

## **UK-Shrewsbury: Social services.**

UK-Shrewsbury: Social services.

### **Section I: Contracting Authority**

#### **I.1) Name and addresses**

Shropshire Council

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

Tel. +44 1743252992, Email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)

Contact: Nigel Denton - Procurement Manager

Main Address: [www.shropshire.gov.uk](http://www.shropshire.gov.uk), Address of the buyer profile: [www.shropshire.gov.uk](http://www.shropshire.gov.uk)

NUTS Code: UKG22

#### **I.2) Joint procurement**

The contract involves joint procurement: Yes.

In the case of joint procurement involving different countries, state applicable national procurement law: Not provided

The contract is awarded by a central purchasing body: No.

#### **I.3) Communication**

The procurement documents are available for unrestricted and full direct access, free of charge, at: <http://www.delta-esourcing.com/tenders/UK-UK-Shrewsbury:-Social-services./V6TY4U7378>

Additional information can be obtained from: the abovementioned address

Tenders or requests to participate must be sent electronically via <http://www.delta-esourcing.com/tenders/UK-title/V6TY4U7378> to the abovementioned address

Electronic communication requires the use of tools and devices that are not generally available.

Unrestricted and full direct access to these tools and devices is possible, free of charge, at: Not provided

#### **I.4) Type of the contracting authority**

Regional or local authority

#### **I.5) Main activity**

General public services

### **Section II: Object**

#### **II.1) Scope of the procurement**

II.1.1) Title: CMCV 031 - Early Help Commissioned Services

Reference Number: CMCV 031

II.1.2) Main CPV Code:

85320000 - Social services.

II.1.3) Type of contract: SERVICES

II.1.4) Short description: Shropshire Council seeks to procure an Early Help Commissioned Service. The service will be split into 2 lots:

Lot 1: Targeted Family Support

Lot 2: Support for Young Carers

Tenderers can apply for one or more lots.

II.1.5) Estimated total value:

Value excluding VAT: 1,786,000

Currency: GBP

II.1.6) Information about lots:

This contract is divided into lots: Yes

Tenders may be submitted for: All lots

Maximum number of lots that may be awarded to one tenderer: Not provided

The contracting authority reserves the right to award contracts combining the following lots or groups of lots: Not provided

#### **II.2) Description**

##### **II.2) Description Lot No. 1**

II.2.1) Title: Not provided

Lot No: Lot 1 - Targeted Family Support

II.2.2) Additional CPV codes:

85320000 - Social services.

II.2.3) Place of performance:  
UKG22 Shropshire CC

II.2.4) Description of procurement: Lot 1 - Targeted Family Support - this service will provide early intervention to families. This contract shall commence on 1st April 2019 for an initial period of 2 years with the option to extend for a further 2 year period.

We consider The Employee 'Transfer of Undertakings (Protection of Employment) Regulations ('TUPE') may apply to this contract(s) with the current staff team at the homes to be transferred

II.2.5) Award criteria:  
Criteria below  
Quality criterion - Name: Quality / Weighting: 60

Cost criterion - Name: Price / Weighting: 40

II.2.6) Estimated value:  
Value excluding VAT: 1,546,000  
Currency: GBP

II.2.7) Duration of the contract, framework agreement or dynamic purchasing system:  
Start: 01/04/2019 / End: 31/03/2021

This contract is subject to renewal: Yes

Description of renewals: The contract can be extended by a further period of up to 2 years from 1st April 2021.

II.2.10) Information about variants:  
Variants will be accepted: No

II.2.11) Information about options:

Options: No

Description of options: Not provided

II.2.12) Information about electronic catalogues:

Tenders must be presented in the form of electronic catalogues or include an electronic catalogue: No

II.2.13) Information about European Union funds:

The procurement is related to a project and/or programme financed by European Union funds: No

Identification of the project: Not provided

II.2.14) Additional information: Not provided

II.2) Description Lot No. 2

II.2.1) Title: Lot 2 - Support for Young Carers

Lot No: Lot 2 - Support for Young Carers

II.2.2) Additional CPV codes:

85320000 - Social services.

II.2.3) Place of performance:  
UKG22 Shropshire CC

II.2.4) Description of procurement: Lot 2 - Support for Young Carers - this service will identify, assist and support Young Carers to ensure they have equal development opportunities as their peers. This contract will commence on 1st April 2019 for an initial period of 2 years with the option to extend for a further period of up to 2 years

We consider The Employee 'Transfer of Undertakings (Protection of Employment) Regulations ('TUPE') may apply to this contract(s) with the current staff team at the homes to be transferred.

II.2.5) Award criteria:  
Criteria below  
Quality criterion - Name: Quality / Weighting: 60

Cost criterion - Name: Price / Weighting: 40

II.2.6) Estimated value:

Value excluding VAT: 240,000

Currency: GBP

II.2.7) Duration of the contract, framework agreement or dynamic purchasing system:

Start: 01/04/2019 / End: 31/03/2021

This contract is subject to renewal: Yes

Description of renewals: The contract can be extended by a further period of up to 2 years from 1st April 2021.

II.2.10) Information about variants:

Variants will be accepted: No

II.2.11) Information about options:

Options: No

Description of options: Not provided

II.2.12) Information about electronic catalogues:

Tenders must be presented in the form of electronic catalogues or include an electronic catalogue: No

II.2.13) Information about European Union funds:

The procurement is related to a project and/or programme financed by European Union funds: No

Identification of the project: Not provided

II.2.14) Additional information: Not provided

### Section III: Legal, Economic, Financial And Technical Information

#### III.1) Conditions for participation

III.1.1) Suitability to pursue the professional activity, including requirements relating to enrolment on professional or trade registers

List and brief description of conditions:

See tender documents

#### III.1.2) Economic and financial standing

List and brief description of selection criteria:

See tender documents

Minimum level(s) of standards possibly required (if applicable) :

See tender documents

#### III.1.3) Technical and professional ability

List and brief description of selection criteria:

See tender documents

Minimum level(s) of standards possibly required (if applicable) :

See tender documents

#### III.1.5) Information about reserved contracts (if applicable)

The contract is reserved to sheltered workshops and economic operators aiming at the social and professional integration of disabled or disadvantaged persons: No

The execution of the contract is restricted to the framework of sheltered employment programmes: No

#### III.2) Conditions related to the contract

##### III.2.1) Information about a particular profession

Reference to the relevant law, regulation or administrative provision:

Not Provided

##### III.2.2) Contract performance conditions

See tender documents

##### III.2.3) Information about staff responsible for the performance of the contract

Obligation to indicate the names and professional qualifications of the staff assigned to performing the contract: No

### Section IV: Procedure

#### IV.1) Description OPEN

IV.1.1) Type of procedure: Open

IV.1.3) Information about a framework agreement or a dynamic purchasing system  
The procurement involves the establishment of a framework agreement - NO  
In the case of framework agreements justification for any duration exceeding 4 years: Not Provided

IV.1.6) Information about electronic auction:

An electronic auction will be used: No

Additional information about electronic auction: Not provided

IV.1.8) Information about the Government Procurement Agreement (GPA)

The procurement is covered by the Government Procurement Agreement: No

IV.2) Administrative information

IV.2.1) Previous publication concerning this procedure:

Notice number in the OJ S: Not provided

IV.2.2) Time limit for receipt of tenders or requests to participate

Date: 05/11/2018

IV.2.4) Languages in which tenders or requests to participate may be submitted: English,

IV.2.6) Minimum time frame during which the tenderer must maintain the tender: Not Provided

IV.2.7) Conditions for opening of tenders:

Date: 05/11/2018

Time: 12:00

Place:

Shirehall, Shrewsbury

## Section VI: Complementary Information

VI.1) Information about recurrence

This is a recurrent procurement: Yes

Estimated timing for further notices to be published: 4 years

VI.2) Information about electronic workflows

Electronic ordering will be used No

Electronic invoicing will be accepted No

Electronic payment will be used No

VI.3) Additional 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.

For more information about this opportunity, please visit the Delta eSourcing portal at:

<https://www.delta-esourcing.com/tenders/UK-UK-Shrewsbury:-Social-services./V6TY4U7378>

To respond to this opportunity, please click here:

<https://www.delta-esourcing.com/respond/V6TY4U7378>

VI.4) Procedures for review

VI.4.1) Review body:

Shropshire Council

Shirehall, Shrewsbury, SY2 6ND, United Kingdom

Email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)

Internet address: [www.shropshire.gov.uk](http://www.shropshire.gov.uk)

VI.4.2) Body responsible for mediation procedures:

Shropshire Council

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

Email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)

Internet address: [www.shropshire.gov.uk](http://www.shropshire.gov.uk)

VI.4.3) Review procedure

Precise information on deadline(s) for review procedures:

Not Provided

VI.4.4) Service from which information about the lodging of appeals may be obtained:

Shropshire Council

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

Email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)  
Internet address: [www.shropshire.gov.uk](http://www.shropshire.gov.uk)  
VI.5) Date Of Dispatch Of This Notice: 27/09/2018

#### Annex A

IV) Address of the other contracting authority on behalf of which the contracting authority is purchasing

Purchased on behalf of other contracting authority details:

1: Contracting Authority

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.

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

Email: [procurement@Shropshire.gov.uk](mailto:procurement@Shropshire.gov.uk)

Main Address: [www.shropshire.gov.uk](http://www.shropshire.gov.uk)

NUTS Code: UKG22

Dear Bidder

**CMCV 031 – EARLY HELP COMMISSIONED SERVICES  
LOT 1 – TARGETTED FAMILY SUPPORT  
LOT 2 – SUPPORT FOR YOUNG CARERS**

**SHROPSHIRE COUNCIL**

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

1. Instructions for Tendering
2. Draft Form of Agreement for Lot 1
3. Draft Form of Agreement for Lot 2
4. Joint Controller Agreement - GDPR
5. Tender Response Document
6. Invitation to Tender Document including Specification
7. TUPE Confidentiality Letter
8. Lot 1 Performance Reporting Template (excel document)
9. Lot 1 Contract Monitoring Template
10. Lot 2 Performance Reporting Template (excel document)
11. Lot 2 Contract Monitoring Template

Tenders should be made on the enclosed Tender Response Document. Your Tender must be completed, signed and returned together with a signed copy of the 'Instructions for Tendering' through our Delta Tenderbox. You are recommended to keep a copy of all tender documents and supporting documents for your own records.

Please pay particular attention to the points below concerning the returning of tenders.

