, references to "Effective Date" will become references to the date of the transfer to the New Employer and references to "Eligible Employees" will become references to the Eligible Employees so transferred to the New Employer.

7. CLAIMS FROM ELIGIBLE EMPLOYEES OR TRADE UNIONS

- 7.1 The Service Provider hereby indemnifies the Council and/or any Replacement Provider and, in each case, their Sub-Contractors from and against all Direct Losses suffered or incurred by it or them which arise from claims by Eligible Employees of the Service Provider and/or of any Sub-Contractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Eligible Employees which losses:
- (a) relate to pension rights in respect of periods of employment on and after the Effective Date until the date of termination or expiry of this Contract; or
 - (b) arise out of the failure of the Service Provider and/or any relevant Sub-Contractor to comply with the provisions of this Clause 7 before the date of termination or expiry of this Contract.

8. PENSIONS EXIT PROVISIONS

- 8.1 The Service Provider shall and shall procure that each relevant Sub-Contractor shall:
- (a) maintain such documents and information as will be reasonably required to manage the pension rights of and aspects of any onward transfer of any person engaged or employed by the Service Provider or any Sub-Contractor in the provision of the Services on the expiry or termination of this Contract (including without limitation identification of the Eligible Employees);
 - (b) promptly provide to the Council such documents and information mentioned in paragraph 8.1(a) which the Council may reasonably request in advance of the expiry or termination of this Contract; and
 - (c) fully cooperate (and procure that the trustees of the Service Provider's scheme shall fully cooperate) with the reasonable requests of the Council relating to any administrative tasks necessary to deal with the pension rights of and aspects of any onward transfer of any person engaged or employed by the Service Provider or any Sub-Contractor in the provision of the Services on expiry or termination of the Contract;
 - (d) not adversely affect pension rights accrued by the Eligible Employees in the period ending on expiry or termination of the Contract.

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Annex B. Transferring Council Employees

There are no Transferring Council Employees

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Annex C. Transferring Former Provider Employees

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Annex D. List of Notified Sub-contractors

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**Schedule 6
Outcomes/Performance Indicators**

NOT USED

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SCHEDULE 7

Safeguarding

Shropshire Safeguarding Children's Board (SSCB) has defined procedures aimed at all those working (including volunteers) in SSCB partner agencies and in private, voluntary or community sector organisations with responsibilities for children and young people ("children") living in Shropshire.

The SSCB procedures have been written so that they are consistent with Working Together (2015) and to be part of the wider goal of improving the overall wellbeing of children. They focus on the 'Staying Safe' outcome and provide a framework for an integrated approach to safeguarding children from harm.

1. **To fulfill their commitment to safeguard and promote the welfare of children, all organisations that provide services for children need to have the following in place (and provide evidence to the Council if requested to do so):**
 - i) Clear priorities for safeguarding and promoting the welfare of children explicitly stated in strategic policy documents;
 - ii) A clear commitment by senior management to the importance of safeguarding and promoting children's welfare;
 - iii) A clear line of accountability within the organisation for work on safeguarding and promoting the welfare of children; roles and accountability for taking action and reporting internally and between agencies is properly defined and understood by those involved
 - iv) Recruitment and human resources management procedures that take account of the need to safeguard and promote the welfare of children, including safe recruitment policies and practices, including enhanced Disclosure and Barring Service (DBS) checks, for all staff, including agency staff, students and volunteers, working with children (as per the guidance of the Disclosure and Barring Service DBS).
 - v) Procedures for dealing with allegations of abuse against members of staff and volunteers;
 - vi) Arrangements to ensure that all staff receive supervision and undertake appropriate training to equip them to carry out their responsibilities effectively, and keep this up to date by refresher training at regular intervals; and that all staff, including temporary staff and volunteers who work with children, are made aware of the establishment's arrangements for safeguarding and promoting the welfare of children and their responsibilities for that
 - vii) Policies to safeguard and promote the welfare of children including a child protection policy, and procedures that are in accordance with Shropshire's Safeguarding Children Board procedures;
 - viii) Their own complaints procedure for Service Users;

- ix) Arrangements to work effectively with other organisations to safeguard and promote the welfare of children, including arrangements for sharing information;
- x) Culture of listening to and engaging in dialogue with children and seeking their views in ways appropriate to their age and understanding, and taking account of those both in individual decisions and the establishment or development of services; and,
- xi) Appropriate whistle blowing procedures and a culture that enables issues about safeguarding and promoting the welfare of children to be addressed