Returning of Tenders

- The deadline for returning tenders is **noon on 5<sup>th</sup> November 2018**, 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, facsimile or email
- Tenders are received after **12 noon on the given deadline**

## European Requirements

In accordance with the EU Procurement Directive, Shropshire Council will accept equivalent EC member or international standards in relation to safety, suitability and fitness for purpose. Where a particular brand of article or service has been referred to in the tender document, alternatives or equivalents which achieve the same result will be equally acceptable. In these cases Shropshire Council will take into account any evidence the tenderer wishes to propose in support of the claim that the product or service is equivalent to the named types.

All tender documents and any accompanying information must be submitted in English. A Contract Notice in respect of this requirement was dispatched on 27<sup>th</sup> September 2018 to appear in the Supplement to the Official Journal of the European Union.

## 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 also note that Shropshire Council is committed to achieving Social Value outcomes through 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](http://www.shropshire.gov.uk/doing-business-with-shropshire-council).**

As part of its sustainability policy, Shropshire Council encourages tenderers to minimise packaging, particularly presentational or retail packaging.

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](http://www.shropshire.gov.uk/doing-business-with-shropshire-council).

personal info

If you have any queries relating to this invitation to tender, please contact me on telephone number 01743 252993.

Yours faithfully



Commissioning Development & Procurement Manager  
Commissioning & Procurement  
Enc





# **INSTRUCTIONS FOR TENDERING**

**CMCV 031 – EARLY HELP  
COMMISSIONED SERVICE**

## Shropshire Council Instructions for tendering

### **Contract Description:**

Early Help Commissioned Services

Lot 1: Targeted Family Support

Lot 2: Support for Young Carers

For Shropshire Council, Children's Services.

Service users 0-18/19 year old children and young people,  
(Up to 25 for young people with disabilities)

Resident in Local Authority area of Shropshire.

Initial contract length: two years,  
with option to extend by a further maximum of two years.

Contract start 1 April 2019.

Maximum annual value £446,500

The Council is seeking separate applications from Expert Service Providers for each lot. If a provider is awarded both lots, then the council will work with the provider to identify additional benefits (including price) of operating both lots.

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## **1.0 Invitation to Tender**

- 1.1** You are invited to tender for the provision of an Early Help Commissioned Service as detailed in the Tender Response Document and Invitation to Tender Document. The contract will be for an initial period of 2 years commencing on the **1<sup>st</sup> April 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 enclosed Draft Form of Agreements, 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 enclosed Draft Form of Agreements, the Invitation to tender document 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, 5<sup>th</sup> November 2018**.
- 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 The Transfer of Undertakings (Protection of Employment) regulations 2006**

- 6.1 Tenderers should note that the Employee 'Transfer of Undertakings (Protection of Employment) Regulations '2006 ('TUPE') will apply to this contract. Also compliance with the provisions in relation to Local Authority Pensions will also be required. Tenderers are advised to seek their own legal advice about the practicality of these regulations and should reflect the financial implications of such a transfer in their tender submissions.
- 6.2 Details of employees of companies/and of the Council who are currently carrying out the work that is included in the Contract can be requested by emailing [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk) Tenderers should note, however, that where the Council provides information to them for the purposes of TUPE, such information may originate from a third party. As the Council has no control over the compilation of such third party information, the Council gives no guarantee or

assurance as to the accuracy or completeness of such information and cannot be held responsible for any errors or omissions in it.

## **7.0 Tender Evaluation**

- 7.1** 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.
- 7.2** 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.

## **8.0 Clarifications**

- 8.1** Tenderers are responsible for clarifying any aspects of the tendering process and/or the Invitation to Tender documents in the manner described below.
- 8.2** If you are unsure of any section and require further clarification, please contact via our Delta Tenderbox.
- 8.3** Where appropriate, the Authorised Officer named above may direct the Tenderer to other officers to deal with the matter.
- 8.4** All queries should be raised as soon as possible (in writing), in any event not later than **29<sup>th</sup> October 2018**.
- 8.5** 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.
- 8.6** 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.



## **9.0 Continuation of the Procurement Process**

**9.1** 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.

**9.2** 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.

**9.3** 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.

## **10.0 Confidentiality**

**10.1** 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.

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

**10.3** 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.

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

**10.4.1** 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;

**10.4.2** 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

**10.4.3** Tenderers shall not undertake any publicity activity within any section of the media.

- 10.5** Tenderers may disclose, distribute or pass this Invitation to tender to their professional advisors, sub-contractors or to another person provided that:
- 10.5.1** 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
  - 10.5.2** the Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Invitation to Tender; or
  - 10.5.3** 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
  - 10.5.4** the Tenderer is legally required to make such a disclosure.
- 10.6** 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.

## **10.7 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.

## **11.0 Freedom of Information**

- 11.1** 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.
- 11.2** 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.
- 11.3** 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.

- 11.4** 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.
- 11.5** 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>

## **12.0 Disqualification**

- 12.1** The Council reserves the right to reject or disqualify a Tenderer's Tender submission where:
  - 12.1.1** 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
  - 12.1.2** The tenderer is guilty of serious or intentional or reckless misrepresentation in relation to its tender return and/or the procurement process.
  - 12.1.3** 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.
  - 12.1.4** 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.

**12.2** 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.

**12.3** 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.

### **13.0 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.

### **14.0 Award of Contract**

#### **14.1 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.

#### **14.2 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.

#### **14.3 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.

### **15.0 Value of Contract**

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

**16.0     Acceptance**

- 16.1**     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.
- 16.2**     The Tender documentation including, the Draft Form of Agreement, Invitation to Tender, 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.
- 16.3**     The Tenderer shall be prepared to commence the provision of the services on the start date of the contract being **1<sup>st</sup> April 2019**.

**17.0     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.

**18.0     Liability of Council**

- 18.1**     The Council does not bind himself to accept the lowest or any tender.
- 18.2**     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.
- 18.3**     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.
- 18.4**     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.
- 18.5**     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.

- 19.0** 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

**20.0 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 .....

Dated.....20

CONTRACT

BETWEEN

SHROPSHIRE COUNCIL

and

[add in legal entity of the Service Provider]

Contract Ref No CMCV 031

Lot 1 For the Provision of Targeted Family Support

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DRAFT

THIS CONTRACT is made the                      day of                      2018 hereinafter called the "Contract" between

(1) SHROPSHIRE COUNCIL of Shirehall Abbey Foregate Shrewsbury SY2 6ND ("the Council") and

(2) [add in legal entity name] of [add in legal entity address] [(company number X )] /[ whose registered charity number is X ] (the "Service Provider")

NOW IT IS AGREED as follows:

#### DEFINITIONS

For the purpose of this Contract the following words shall have the following meanings:

Associated Person	means in respect of the Council, a person, partnership, limited liability partnership or company (and company shall include a company which is a subsidiary, a holding company or a company that is a subsidiary of the ultimate holding company of that company) in which the Council has a shareholding or other ownership interest; OR any other body that substantially performs any of the functions of the Council that previously had been performed by the Council.
Authorised Officer	means the representative appointed by the Council to manage the Contract on its behalf
Best Value	the requirement under section 3 of the Local Government Act 1999 for local authorities to secure continuous improvement.
Bribery Act	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
<b>Commencement Date</b>	<b>1<sup>st</sup> April 2019</b>
Commercially Sensitive Information	comprises the information of a commercially sensitive nature relating to the Service Provider its Intellectual Property Rights or its business which the Service Provider has indicated to the Council in writing that, if disclosed by the Council, would cause the Service Provider significant commercial disadvantage or material financial loss;
Confidential Information	any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Council or the Service Provider, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential, including all Personal Data and the Commercially Sensitive Information; together with all information as defined by Clause 31 of this Contract.
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 (subject to Royal Assent)
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 <sup>st</sup> April in one year and ending on 31 <sup>st</sup> 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.
GDPR	means the General Data Protection Regulation in force in the UK with effect from 25th May 2018
Initial Expiry Date 'Initial Term'	31 <sup>st</sup> March 2021 means a period of 2 years 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 a period up to 2 years commencing from 1 <sup>st</sup> April 2021
Outcomes	means the targets, results or objectives set out in this Agreement
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	the following constitute Prohibited Acts: (a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to: (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant

	<p>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>(i) under the Bribery Act 2010;</p> <p>(ii) under legislation creating offences concerning fraudulent acts;</p> <p>(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
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
'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 Staff	the Specification contained in Schedule 1 to this Contract 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
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 1<sup>st</sup> 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) In each Financial Year a maximum of £386,500 (three hundred and eighty six thousand five hundred pounds only) 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 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) [NOT USED]
- 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) where applicable, provide a copy of the DBS check results to the Council if requested
  - 4(b)(xvii) 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) [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.
- 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
- 4(h) The Review meeting shall record in writing any amendments to the Performance Indicators/Outcomes agreed between the Council and the Service Provider.
- 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) 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) 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) NOT USED
- 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**

- 8(a) The Service Provider shall ensure that all necessary accounting arrangements exist to distinguish between the Payment and any funds held on behalf of the Service User or any other funds held by the Service Provider.
- 8(b) All bank building society post office or other account statements together with all other supporting documentation pertaining to Service Users monies held by the Service Provider shall be retained by the Service Provider and made available for inspection by the Council.
- 8(c) The Service Provider will (upon the Council's request) produce records of any funding held on behalf of Service Users which shall clearly identify the balance held and the date funds are paid in and withdrawn.
- 8(d) The Service Provider will facilitate the inspection of all financial records held in connection with the Service and shall produce a copy of its annual audited accounts as soon as is reasonably practicable if requested to do so by the Council.
- 8(e) The Service Provider shall provide such financial information as the Council may reasonably require from time to time to assess the financial viability and monitor the performance of the Service Provider.
- 8(f) The Service Provider shall compile maintain and keep the information and records as required in the Specification and such information as the Council may from time to time reasonably require to enable the Council to submit any information or data required for the purposes of the Performance Indicators/Outcomes.
- 8(g) The Council may by Notice in Writing to the Service Provider authorise the statutory auditors of the Council or any regulatory body to which the Council is subject including but without limitation the Commission for Local Administration to exercise any of the rights exercisable under this clause by the Council. For these purposes the "statutory auditors of the Council" shall include any body appointed by the Audit Commission or authorised by statute to perform similar functions to those of the Audit Commission.

## **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 Francean Doyle, Head of Early Help, Partnership & Commissioning at Shropshire Council Shirehall, Abbey Foregate, Shrewsbury SY2 6ND
  - 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 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(d) [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 e.g.6 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) 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 Council's Head of Early Help, Partnership & Commissioning at Shropshire Council Shirehall, Abbey Foregate, Shrewsbury SY2 6ND 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 Head of Early Help, Partnership & Commissioning 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 Controller and the Service Provider is the Processor. The only processing that the Service Provider is authorised to do is as set out in this agreement which includes Schedule 8 which sets out the scope, nature and purpose of processing by the Service Provider, the duration of the processing and the types of Personal Data and categories of Data Subject.
  - 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.] (to be confirmed with successful Service Provider)

#### **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) The Parties acknowledge that the Service Provider is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated Activity provided under this Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006. 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
- 36(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 TUPE**

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

### **42 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. The Service Provider must complete the Contract Monitoring Template and Performance Monitoring template provided by the Council on a quarterly basis
- 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 Head of Early Help, Commissioning & Partnerships 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 Head of Early Help, Commissioning & Partnerships 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)**

#### **SCHEDULE 5 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;

**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 Agreement, 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 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 Agreement, 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 Agreement 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. 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 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 Relevant Transfer shall occur on the Effective Date.

### **3.2 NOT USED**

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.

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 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 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 Agreement;
- (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 Agreement. 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 Agreement 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 Agreement 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 disapplied 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 Agreement 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 Agreement 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.

**Annex A. Admission Agreement (Not Used)**

**Annex B. Transferring Council Employees**

There are no Transferring Council Employees

**Annex C. Transferring Former Provider Employees**

**Schedule 6**  
**Outcomes/Performance Indicators**

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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

## 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 – <b>to be amended if it is agreed that both Parties are Joint Controllers</b>	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 33(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"> <li>• Collecting, maintaining and storing Service User records in all formats</li> <li>• 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.</li> <li>• Completion of returns relating to multi-agency safeguarding and complaints processes.</li> </ul> <p>The purpose of processing the data is to enable the Service Provider to provide a quality service to Service Users in accordance with the Schedules of this Contract and to safeguard individual Service Users where there are concerns</p>

	about their wellbeing.
Type of Personal Data	<p>Personal data:</p> <p>Service User details as follows: Name; address; date of birth; next of kin; personal accounts;</p> <p>Special category data:</p> <p>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. (to be agreed between the Council and the successful Service Provider)</p>

Schedule 9 (only applicable where Provider considers itself to be Controller). Please see Joint Controller Agreement attached separately

### 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.

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:.....

Dated.....20...

CONTRACT

BETWEEN

SHROPSHIRE COUNCIL

and

[add in legal entity of the Service Provider]

Contract Ref No CMCV 031

Lot 2 Support for Young Carers

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DRAFT



THIS CONTRACT is made the                      day of                      20 [..] hereinafter called the "Contract" between

(1) SHROPSHIRE COUNCIL of Shirehall Abbey Foregate Shrewsbury SY2 6ND ("the Council") and

(2) [add in legal entity name] of [add in legal entity address] [(company number X )] /[ whose registered charity number is X ] (the "Service Provider")

NOW IT IS AGREED as follows:

#### DEFINITIONS

For the purpose of this Contract the following words shall have the following meanings:

Associated Person	means in respect of the Council, a person, partnership, limited liability partnership or company (and company shall include a company which is a subsidiary, a holding company or a company that is a subsidiary of the ultimate holding company of that company) in which the Council has a shareholding or other ownership interest; OR any other body that substantially performs any of the functions of the Council that previously had been performed by the Council.
Authorised Officer	means the representative appointed by the Council to manage the Contract on its behalf
Best Value	the requirement under section 3 of the Local Government Act 1999 for local authorities to secure continuous improvement.
Bribery Act	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
<b>Commencement Date</b>	<b>1<sup>st</sup> April 2019</b>
Commercially Sensitive Information	comprises the information of a commercially sensitive nature relating to the Service Provider its Intellectual Property Rights or its business which the Service Provider has indicated to the Council in writing that, if disclosed by the Council, would cause the Service Provider significant commercial disadvantage or material financial loss;
Confidential Information	any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Council or the Service Provider, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential, including all Personal Data and the Commercially Sensitive Information; together with all information as defined by Clause 31 of this Contract.
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 (subject to Royal Assent)
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 <sup>st</sup> April in one year and ending on 31 <sup>st</sup> 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.
GDPR	means the General Data Protection Regulation in force in the UK with effect from 25th May 2018
Initial Expiry Date 'Initial Term'	31 <sup>st</sup> March 2021 means a period of 2 years 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 a period up to 2 years commencing from 1 <sup>st</sup> April 2021
Outcomes	means the targets, results or objectives set out in this Agreement
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	the following constitute Prohibited Acts: (a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to: (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant

	<p>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>(i) under the Bribery Act 2010;</p> <p>(ii) under legislation creating offences concerning fraudulent acts;</p> <p>(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
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
'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
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 1<sup>st</sup> 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) In each Financial Year a maximum of £60,000 (sixty thousand pounds only) 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 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) [NOT USED]
- 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) where applicable, provide a copy of the DBS check results to the Council if requested
  - 4(b)(xvii) 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) [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.
- 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
- 4(h) The Review meeting shall record in writing any amendments to the Performance Indicators/Outcomes agreed between the Council and the Service Provider.
- 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) 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) 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(j)(vii)
- 4(k) NOT USED
- 4(l) NOT USED
- 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**

- 8(a)** The Service Provider shall ensure that all necessary accounting arrangements exist to distinguish between the Payment and any funds held on behalf of the Service User or any other funds held by the Service Provider.
- 8(b)** All bank building society post office or other account statements together with all other supporting documentation pertaining to Service Users monies held by the Service Provider shall be retained by the Service Provider and made available for inspection by the Council.
- 8(c)** The Service Provider will (upon the Council's request) produce records of any funding held on behalf of Service Users which shall clearly identify the balance held and the date funds are paid in and withdrawn.
- 8(d)** The Service Provider will facilitate the inspection of all financial records held in connection with the Service and shall produce a copy of its annual audited accounts as soon as is reasonably practicable if requested to do so by the Council.
- 8(e)** The Service Provider shall provide such financial information as the Council may reasonably require from time to time to assess the financial viability and monitor the performance of the Service Provider.
- 8(f)** The Service Provider shall compile maintain and keep the information and records as required in the Specification and such information as the Council may from time to time reasonably require to enable the Council to submit any information or data required for the purposes of the Performance Indicators/Outcomes.
- 8(g)** The Council may by Notice in Writing to the Service Provider authorise the statutory auditors of the Council or any regulatory body to which the Council is subject including but without limitation the Commission for Local Administration to exercise any of the rights exercisable under this clause by the Council. For these purposes the "statutory auditors of the Council" shall include any body appointed by the Audit Commission or authorised by statute to perform similar functions to those of the Audit Commission.

## **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 Head of Early Help, Partnerships & Commissioning at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND
  - 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 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(d) [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 e.g.6 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) 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 Council's Head of Early Help, Partnerships & Commissioning at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND 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 Head of Early Help, Partnerships & Commissioning 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 Controller and the Service Provider is the Processor. The only processing that the Service Provider is authorised to do is as set out in this agreement which includes Schedule 8 which sets out the scope, nature and purpose of processing by the Service Provider, the duration of the processing and the types of Personal Data and categories of Data Subject.
  - 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.] (to be confirmed with successful Service Provider)

#### **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) The Parties acknowledge that the Service Provider is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated Activity provided under this Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006. 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
- 36(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 TUPE**

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

### **42 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.



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**SCHEDULE 1 : THE SPECIFICATION**

**PLEASE SEE SPECIFICATION IN INVITATION TO TENDER DOCUMENT**

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## **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. The Service Provider must complete the Contract Monitoring Template and Performance Monitoring template provided by the Council on a quarterly basis
- 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 Head Of Early Help, Partnerships & Commissioning 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 Head Of Early Help, Partnerships & Commissioning 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

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)**

## **SCHEDULE 5 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;

**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 Agreement, 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 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 Agreement, 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 Agreement 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. 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 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 Relevant Transfer shall occur on the Effective Date.

### **3.2 NOT USED**

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.

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 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 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 Agreement;
- (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 Agreement. 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 Agreement 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 Agreement 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 disapplied 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 Agreement 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 Agreement 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.

**Annex A. Admission Agreement (Not Used)**

**Annex B. Transferring Council Employees**

There are no Transferring Council Employees

**Annex C. Transferring Former Provider Employees**

**Schedule 6**  
**Outcomes/Performance Indicators**

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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

## 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 – <b>to be amended if it is agreed that both Parties are Joint Controllers</b>	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 33(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"> <li>• Collecting, maintaining and storing Service User records in all formats</li> <li>• 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.</li> <li>• Completion of returns relating to multi-agency safeguarding and complaints processes.</li> </ul> <p>The purpose of processing the data is to enable the Service Provider to provide a quality service to Service Users in accordance with the Schedules of this Contract and to safeguard individual Service Users where there are concerns</p>

	about their wellbeing.
Type of Personal Data	<p>Personal data:</p> <p>Service User details as follows: Name; address; date of birth; next of kin; personal accounts;</p> <p>Special category data:</p> <p>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. (to be agreed between the Council and the successful Service Provider)</p>

Schedule 9 – (only applicable where the Provider considers itself a 'Controller') Please see Joint Controller Agreement attached separately

### 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.

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:.....

# **Joint Controller Agreement**

**Between**

**Shropshire Council (“the Council”)**

**And**

**..... (“the Provider”)**

**Version: 0.0**

## Definitions and Interpretation:

Except where set out below the definitions and Interpretations of this JCA shall be as set out in the Agreement

Agreement	Means the Agreement dated xxxxxxxxxx made between the Parties
Agreed Purpose	Means the purpose for which the Partners have agreed data is required to be processed as set out in clause 3 of this JCA
Controller	Takes the meaning given in the GDPR
Data Discloser	Means the party releasing the Personal Data to the Data Receiver
Data Protection Impact Assessment	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
Data Protection Legislation	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy
Data Protection Officer	take the meaning given in the GDPR
Data Receiver	Means the party receiving Personal Data from the Data Discloser
Data Subject	take the meaning given in the GDPR
EEA	Means the European Economic Area
GDPR	the General Data Protection Regulation ( <i>Regulation (EU) 2016/679</i> )
ICO	Information Commissioners Office



Initial Term	Means the period commencing on the Commencement Date and ending on .....
JCA	Means this Joint Controller Agreement
Joint Control/Controllers	where two or more Controllers jointly determine the purposes and means of processing
Partners	Means the Council and the Provider
Personal Data	take the meaning given in the GDPR
Responsible Manager	Shall be the person identified in clause 2 of this JCA
Services	Targeted Family Support/Support For Young Carers
Service Users	Means those persons eligible to receive the Services
Shared Personal Data	Means the data under Joint Control
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.
Sub-Processors	any third Party appointed to process Personal Data on behalf of that Processor related to this JCA

## 1 Introduction

- 1.1 This Joint Controller Agreement (“JCA”) has been agreed between the Partners further to the Agreement