2. All Staff who work with children, families and Service Users should be able to:

- i) Understand the risk factors and recognise children in need of help including Early Help and/or safeguarding
- ii) Recognise the needs of parents who may need extra help in bringing up their children, and know where to refer for help;
- iii) Recognise the risks of abuse to an unborn child;
- iv) Contribute to enquiries from other professionals about a child and their family or carers;
- v) Liaise closely with other agencies including other health professionals
- vi) Plan and respond to the needs of children and their families, particularly those who are vulnerable
- vii) Contribute to planning support for children at risk of Significant Harm e.g. children living in households with domestic violence, parental substance misuse;
- viii) Help ensure that children who have been abused and parents under stress (e.g. who have mental health problems) have access to services to support them;
- ix) Play an active part, through the Child Protection Plan, in safeguarding children from Significant Harm;
- x) As part of generally safeguarding children and young people, provide ongoing promotional and preventative support through proactive work with children, families and expectant parents

3. The Service Provider will adhere to Shropshire's Safeguarding Children's Board Procedures which means that the following situations will need to be reported appropriately:

- i) Situations where children or young people are thought to be at risk of significant harm need to be reported to COMPASS and to the Providers Service Manager.

- (ii) Situations where there is a concern about a vulnerable adult need to be reported to COMPASS and to the Service Provider's service manager.
- iii) Situations where there are safeguarding concerns about Service Provider staff or volunteers need to be reported by the Service Provider to the Council's Designated Officer, COMPASS and the Commissioner.

COMPASS :
0345 678 9021
0345 678 9040 (after 5pm or weekends)

4. The Service Provider must ensure that it follows the guidance of the Disclosure and Barring Service (DBS) and complies with the requirements of the Shropshire Safeguarding Children's Board and shall ensure that it undertakes enhanced disclosure DBS checks prior to its Staff volunteers or other persons under its control commencing work on the Services to be provided to the Council and shall monitor the level and validity of the checks for each member of Staff, volunteer or other person under its control during the term of this C

Appendix 1

List of Transferring Employees

Appendix 2

List of Third Party Employees

Appendix 3

Admission Agreement

Appendix 4

Bond Document

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SCHEDULE 8

Processing, Personal Data and Data Subjects

The Service Provider shall comply with any further written instructions with respect to processing by the Council.

Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Data Controller and Data Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Council is the Data Controller and the Contractor is the Data Processor in accordance with Clause 34(a)
Subject matter of the processing	Personal information about Service Users to ensure that the Service Provider is able to safely meet their Assessed Needs.
Duration of the processing	For the period of Service delivery to a Service User plus 6 years after the last date on which the Service is delivered.
Nature and purposes of the processing	<p>The nature of the processing of the data may include, but not be limited to, the following in order to deliver a statutory service to Service Users under the Care Act 2014:</p> <ul style="list-style-type: none"> • Collecting, maintaining and storing Service User records in all formats • Sharing Service User information across the Service Provider's organisation and with other appropriate external agencies to include: appropriate Regulatory Bodies; the Police; health services. • Completion of returns relating to multi-agency safeguarding and complaints processes. <p>The purpose of processing the data is to enable the Service Provider to provide a quality service to Service Users in accordance with Schedules1 of this Contract and to safeguard individual Service Users where there are concerns about their wellbeing.</p>

Type of Personal Data	<p>Personal data: Service User details as follows: Name; address; date of birth; next of kin; personal accounts; Special category data: Gender and ethnic origin; GP; medical and health/care related details relevant to their support plan; current risk assessment; mental capacity; mental impairment; relevant offence details where appropriate.</p>
Categories of Data Subject	Service Users
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<p>Information where no longer required should be destroyed securely, unless specifically instructed by the Council that it must be returned to the Council. (insert the specific instruction here e.g. six years from end of contract)</p>

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Schedule 9??

Joint Controller Agreement

[Guidance: insert only where Joint Controller applies in Schedule 6]

In this Annex the Parties must outline each party's responsibilities for:

- providing information to data subjects under Article 13 and 14 of the GDPR.
- responding to data subject requests under Articles 15-22 of the GDPR
- notifying the Information Commissioner (and data subjects) where necessary about data breaches
- maintaining records of processing under Article 30 of the GDPR
- carrying out any required Data Protection Impact Assessment
- The agreement must include a statement as to who is the point of contact for Data Subjects.

The essence of this relationship shall be published.

You may wish to incorporate some clauses equivalent to those specified in Clause 18.2-18.16.

You may also wish to include an additional clause apportioning liability between the parties arising out of data protection; of data that is jointly controlled.