- 1.2 This JCA governs access to the Personal Data of Service Users for the purpose of providing the Services and shall set out the framework for the sharing of Personal Data between the parties as Controllers. It shall define the principles and procedures that the Partners shall adhere to and the responsibilities that they each owe to each other.
- 1.3 The Partners acknowledge that for the purposes of the Agreement they are Joint Controllers further to the Data Protection Legislation with respect to the scope of the Personal Data for which it is agreed the purposes and means of the processing shall be determined by both Partners. In respect of Personal Data under Joint Control, Clause 33(a)-33(p) of the Agreement will not apply and the Partners agree that this JCA shall take precedence
- 1.4 The overall aim of this document is to describe each Controllers' responsibilities and set out a lawful and consistent approach to the sharing of information that will benefit Service Users while protecting the confidentiality of their Personal Data.
- 1.5 The Partners agree to only process Shared Personal Data, as described in section 5 of this JCA for the purposes set out in section 3 as required to commission and deliver the Services
- 1.6 Each Partner shall appoint a Responsible Manager who will act as the single point of contact for each Partner and who collectively will work together to reach agreement with regard to any issues arising from the data sharing and to actively improve the effectiveness of any data sharing initiative. The Responsible Managers shall be as named in section 2 below.
- 1.7 Each Partner shall appoint a Data Protection Officer as required by the Data Legislation and their respective contact details are as set out in section 2 below.
- 1.8 A glossary of terms for this JCA is contained within clause 1 (Definition and Interpretation) of the Agreement
- 1.9 Data sharing under this JCA shall, in addition to any other obligations set out in this JCA and the Agreement, be in compliance with the ICO's Data Sharing Code of Practice of May 2011

## 2 Partners to the JCA

2.1 This JCA is between:

Organisation	Responsible Manager	Data Protection Officer
Shropshire Council	Marion Versluijs	Commissioning Development Officer <a href="mailto:contractst@shropshire.gov.uk">contractst@shropshire.gov.uk</a>
xxxxxxxxxxxx	[insert details]	[Insert job title and contact details here]

2.2 The Responsible Managers detailed above have overall responsibility for this JCA within their own organisations, and must therefore ensure the JCA is

disseminated, understood and acted upon by relevant health professionals and employees.

### **3 Purpose and benefits**

**Agreed Purpose:** The Partners agree to only process the Shared Personal Data for the purposes of enabling the Partners to commission and provide appropriate and relevant Services to Service Users under the terms of the Agreement. It is agreed that Shared Personal Data must not be irrelevant or excessive with regard to the Agreed Purpose and the Partners shall not process Shared Personal Data in a way which is not compatible with the purposes described in this section 3.

### **4 Legislative / statutory powers**

4.1 Disclosure of information will be conducted within the legal framework of the Data Protection Legislation, the Human Rights Act 1998 and in compliance with the common law duty of confidentiality.

#### **4.2 Data Protection**

4.2.1 The provisions of GDPR require organisations to identify the legal basis on which they intend to rely upon before processing Personal Data. The GDPR (as did the Data Protection Act 1998, which shall apply to any Personal Data processed by the Partners prior to 25<sup>th</sup> May 2018) provides a number of conditions in which the processing of Personal Data can be considered to be lawful. These are commonly known as the 'conditions for processing'.

4.2.2 The ICO's draft guidance on consent and the GDPR states that, where public bodies, employers and other organisations require someone to consent to the processing of their Personal Data as a condition of service, or where an organisation is a public body and could therefore be said to hold an undue level of power over an individual (i.e. they may be wary of not providing consent), consent should not be relied upon as a condition for processing.

4.2.3 The ICO has confirmed that public bodies should rely upon other conditions for processing.

4.2.4 For the purposes of this JCA, the following conditions from the GDPR will be relied upon:

Article 6(1)(c) and (e):

(c) processing is necessary for compliance with a legal obligation;

(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Controller.

Article 9(2):

#### **4.3 Common law duty of confidentiality**

4.3.1 Dame Fiona Caldicott's 2013 review recommended that, for the purposes of direct care, relevant personal confidential data should be

shared among registered and regulated health and social care professionals who have a legitimate relationship with the Service User. The review determined that such information could be shared on the basis of implied consent; explicit consent is not required but the wishes of the Service Users around the sharing of their data should be taken into account.

4.3.2 This opinion is echoed in the 2017 revised confidentiality guidance from the General Medical Council, which says that implied consent can be relied on if *'all of the following are met:*

- *You are accessing the information to provide or support the individual patient's direct care, or are satisfied that the person you are sharing the information with is accessing or receiving it for this purpose.*
- *Information is readily available to patients, explaining how their information will be used and that they have the right to object. This can be provided in leaflets and posters, on websites, and face to face. It should be tailored to patients' identified communication requirements as far as practicable.*
- *You have no reason to believe the patient has objected.*
- *You are satisfied that anyone you disclose personal information to understands that you are giving it to them in confidence, which they must respect.'*

4.3.3 Transparency around the use of Personal Data is a requirement of GDPR and, as described above, it is also required in order to share Personal Data without breaching the duty of confidence owed to Service Users. As such, Service Users will be provided with clear and concise information about how and why their information will be used, who will access it and the circumstances in which it will be shared (see section 7). Information provided to Service Users should take account of the ICO's code of practice, 'Privacy notices, transparency and control' [https://ico.org.uk/media/for-organisations/documents/1610/privacy\\_notices\\_cop.pdf](https://ico.org.uk/media/for-organisations/documents/1610/privacy_notices_cop.pdf)).

4.3.4 Service Users will be provided with clear and concise information describing how and why their Personal Data will be used, who will access it and the circumstances in which it will be shared (see Section 7).

## **5 Details of personal information being shared**

5.1 Personal information shared for the purpose of this JCA includes a range of information and might therefore include:

- Personal details;
- Family details;
- Lifestyle and social circumstances;
- Physical and mental health details;

- Investigation and treatment details;
- Racial or ethnic origin;
- Religious or other beliefs;
- Sexual life or orientation;
- Safeguarding details.

## **6 Controllers**

- 6.1 Partners to the Agreement and this JCA are “joint controllers” and will be separately responsible for the lawful processing of Personal Data, informing Service Users about the use of their Personal Data, the security of Personal Data, ensuring Service Users can exercise their rights and applying any other relevant provisions of the GDPR and Data Protection Legislation.
- 6.2 Controllers must ensure that appropriate agreements are in place with any Service Provider, data processor and/or Sub-Processors that processes personal information on their behalf in accordance with the main terms of the Agreement

## **7 Informing the Service User**

- 7.1 The GDPR requires organisations to provide clear and concise information to Service Users regarding the use of their Personal Data. Partners to the JCA will consider the best way this can be achieved.
- 7.2 Each Partner shall ensure that it processes the Shared Personal Data fairly and lawfully and that it has legitimate grounds under the Data Protection Legislation for the processing of the Shared Personal Data during the term of this JCA
- 7.3 The Partners will ensure that their respective Staff and health and social care professionals shall inform Service Users about how their information is to be used and ensure that Service Users are provided with clear and sufficient information, in accordance with the Data Protection Legislation, of the purposes for which each Partner will be processing the Service User’s Personal Data, the legal basis for such processing and such other information as may be required by Article 13 of the GDPR including if Shared Personal Data will be transferred to a third party, and sufficient information about such transfer and the purpose of such transfer to enable the Service User to understand the purpose and risk of such transfer. This will provide an opportunity for any concerns or requests for certain information to be treated differently or afforded additional protection to be discussed. In some cases, Services Users may wish to mark part of their record as private. Service Users should be informed of any practical limitations to compliance with any such requests. The Parties respective Staff and health and social care professionals should, where practical to do so, discuss the implications of adding additional protection to personal information, particularly when it will or is likely to impact on the quality of care provided.

- 7.4 Each Partner will ensure that leaflets and posters are made available at the point of care, on their websites and on other available resources available. Where appropriate, social media may also be used.

## **8 Data Protection Impact Assessment**

- 8.1 A Data Protection Impact Assessment has been undertaken to identify the key privacy risks and associated compliance and an action plan has been developed.
- 8.2 All risks identified have been; eliminated, reduced or accepted by the parties to this JCA.

## **9 Rights of Individuals**

- 9.1 Each Partner will be separately responsible for answering requests for Personal Data made under Article 15 of the GDPR – right of access by the Data Subject – or the Freedom of Information Act 2000. Where disclosure of requested information may affect another partner organisation, the relevant Responsible Manager will be informed and appropriate consultation will take place.
- 9.2 The Partners agree to provide such assistance as is reasonably required to enable the other Partner to comply with requests from Data Subjects to exercise their rights under the Data Protection Legislation within the time limits imposed by the Data Protection Legislation
- 9.3 Each Partner will ensure individuals are able to exercise other rights; such as the right to erasure and rectification of inaccurate data.
- 9.4 The Responsible Manager for each Partner shall be responsible for maintaining a record of individual requests for information, the decisions made and any information that was exchanged. Records must include copies of the request for information, details of the data accessed and shared and where relevant, notes of any meeting, correspondence or phone calls relating to the request.

## **10 Records Management**

- 10.1 Records will be updated and maintained in line with organisational policies, which should incorporate legal requirements and guidance from professional bodies.
- 10.2 Personal information regarding Service Users will be held and disposed of in line with the retention and disposal policies of each Partner organisation
- 10.3 Neither Partner shall retain or process Shared Personal Data for longer than is necessary to carry out the Agreed Purposes
- 10.4 Notwithstanding clause 10.3, the Partners shall continue to retain Shared Personal Data in accordance with any statutory or professional retention periods applicable within their respective industry.

- 10.5 Each Partner shall ensure that where they are the Data Receiver, they will ensure that any Shared Personal Data is returned to the Partner acting as the Data Discloser or destroyed in accordance with agreed deletion procedures between the Partners (which shall be agreed and finalised within one calendar month of the date of the Agreement) in the following circumstances:
- (a) on termination of the JCA and/or the Agreement (whichever occurs soonest);
  - (b) on expiry of the term of the JCA and/or Agreement (whichever occurs soonest);
  - (c) once processing of the Shared Personal Data is no longer necessary for the purposes it was originally shared for, as set out in section 3.
- 10.6 Following the deletion of Shared Personal Data in accordance with clause 10.5, the Partner acting as Data Receiver shall notify the Partner acting as Data Discloser that the Shared Personal Data in question has been deleted in accordance with the deletion procedure agreed further to clause 10.5

## **11 Information security**

- 11.1 Service User records will be accessed with full audit trail information being retained in line with agreed retention periods.
- 11.2 Each Partner shall notify the other as soon as is practicable, and at a maximum within ten working days, if they become aware of any unauthorised or unlawful processing, loss, damage or destruction of the information. This includes any 'near misses' and any incidents reported to the Information Commissioners Office. It is the responsibility of the Partner organisation managing any incident to investigate, report and escalate, as appropriate, to the necessary regulatory bodies.
- 11.3 Each Partner to this JCA will ensure that their staff with access to Personal Data have received appropriate information governance and system training and are aware of the confidential nature and duties placed on those processing identifiable, sensitive, confidential and anonymised/pseudonymised information. It shall be the responsibility of each Partner to ensure that its staff members are appropriately trained to handle and process the Shared Personal Data in accordance with the technical and organisational security measures implemented by each Partner together with any other applicable national data protection laws and guidance and have, where applicable, entered into confidentiality agreements relating to the processing of Personal Data further to clause 13.6.
- 11.4 The level, content and regularity of training referred to in clause 11.3 shall be proportionate to the staff members' role, responsibility and frequency with respect to their handling and processing of the Shared Personal Data.

- 11.5 Each Partner will maintain and follow a documented procedure for providing staff with access to Service User records and issuing passwords.
- 11.6 The Partners undertake to have in place throughout the term of this JCA appropriate technical and organisational security measures to:
- (a) prevent:
    - (i) unauthorised or unlawful processing of the Shared Personal Data; and
    - (ii) the accidental loss or destruction of, or damage to, the Shared Personal Data
  - (b) ensure a level of security appropriate to:
    - (i) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
    - (ii) the nature of the Shared Personal Data to be protected.

## **12 TRANSFERS**

- 12.1 For the purposes of this section 12, transfers of Personal Data shall mean any sharing of Personal Data by a Partner acting as Data Receiver with a third party, and shall include, but is not limited to, the following:
- (a) subcontracting the processing of Shared Personal Data;
  - (b) granting a third party Data Controller access to the Shared Personal Data.
- 12.2 If the Partner acting as Data Receiver appoints a third party Data Processor to process the Shared Personal Data it shall comply with Article 28 and Article 30 of the GDPR and shall remain liable to the Partner acting as Data Discloser for the acts and/or omissions of the processor.
- 12.3 The Partner acting as Data Receiver shall not disclose or transfer Shared Personal Data outside the EEA.

## **13 Other Obligations**

- 13.1 Each Partner will ensure they have appropriately notified the Information Commissioner's Office about its processing of Personal Data and will ensure that notification is updated as required.
- 13.2 Each Partner warrants and undertakes that it will:
- (a) Process the Shared Personal Data in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments that apply to its personal data processing operations.



- (b) Make available on request to the Data Subjects who are third party beneficiaries a copy of this JCA, unless it contains confidential information.
  - (c) Respond to Data Subject Requests in accordance with the Data Protection Legislation.
  - (d) Take all appropriate steps to ensure compliance with the security measures set out in clause 11 above.
- 13.3 The Partner acting as Data Discloser warrants and undertakes that it is entitled to provide the Shared Personal Data to the Partner acting as Data Receiver and it will ensure that the Shared Personal Data is accurate.
- 13.4 The Partner acting as Data Recipient warrants and undertakes that it will not disclose or transfer Shared Personal Data outside the EEA
- 13.5 Except as expressly stated in this JCA, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.
- 13.6 Each Partner will ensure that health and social care professionals, consultants and other personnel not employed by them will be required to sign a Confidentiality and Acceptable Use Agreement.
- 13.7 Each Partner will adhere to robust information governance processes and data quality standards to protect the Service User and the other partner to this JCA from unnecessary exposure to risk and ensure data is shared with confidence. This should be supported by regular audits of access to and use of Personal Data, results of which should be shared with each of the Partners to this JCA.
- 13.8 Either Partner may leave this JCA by giving thirty (30) calendar days' notice in writing to the other Partner.
- 13.9 Any proposed changes to practice that might impact on the purposes of the information sharing, the nature or type of information shared or manner in which the information is to be processed or otherwise impact on areas within the scope of this JCA, must be communicated to the relevant Responsible Managers in order for the potential impact to be assessed.
- 13.7 No variation to this JCA shall be effective unless the JCA is amended and signed by each of the Partners.
- 13.8 Failure to meet the standards within this JCA will result in information not being shared. This could result in the termination of this JCA by either of the Partners.

## **14 Complaints/Disputes**

- 14.1 Each Partner has a formal procedure by which Service Users, Partners to this JCA and practitioners can direct any complaints regarding the application of this JCA.

- 14.2 In the event of a dispute or claim brought by a Data Subject concerning the processing of Shared Personal Data against either or both Partners, the Partners will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.
- 14.3 The Partners agree to respond to any generally available non-binding mediation procedure initiated by a Data Subject. If they do participate in the proceedings, the Partners may elect to do so remotely (such as by telephone or other electronic means). The Partners also agree to consider participating in any other arbitration, mediation or other dispute resolution proceedings developed for data protection disputes.

## **15 Indemnity**

- 15.1 Each Partner, as they act respectively as Data Discloser and Data Receiver undertake to indemnify each other and hold each other harmless from any cost, charge, damages, expense or loss which they cause each other as a result of their breach of any of the provisions of this JCA, except to the extent that any such liability is excluded under clause 13.5.
- 15.2 Indemnification hereunder is contingent upon
- (a) the Partner to be indemnified (the indemnified Partner) promptly notifying the other Partner (the indemnifying Partner)) of a claim,
  - (b) the indemnifying Partner having sole control of the defence and settlement of any such claim, and
  - (c) the indemnified Partner providing reasonable co-operation and assistance to the indemnifying Partner in defence of such claim

## **16 Allocation of Cost**

Each Partner shall perform its obligations under this JCA at its own cost.

## **17 Limitation of Liability**

- 17.1 Neither Partner excludes or limits liability to the other party for:
- (a) fraud or fraudulent misrepresentation;
  - (b) death or personal injury caused by negligence; or
  - (c) any matter for which it would be unlawful for the parties to exclude liability.
- 17.2 Subject to clause 17.1, neither Partner shall in any circumstances be liable whether in contract, tort (including for negligence and breach of

statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for:

- (a) any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;
- (b) loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time); or
- (c) any loss or liability (whether direct or indirect) under or in relation to any other contract.

17.3 clause 17.2 shall not prevent claims, for:

- (a) direct financial loss that are not excluded under any of the categories set out in clause 17.2 (a); or
- (b) tangible property or physical damage.

## **18 Review and governance arrangements**

- 18.1 In the event that the Agreement is extended beyond the Initial Term this JCA will be reviewed one year from date of issue and then annually for each year that the term of the Agreement continues.
- 18.2 The Partners shall continue, amend or terminate this JCA depending on the outcome of the review referred to in 15.1 above.
- 18.3 The review of the effectiveness of this JCA will involve:
  - (a) assessing whether the purposes for which the Shared Personal Data is being processed are still the ones listed in section 3 of this JCA;
  - (b) assessing whether the Shared Personal Data is still as listed in section 5 of this JCA;
  - (c) assessing whether the legal framework governing data quality, retention, and data subjects' rights are being complied with; and
  - (d) assessing whether Personal Data breaches involving the Shared Personal Data have been handled in accordance with this JCA and the applicable legal framework.
- 18.4 Each Partner reserves its rights to inspect the other Partner's arrangements for the processing of Shared Personal Data and to terminate the JCA where it considers that the other Partner is not processing the Shared Personal Data in accordance with this JCA.

## **19. Variation**

No variation of this agreement shall be effective unless it is in writing and signed by the Partners (or their authorised representatives).

## **20. Third Party Rights**

- 20.1 Except as expressly provided in section 9 (Individual's Rights) and elsewhere in this JCA, a person who is not a party to this JCA shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this JCA.
- 20.2 No one other than a party to this JCA, their successors and permitted assignees, shall have any right to enforce any of its terms.

## **21. Waiver**

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## **22. Severance**

- 22.1 If any provision or part-provision of this JCA is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.
- 22.2 If any provision or part-provision of this agreement is deemed deleted under Clause 22.1, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **23. Changes to the Applicable Law**

If during the term the Data Protection Legislation changes in a way that this JCA is no longer adequate for the purpose of governing lawful data sharing exercises, the Partners agree that the Responsible Manager will negotiate in good faith to review the JCA in the light of the new legislation.

## **24. No Partnership or Agency**

- 24.1 Nothing in this JCA is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Partners, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party
- 24.2 Each Partner confirms it is acting on its own behalf and not for the benefit of any other person.

## **25. Force Majeure**

Neither Partner shall be in breach of this JCA nor liable for delay in performing, or failure to perform, any of its obligations under this JCA if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 8 weeks, the party not affected may terminate this JCA by giving 21 days' written notice to the affected Partner.

## **26. Notice**

- 26.1 Any notice or other communication given to a party under or in connection with this agreement shall be in writing, addressed to the Responsible Managers and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
  - (b) sent by email to the Responsible Manager.
- 26.2 Any notice or communication shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt [or at the time the notice is left at the proper address; and
  - (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service and
  - (c) if sent by email, at the time of transmission, or if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 26.2(c), business hours means 9:00 am to 5:00 pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 26.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution
- 26.4 For the avoidance of doubt, a notice given under this JCA is not valid if sent by email.

## **27. Governing Law & Jurisdiction**

- 27.1 This JCA and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 27.2 Each Partner irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including

non-contractual disputes or claims), arising out of or in connection with this JCA or its subject matter or formation.

This JCA shall take effect from the Commencement Date of the Agreement

**Signatories:**

Name		Name	
Role		Role	
Organisation	Shropshire Council	Organisation	Shropshire Council
Signature		Signature	
Date		Date	

Name		Name	
Role		Role	
Organisation	Provider	Organisation	Provider (applicable if two signatories are required)
Signature		Signature	
Date		Date	



## **Invitation to Tender (ITT)**

Deadline for submission

12 noon – 5 November 2018

### **CMCV 031:**

#### **Early Help Commissioned Services**

##### **Lot 1: Targeted Family Support**

##### **Lot 2: Support for Young Carers**

Shropshire Council seeks to procure these services externally on behalf of its Children Services. The services will provide targeted / preventative support for vulnerable children, young people and their families who have a wide range of needs at an Early Help Level.

The services will be delivered in the administrative area of Shropshire Council. They will start on 1<sup>st</sup> April 2019 and end on 31<sup>st</sup> March 2021. There will be an option to extend the contract by a maximum of two years.

This opportunity will be publicised on 28 September 2018 on the Council's website. The latest date for submission of applications will be 12 noon, 5 November 2018.