Where there is a Joint Control relationship, but no controller to processor relationship under the contract, this completed Schedule 7 should be used instead of Clause 18.1-18.17.

Schedule 10

Security

A lot of what is below is already contained in main terms of Agreement so some or all of this Schedule may not be required

External Certifications e.g. The Council should ensure that Suppliers/Contractors/Providers hold at least Cyber Essentials Plus certification and ISO 27001:2013 certification if proportionate to the service being procured.

Risk Assessment e.g. Contractor/Provider should perform a technical information risk assessment on the service supplied and be able to demonstrate what controls are in place to address those risks.

Security Classification of Information e.g. If the provision of the Services requires the Contractor/Provider to Process Council data which is classified as OFFICIAL, OFFICIAL-SENSITIVE or Personal Data, the Contractor/Provider shall implement such additional measures as agreed with the Council from time to time in order to ensure that such information is safeguarded in accordance with the applicable legislative and regulatory obligations.

End User Devices e.g.

- The Contractor/Provider shall ensure that any Council/Personal Data which resides on a mobile, removable or physically uncontrolled device is stored encrypted using a product or system component which has been formally assured

through a recognised certification process agreed with the Council except where the Council has given its prior written consent to an alternative arrangement.

- The Contractor/Provider shall ensure that any device which is used to process Council/Personal Data meets all of the security requirements set out in the NCSC End User Devices Platform Security Guidance, a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/end-user-device-security>.

Testing e.g. The Contractor/Provider shall at its own cost and expense, procure a CHECK or CREST Certified Supplier to perform an ITHC or Penetration Test prior to any live Council/Personal data being transferred into their systems. The ITHC scope must be agreed with the Council to ensure it covers all the relevant parts of the system that processes, stores or hosts Council/Personal data.

Networking e.g. The Contractor/Provider shall ensure that any Council/Personal Data which it causes to be transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device shall be encrypted when transmitted.

Personnel Security e.g. All Contractor/Provider Personnel shall be subject to a pre-employment check before they may participate in the provision and or management of the Services. Such pre-employment checks must include all pre-employment checks which are required by the HMG Baseline Personnel Security Standard or equivalent including: verification of the individual's identity; verification of the individual's nationality and immigration status; and, verification of the individual's employment history;

verification of the individual's criminal record. The Contractor/Provider maybe required to implement additional security vetting for some roles.

Identity, Authentication and Access Control e.g.The Contractor/Provider must operate an appropriate access control regime to ensure that users and administrators of the service are uniquely identified. The Contractor/Provider must retain records of access to the physical sites and to the service.

Data Destruction/Deletion e.g. The Contractor/Provider must be able to demonstrate they can supply a copy of all data on request or at termination of the service, and must be able to securely erase or destroy all data and media that the Council data has been stored and processed on.

Audit and Protective Monitoring e.g. The Contractor/Provider shall collect audit records which relate to security events in delivery of the service or that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness such Contractor/Provider audit records should (as a minimum) include regular reports and alerts setting out details of access by users of the service, to enable the identification of (without limitation) changing access trends, any unusual patterns of usage and/or accounts accessing higher than average amounts of Council/Personal Data. The retention periods for audit records and event logs must be agreed with the Council and documented.

Location of Council/Personal Data e.g. The Contractor/Provider shall not, and shall procure that none of its Sub-contractors, process Council/Personal Data outside the EEA without the prior written consent of the Council and the Contractor/Provider shall not change where it or any of its Sub-contractors process Council/Personal Data without the Council's prior written consent which may be subject to conditions.

Vulnerabilities and Corrective Action e.g. Contractors/Providers shall procure and implement security patches to vulnerabilities in accordance with the timescales specified in the NCSC Cloud Security Principle 5.

Contractors/Providers must ensure that all COTS Software and Third Party COTS Software be kept up to date such that all Supplier COTS Software and Third Party COTS Software are always in mainstream support.

Secure Architecture e.g. Contractors/Providers should design the service in accordance with:

- NCSC "Security Design Principles for Digital Services"
- NCSC "Bulk Data Principles"
- NSCS "Cloud Security Principles"]

IN THE WITNESS of which the parties hereto have executed this document on the above date by their duly authorised officers

Signed by and on behalf of
Shropshire Council

.....

Corporate Head of Legal & Democratic Services

..... **Legal Services Manager People/Places**

SIGNED by an authorised signatory on behalf of the SERVICE PROVIDER	Signature:..... Print Name:..... Position:.....
SIGNED by an authorised signatory on behalf of the SERVICE PROVIDER	Signature:..... Print Name:..... Position:.....

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