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## 1. Shropshire's Early Help Strategy for children, young people and their families

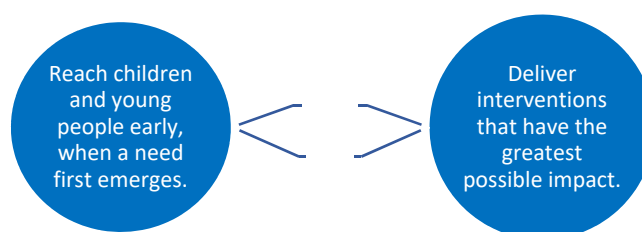
### 1.1 Early Help Partnership Vision - Our shared commitment

We want all children and families in Shropshire to be happy, healthy, safe and achieve their full potential. The Council's current Early Help Review aims to improve and redesign services for children and young people, learning from best practice across the country to develop the right way for Shropshire. The Early Help Strategy, refreshed in 2016, aims to:

- make sure children and families in Shropshire get the right support at the right time
- help children and families be independent and build their own resilience so when problems occur they can find their own solutions at the earliest point of difficulty
- ensure that children and families only tell their story once, by working closely with our colleagues and partners to identify and meet their needs together.

### 1.2 What is Early Help

Early Help is an approach to maximise the chances of this vision becoming a reality for every Shropshire child and young person aged 0 – 19 years old and up to 25 for young people with Special Educational Needs and Disabilities. Early Help is a way of working that supports children in the early years of their lives or indeed at any stage of their lives. The key is to address problems early, as soon as they emerge. Our definition of Early Help is one that can be practically applied by any professional in any context. In other words



### 1.3 Further information on Early Help in Shropshire [www.shropshire.gov.uk/early-help](http://www.shropshire.gov.uk/early-help)

## 2. Contextual information

### 2.1 About Shropshire

Shropshire is a predominantly rural county covering an area of 1235 square miles and including five market towns. Shrewsbury is the largest town and is in the centre of the county.

The Joint Strategic Needs Assessment (JSNA) tells us that overall Shropshire is a relatively affluent county with relatively low levels of childhood poverty. Children in Shropshire are more likely to achieve good attainment at school, be healthy and less likely to be in care than in many other areas in England. However, inequalities still exist and children living in the most deprived areas of Shropshire are less likely to achieve good attainment at school and are more likely to be unhealthy. Vulnerable groups of children such as looked after children (LAC) and those with the special educational needs and disability (SEND) are also less likely to be healthy and more likely to have poor attainment at schools.

(Source: Shropshire Children, Young People and Families Plan, October 2016)

Population estimate	Number	Data source
0-19 year olds living in Shropshire	66,147	ONS midyear estimate 2017
Looked after children, Mostly with foster carers	474	SC September 2018
Children on a Child in Need Plan	369	
Children on a Child Protection Plan	236	
Children with a disability, eligible for specialist care	149	
Children with an Education, Health and Care Plan (EHCP)	1331	School Census, May 2018
Children receiving SEN Support in schools	3927	

The Shropshire area is covered by one local authority, Shropshire Council (SC), and one Clinical Commissioning Group (CCG), Shropshire CCG.

### 2.2 Our position

The Childcare Act 2006 establishes the duty on the Local Authority to improve the well-being of young children in their areas and reduce inequalities between them. Under Section 2, Shropshire Council and its partners must provide sufficient early childhood services.

Further, “Working Together 2018” explains the value of Early Help in promoting the welfare of children rather than reacting later when safeguarding issues arise. Early Help means providing support as soon as a problem emerges, at any point in a child’s life, from the foundation years through to the teenage years.

In our area, several council, Public Health and CCG commissioned services make up the Early Help Offer. A multi-agency Early Help Pathway was implemented in 2012. Early Help tools have been developed to be used by all practitioners in a consistent way.

We currently have two contracts with two external providers who are in scope for this tender. One contract provides a targeted support service for families. This contract is already integrated with our Troubled Families programme outcomes. The second contract provides support for young carers. Both contracts end on 31 March 2019.

The council and its Early Help partners are currently implementing a new delivery model for Early Help, effective from 1 April 2019<sup>1</sup>. The model aims to bring together all the people who work with families when problems are emerging, by creating one service: the Early Help Service. It will integrate services and organisations working with families, to ensure help is timely and effective. It will deliver co-ordinated services in collaboration with our partners, in fewer buildings as we concentrate our resources on front line staff, with the right skills and knowledge to meet family's needs. The service will be delivered through lead family workers based in seven family hubs within community settings in Shrewsbury, Oswestry, Ludlow, Whitchurch, Market Drayton and Bridgnorth.

<sup>1</sup> [www.shropshire.gov.uk/committee-services/documents/s17630/Early%20Help%20Hubs.pdf](http://www.shropshire.gov.uk/committee-services/documents/s17630/Early%20Help%20Hubs.pdf)

## **2.3 Factors influencing future development**

We want to commission an Early Help service, which is flexible and can adapt to the ever-changing context. We anticipate

- Development of the Early Help Model and our Troubled Families programme: Learning from Early Help implementation and efficiency analysis. This may affect the role of COMPASS in the future, our current single point of referral. We also intend to explore opportunity for matrix management of team leaders of in-house and contracted services.
- Changes in legislation and policy
- Improvements in response to Joint Inspection of multi-agency arrangements for the protection of children (Ofsted)
- Further changes to resources, including IT systems and funding arrangements

## **2.4 Our aims - what we want to achieve**

- We want to ensure that children and families in Shropshire get the right support at the right time - help children and families be independent and build their own resilience so when problems occur they can find their own solutions at the earliest point of difficulty.
- We want to work closely with our colleagues and partners to identify and meet their needs together. That way we can make the best use of our combined resources.

- We want to focus on the families with the greatest needs and want to deliver interventions that have the greatest possible impact.
- Under the Public Services (Social Value) Act 2012, any commissioner of a public service is required to think about how they can secure wider social, economic and environmental benefits. Through this tender we are keen to secure social value benefits for Shropshire. [www.shropshire.gov.uk/doing-business-with-shropshire-council/social-value/](http://www.shropshire.gov.uk/doing-business-with-shropshire-council/social-value/)

## **2.5 Our commitment**

We will support the commissioned services through

- Inclusion in our planned Early Help hub model and referral pathway
- Continued commission of COMPASS, our single point of access for Early Help
- Continued commission of Early Help Advisors, a senior social worker able to provide case consultation to practitioners in relation to the help that they're providing to vulnerable children in Shropshire.
- Information sharing via our website, newsletters, stakeholder meetings, enhanced Family Information Service and the web-based, secure record management system (ECINS)
- Access to Early Help training and tools (e.g. analysis and decision making, Solihull Parenting Programme)
- Multi-agency co-location, where practical
- Contribution to funding of this service for the duration of the contract.

## **2.6 Our commissioning intentions**

Our aim is to continue to provide sufficient and effective Early Help to vulnerable children and their families. We will continue to do this through a range of in-house services, partner services and externally commissioned services.

We want to commission two separate services which can meet our aim and the outcomes of our specification in the most cost-effective way. These services will be integrated with the new Early Help delivery model and work towards the outcomes of our Strengthening Families programme.

We are using an outcomes-based approach for this tender opportunity. The specification lists minimum requirements and shared principles of working. We expect that this will lead to an effective combination of flexibility and good quality practice. Within the contract we expect to create 'space' for local judgement and service innovation. The emphasis is on

- efficient and flexible use of resources to respond to demand, minimising delays in response time
- effective approach to prioritisation, according to need
- quality interventions and evidence to prove that interventions make a difference

This tender is structured in two lots:

Lot 1: Targeted Family Support

Targeted support at Early Help level to children young people (0-19 and 0-25 with special educational needs or a disability) and their families, who will have a wide range of needs. Examples include poor school attendance, behavioural problems, at risk of offending. (see appendix 6 for more details)

Lot 2: Support for Young Carers

Targeted support to identify, assist and support Young Carers.

A young carer is someone aged 18 or under who helps to look after a relative with a disability, illness, mental health condition, or drug or alcohol problem.

A young carer typically looks after a parent or cares for a brother or sister.

(see appendix 6 for more details)

We wish to commission one or two expert providers who can deliver one or both lots. To ensure that we commission the best provider for each service, providers must tender for each lot separately. They can tender as a sole provider or a lead provider. A lead provider is a provider who will be responsible for all the service outcomes and work with partners to achieve all the outcomes of this tender.

**Where a provider tenders for both lots and is awarded both contracts, we will work with them to identify further benefits and efficiencies of operating both lots.**

Following contract award, the successful provider(s) will be required to work with the service commissioner and the current provider before the contract start date, to ensure that their service model will be operational from the start of the contract.

### **3. Specification**

#### **3.1 Governance**

(Applicable to lot 1 and lot 2)

The services will be accountable to Shropshire Council as the lead commissioner. Partner commissioners include schools and Shropshire CCG.

The services will be part of the council's Children Safeguarding Services. They will be contract managed by the Head of Early Help, Partnerships and Commissioning.

#### **3.2 Strategic links to local priorities**

(Applicable to lot 1 and lot 2)

The Early Help Offer, including these Commissioned Services, link to the following local priorities:

##### **3.2.1 Shropshire Council priority:**

- Supporting families and keeping children safe

##### **3.2.2 Children, Young People and Families Plan 2016<sup>1</sup> priorities:**

- encourage and support all children and young people in Shropshire to be ambitious in their aspirations.
- provide extra support for those children, young people and families that might need it to reach their full potential
- develop resilience in children and young people to deal with life situations
- address any inequalities with appropriate and innovative solutions
- provide early and preventative support to make sure children and young people are healthy both physically and emotionally
- build strong and resilient communities that have the right skills to support themselves

##### **3.2.3 Health & Wellbeing Board<sup>2</sup> (HWB) Strategy 2016 – 2021 priority:**

- Start Well – parents make good choices for their bumps and babes; early years and schools support good mental and physical health and wellbeing; services are available when and if they are needed.

##### **3.2.4 Shropshire Safeguarding Children Board<sup>3</sup> (SSCB) priorities:**

- Providing early help is more effective in promoting the welfare of children than reacting later. Early help means providing support as soon as a problem emerges, at any point in a child's life, from the foundation years through to the teenage years.

- Early help can also prevent further problems arising, for example, if it's provided as part of a support plan where a child has returned home to their family from care.

<sup>1</sup> [www.shropshire.gov.uk/media/6991/childrens-trust-mar17-final.pdf](http://www.shropshire.gov.uk/media/6991/childrens-trust-mar17-final.pdf)

<sup>2</sup> [www.shropshiretogether.org.uk/wp-content/uploads/2016/05/FINAL-HWBB-Strategy-2016.pdf](http://www.shropshiretogether.org.uk/wp-content/uploads/2016/05/FINAL-HWBB-Strategy-2016.pdf)

<sup>3</sup> [www.safeguardingshropshireschildren.org.uk/professionals-and-volunteers/](http://www.safeguardingshropshireschildren.org.uk/professionals-and-volunteers/)

### **3.3 Strategic and long-term outcomes for Strengthening Families through Early Help** (Applicable to lot 1 and lot 2)

*Strengthening Families through Early Help* is our approach of linking Early Help support to the outcomes of our Troubled Families programme.

Together with our Early Help partners, we want to achieve the following long-term outcomes/benefits for children, young people and their families.

- Improved school attendance rate including exclusions
- Reduced crime and antisocial behaviour
- Reduced worklessness in adults and young people
- Children in need – reduced demand for children's social care services
- Reduced domestic abuse incidence
- Improved health and wellbeing of children and parents

In addition, there will be service specific outcomes for each lot.

**Section 3.4 to 3.6 will ensure that these outcomes are met using high quality practice.**

### **3.4 Shared principles of working** (Applicable to lot 1 and lot 2)

These principles and the general requirements for providers will ensure that outcomes are met by high quality practice.

- Work in a holistic way to support better outcomes for children, young people and their families.
- Seek evidence from children, young people and families to demonstrate that outcomes are being met.
- Demonstrate how the Voice of the Child is heard and responded to for outcomes to be realised.
- Work with other professionals and the commissioning organisation in flexible partnerships, promoting a learning culture

- Referrals & resources are prioritised based on need, preventing escalation of need and on likely impact.
- Staff and volunteers are supervised & developed
- Develop new ways of providing services, including use of social media
- Work in the context of the Early Help Pathway, at Early Help Level.
- Interventions are based on assessed need (i.e. Whole Family Assessment) and child / family specific outcomes, routinely measured and progress reviewed.
- Interventions and Early Help tools are referred to, to enable self-help and to build resilience
- Commit to the development of services that take account of co-production, that is evolving to develop community capacity to sustain support rather create or sustain service demand.
- Achieve effective transitions in and from schools, Further Education settings, Adult Services and Specialist services ('effective/seamless step up or step down')
- Multi-agency co-location, where practical: at pepper corn rent and £1000 cost for consumables.

### **3.5 General Requirements for the provider(s)**

(Applicable to lot 1 and lot 2)

These principles and the general requirements for providers will ensure that outcomes are met by high quality practice.

- Demonstrate understanding of families' needs, own resources and implications for service delivery.
- Instigate and develop working relationships with other organisations, including Council provision and schools, who contribute to the Early Help Offer.
- When required, be an effective member of the Early Help and Resource Panel: contribute to the panel's management through the coordination of support from own and partner organisations' resources.

### **3.6 Acceptable types of interventions and activities**

(Applicable to lot 1 and lot 2)

We have said that the aim of the service(s) is to target vulnerable children and young people at Early Help Level and to equip them and, where relevant, their parents / carers with knowledge, awareness and skills so that children are safe, thriving and well prepared throughout the journey of childhood into adulthood.

We have described the long term, strategic outcomes this service will contribute to. We expect that the service will meet the child and family specific outcomes, in the context of these outcomes.



Services can use a range of resources and interventions to meet the local demand and to achieve those aims. We do not wish to be more specific than that to give tenderers an opportunity to describe flexible, evidence-based solutions that meet the local demand and our aims.

To achieve the necessary degree of coordination and collaboration, we expect that a reasonable degree of information sharing is enabled. We believe that gaining consent from children and parents is an essential element of this.

### **3.7 Lot 1 Specification for Targeted Family Support**

3.7.1 Aims to provide early intervention to prevent families' problems getting worse, preventing need for more expensive, specialist support. Can also serve as step down support from specialist services.

3.7.2 Capacity: to support a minimum of 125 families at any one time.

3.7.3 Eligibility: Families resident in Shropshire with at least one child, aged 0 to 19 (to 25 with special educational needs or disability), meeting the agreed number of Strengthening Families criteria. These families can be difficult to engage.

[www.shropshire.gov.uk/early-help/practitioners/strengthening-families/troubled-families-national-programme-faqs/](http://www.shropshire.gov.uk/early-help/practitioners/strengthening-families/troubled-families-national-programme-faqs/)

3.7.4 Access: via COMPASS, Shropshire's single point of contact for receiving new enquiries regarding concerns for the welfare or protection of children and young people.

3.7.5 Assessment: The Whole Family Assessment to be completed via ECINS, Shropshire's secure web-based case recording system for Early Help.

3.7.6 Support planning: Through the Whole Family Plan via ECINS.

3.7.6 Interventions: information and advice can be given via email, social media, telephone or to face to face support, for individuals or groups of people, subject to need and priorities. Support will be intensive one-to-one support in the family home with the whole family.

All cases will have a Lead Professional, a Whole Family Assessment, a Whole Family Plan and an exit plan.

[This section will expand to include the details of the successful tender proposal]

3.7.7 Exit: Cases will only be closed when

- A family moves out of Shropshire
- A family disengages from support

- All outcomes are achieved and the six months sustained outcomes are achieved, based on evidence obtained by the provider.
- Eligibility no longer applies

3.7.8 Rereferrals can occur after 1-3 years, usually due to changing circumstances. The can be accepted providing that eligibility criteria still apply.

3.7.9 Service specific outcomes for children can include for example

- Improved mental health
- Improved attainment in schools
- Improved relationships with families and peers
- Fewer referrals to CAMHS service and specialist Social Care services
- Successful step downs from specialist services
- For older young people, improved preparation for adult life.

3.7.10 Service specific outcomes for the family can include for example

- Improved financial security and access to learning or work
- Improved health, including issues relating to drug or alcohol misuse
- Reduced criminal or anti-social behaviour

### **3.8 Lot 1 Service specific requirements for provider(s)**

3.8.1 Early Help practitioners and volunteers will be qualified (at or working towards a relevant Level 3 qualification) and supervised. They will be supported to participate in ongoing Early Help training and access Early Help tools, including ECINS.

3.8.2 Service managers will have a management qualification (at or working towards a relevant Level 5 qualification) and will be supervised. They will be supported to participate in Early Help training and access Early Help tools, including ECINS.

3.8.3 All Early Help staff and volunteers will know how to apply Shropshire's procedures for Safeguarding Children and Vulnerable Adults.

- 1.1. [www.safeguardingshropshireschildren.org.uk/](http://www.safeguardingshropshireschildren.org.uk/)
- 1.2. [www.shropshire.gov.uk/adult-social-care/where-can-i-get-help/concerned-about-someone/](http://www.shropshire.gov.uk/adult-social-care/where-can-i-get-help/concerned-about-someone/)

3.8.4 Early Help practitioners will work with target families and evidence that target families are being sought and reached.

3.8.5 Early Help practitioners will work in partnership with families, based on a 'Whole Family' approach.

3.8.6 Assessments and interventions are child and family centred.

3.8.7 Early Help practitioners will act as key workers in most cases. By this we mean, that when appropriate, Early Help practitioners will effectively coordinate additional support from colleagues and partners.

3.8.8 Early Help practitioners will co-locate in multi-agency teams where possible to enable effective decision making and targeting resources based on need by full engagement in Early Help Resource Panel.

3.8.9 Services will contribute to the monitoring and evaluation of the Shropshire Strengthening Families Programme. By meeting all our requirements, the provider will enable the council to submit valid claims and draw down funding from the Ministry of Housing, Communities and Local Government.

### **3.9 Lot 2 Specification for Support for Young Carers**

3.9.1 Aims to identify, assist and support Young Carers, so that they have the same development opportunities as their peers.

3.9.2 Capacity: to support a minimum of 110 young carers at any one time.

3.9.3 Eligibility: Resident in Shropshire, aged 0 to 18<sup>th</sup> birthday, who helps to look after a relative with a disability, illness, mental health condition, or drug or alcohol problem. A young carer typically looks after a parent or cares for a brother or sister.

3.9.4 Access: via COMPASS, Shropshire's single point of contact for receiving new enquiries regarding concerns for the welfare or protection of children and young people. Access may also be via direct referral to the service or from other professionals like GPs, schools.

3.9.5 Assessment: The Family Webstar assessment to be completed via ECINS, Shropshire's secure web-based case recording system for Early Help. The assessment can be adapted to better reflect the needs of the young carer.

3.9.6 Support planning: Through Early Help Action Plan via ECINS.

3.9.7 Interventions: can range from social media to telephone to face to face support, for individuals or groups of people, subject to need and priorities.

[This section will expand to include the details of the successful tender proposal]

3.9.8 Exit: When outcomes have been met or eligibility no longer applies.

3.9.9 The principle service specific outcome is that young carers should be able to enjoy "normal" social activities away from their caring responsibilities and learn coping strategies for dealing with their family circumstances making life better for them. As a result, children will have

- Improved mental health
- Improved skills to cope with circumstances
- Improved attainment in schools
- Improved relationships with families and peers
- For older young carers, improved preparation for adult life.

### **3.10 Lot 2 Service specific requirements for provider(s)**

3.10.1 Early Help practitioners and volunteers will be qualified (at or working towards a relevant Level 3 qualification) and supervised. They will be supported to participate in ongoing Early Help training and access Early Help tools, including ECINS.

3.10.2 Service managers will have a management qualification (at or working towards a relevant Level 5 qualification) and will be supervised. They will be supported to participate in Early Help training and access Early Help tools, including ECINS.

3.10.3 All Early Help staff and volunteers will know how to apply Shropshire's procedures for Safeguarding Children and Vulnerable Adults.

1.3. [www.safeguardingshropshireschildren.org.uk/](http://www.safeguardingshropshireschildren.org.uk/)

1.4. [www.shropshire.gov.uk/adult-social-care/where-can-i-get-help/concerned-about-someone/](http://www.shropshire.gov.uk/adult-social-care/where-can-i-get-help/concerned-about-someone/)

3.10.4 Early Help practitioners will work with young carers and evidence that young carers are being sought and reached.

3.10.5 Early Help practitioners will work in partnership with families, based on a 'Whole Family' approach.

3.10.6 Assessments and interventions are child and family centred.

3.10.7 Early Help practitioners can act as lead professionals. By this we mean, that when appropriate, Early Help practitioners will effectively coordinate additional support from colleagues and partners.

3.10.8 Early Help practitioners can co-locate in multi-agency teams if appropriate.

#### 4. Contract review, monitoring, measures

We will review whether our investment and approach has been effective and whether outcomes for children and families are improving.

The contract will be monitored on a quarterly basis. At a minimum, we wish to know who is accessing the service, what their needs are, how they have been supported, for how long they have been supported and the impact of the support.

For this reason, we will require management information relating to

- Source of referrals and destination of any subsequent referrals
- Need, demand and characteristics of service users
- Types and volume of support and intervention
- Quality and impact, including the user and partner organisation perspective

The provider will be expected to complete the council's templates for contract monitoring. These may be adapted in the future. The completed templates need to be forwarded to the council's contract lead at least ten working days before the contract monitoring meeting.

#### 5. Procurement process & contract

##### 5.1 Timescales and dates for procurement

2018	28 September	<b>Publish tender notice</b> (TUPE information available on request)
		Providers have 5 weeks to respond
	29 October	Deadline for clarifying questions
	5 November	<b>12 noon - deadline for submission of application</b>
	6 November – 23 November	Evaluation of tenders Scoring 13 November, 12-12:30 (SH, FMR1)
	23 November 10:00-12:00	Optional: clarification meeting with applicants, if required (Shirehall, Shrewsbury SY2 6ND)
	26 November	Latest date to contact all applicants of decision
	26 Nov – 5 Dec	Mandatory 10 day stand still period
	6 December	Confirm successful provider(s)
	7 December	Contract transition period starts (Including engagement with families, transfer of records, TUPE transfer, as relevant)
	1 April 2019	<b>Contract start</b>
	31 March 2021	<b>Contract end; option to extend by max. of 24 months</b>

Any clarification questions should be raised as soon as possible via our Delta Tenderbox no later than 29<sup>th</sup> October 2018. All responses will be supplied to all tenderers unless stated otherwise.

## 5.2 Documents

The Council is using a competitive open tender process, where TUPE may apply. Current providers have listed staff who may have rights under TUPE legislation. These lists are available on request from [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk).

The opportunity is known as CMCV 031 and is advertised on the Council's tender opportunity page [www.shropshire.gov.uk/doing-business-with-us/current-opportunities-for-tendering/](http://www.shropshire.gov.uk/doing-business-with-us/current-opportunities-for-tendering/)

Applicants will be sent a –

- Tender letter
- Instructions for tendering
- Tender response document
- Invitation to tender & specification document
- The Council's general terms & conditions for a children's services contract
- TUPE confidentiality letter

Applicants will be required to follow instructions precisely.

## 5.3 Evaluation of applications

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

Some award criteria are made up of pass/fail questions which will provide proof of compliance and expertise.

Tenders will then be evaluated by a panel. Tenders will be judged against the award criteria, which are made up of quality (60%) and price (40%). The Tender Response Document describes how each criterion is weighted and marked.

We reserve the option to arrange a clarification meeting with a provider. The purpose of this is to clarify specific aspects of the tender.

Where a provider tenders for both lots and is awarded both contracts, we will work with them to identify further benefits and efficiencies of operating both lots.

Following contract award, the successful provider(s) will be required to work with the service commissioner and the current provider before the contract start date, to ensure that their service model will be operational from the start of the contract.

#### **5.4 Contract**

Tender reference: CMCV 031

Initial contract period: 1 April 2019 - 31 March 2021 (two years)

Potential extension period: Maximum of 24 months, subject to satisfactory performance, funding and other developments.

Maximum value for Lot 1 £386,500 per annum

Maximum value for Lot 2 £60,000 per annum

## Appendix

### 6. Needs Analysis

#### 6.1 Source: Current Targeted Family Support Service

- Supports on average 120-125 families at any one time.  
In 2017/18, the service worked with 203 families and approximately 469 children.
- The additional needs that eligible children may have vary greatly. They may need support to gain skills
  - For anger and behaviour management
  - To build self-esteem
  - To improve school attendance
  - To improve relationships within families
  - To improve relationships with peers and the community
  - About sexual health awareness
  - About drug and alcohol awareness
  - To prevent offending behaviour, such as
    - Problem solving & consequential thinking
    - Victim empathy
    - Understanding the youth justice system and restorative justice
  - To use social media in a safe way
  - To be aware of risks of staying safe (e.g. child exploitation)
  - To encourage good self-care and stay healthy
- Parents may need support to improve
  - Knowledge of parenting strategies and improved parenting skills
  - Parenting support & advice to address emotional & behavioural concerns, including for those families where children are on the 'edge of care'.
  - Financial security; access to training, work experience;
  - Health, including alcohol and substance misuse
  - Relationships, including families experiencing or experience domestic abuse
  - Criminal behaviour, including anti-social behaviour
- Receives around 30 new referrals each quarter, mostly from schools.
- Interventions have been tiered, ranging from telephone to face-to-face support. The majority of interventions are face-to-face.  
Interventions can last from 6 to 12 months, with a few lasting longer.  
Interventions are centred on children but aim to support the whole family.
- Re-referrals can occur when family circumstances change.



## **6.2 Source: Current Support for Young Carers**

- “Young Carers” are young people i.e. child or young persons who are 18 and under, whose life is in some way restricted or limited because of the need to take responsibility for the care of a family member who is ill, has a disability, is experiencing mental distress or is affected by substance abuse. Young Carers’ responsibilities may include organising life, help with medication, domestic chores, organising household, shopping, personal care, lifting, helping young members of the family, emotional support for the rest of the family and much more.
- In England, 2.1% of all 5 to 17 year olds are young carers, according to the 2011 Census. This means that Shropshire may have up to 936 young carers at any one time.
- The majority of young carers in Shropshire are 11 to 18 years old. Seven current young carers are as young 5-7 years old. A few young carers are on child protection plans.
- Young carers can have a range of needs, not experienced by their peers:
  - Being reluctant to discuss their caring experiences with friends or in public as they do not want to stand out as different from their peer group, or potentially bring on bullying.
  - Feeling isolated because they do not wish to discuss their situation or do not know where to turn for support.
  - Finding someone that they can confide in and secure appropriate and practical responses to their concerns.
  - Worrying about leaving those for whom they care for an extended period, resulting in limited involvement in activities away from the home.
  - Poor school attendance and achievement due to wider responsibilities and concerns.
  - To use social media in a safe way - To be aware of risks of staying safe (e.g. child exploitation)
  - To encourage good self-care and stay healthy
- Supports on average 110 young carers at any one time.  
In 2018/19, the service may support up to 150 young carers.
- Receives around 12 new referrals each quarter, mostly from schools.
- Interventions are tiered, ranging from providing information to face-to-face support to group activities and group outings. Most interventions are group activities and outings.

## **6.3 Source: Current Early Help / Strengthening Families (SF) (Troubled Families Programme)**

- Shropshire has a target to engage with 1580 families ending in March 2020. Each family will attract £1,800 government funding, i.e. £1,000 up front attachment fee when the family is engaged and £800 when the family has demonstrated significant and sustained improvement in locally determined outcomes or continuous employment.

To date the programme has 1332 engaged families and has submitted 148 outcome claims. This is below the expected target and as a result the Ministry of Housing, Communities and Local Government have asked for a recovery plan to be developed that ensures Shropshire demonstrates an ambition to meet the maximum number of claims.

- Service transformation consists of two elements:
  - a) Implementation of a new Early Help hub model from April 2019, focusing on localities with the greatest concentration of target families.
  - b) Recruitment of Family Support Workers (FSW) placed in schools, jointly funded by schools and the SF programme (50:50). Currently, 7 FSW posts have been agreed and 5 of those are already in post. Planning for 3 more FSW posts is already underway. By March 2020, we hope to have 16 FSWs placed in schools.

## 7. Resource analysis & other services relating to the Early Help Offer

139 primary schools  
 32 secondary schools  
 2 specialist schools (Severndale, Woodlands)  
 6-7 Children Centre Bases / Early Help Hubs  
 (Shrewsbury, Oswestry, Market Drayton, Broseley, Craven Arms)  
 45 GP Practices

### Other services contributing to Early Help Offer

Information for Shropshire Families (0-19) FIS is a statutory service delivered by Shropshire Council. It provides free and impartial information on all aspects of family life for parents and carers of children. Aspects include activities for children and families, money matters, childcare, housing and many more.	<b>Family Information service (FIS)</b>
Family support workers target vulnerable families with children aged 0-5. This service is currently delivered by Shropshire Council.	<b>Children Centres</b>
Three coordinators provide support to parents and children (0-19) with autism related traits in the community and at home.	<b>Autism West Midlands</b>
Support workers to prevent escalation of needs relating to substance misuse, offending, homelessness, underachieving (13-19). This service is currently delivered by Shropshire Council.	<b>Targeted Youth Support</b>
Group activities for all children with disabilities <a href="https://shropshire.gov.uk/the-send-local-offer/parentcarers/social-care/short-breaks-activities/all-in-programme/">https://shropshire.gov.uk/the-send-local-offer/parentcarers/social-care/short-breaks-activities/all-in-programme/</a>	<b>All-in Short Breaks</b>
A council run programme, based on Solihull Approach.	<b>Parenting support</b>



# Tender Response Document

**CMCV 031:  
Early Help Commissioned Services  
Lot 1: Targeted Family Support  
Lot 2: Support for Young Carers**

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/Specification:**

**(See complete specification in invitation to tender for details)**

Early Help Commissioned Services

Lot 1: Targeted Family Support

Lot 2: Support for Young Carers

For Shropshire Council, Children's Services.

Service users 0-18/19 year old children and young people,  
(Up to 25 for young people with disabilities)

Resident in Local Authority area of Shropshire.

Initial contract length: two years,  
with option to extend by a further maximum of two years.

Contract start 1 April 2019.

Maximum annual value £446,500

The Council is seeking separate applications from Expert Service Providers for each lot. If a provider is awarded both lots, then the council will work with the provider to identify additional benefits (including price) of operating both lots.

**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 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 the electronic copy of your Tender Response Document.

**Contents**

Section	Description	Page
A1	Form of Tender	7
A2	Non-Canvassing Certificate	8
A3	Non-Collusive Tendering Certificate	9
A4	Declaration of Connection with Officers or Elected Members of the Council	10
<b>You must sign all 4 certificates in sections A1 to A4</b>		
B Part 1	Supplier Information– For information only	13
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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' in the Standard Selection Questionnaire part. The following criteria is made up of 'pass/fail' (selection) questions and 'weighted marked' (award) questions and shows how each section is to be marked.

**Selection Criteria Pass/Fail Questions (Sections B Part 1 – Part 3)**

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 3 Section 3	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.

**Each lot is evaluated separately.**

**The award criteria are applied in the same way to each lot.**

Section / Question No.	Award Criteria	Weighting / Max Marks Available
<b>Price 40% (400 marks)</b>		
Section F / Price schedule	Price	400 max marks
<b>Total for price</b>		<b>40% / 400 max marks</b>
<b>Quality 60% 600 marks)</b>		
Section F / Q 1	Pre-contract prep	4/40 max marks
Section F / Q 2A	Service model	10/100 max marks
Section F / Q 2B	Staffing model	7/70 max marks
Section F / Q 3	Seeking evidence	7/70 max marks
Section F / Q 4	Prioritising	7/70 max marks
Section F / Q 5	Preparing for adulthood	7/70 max marks
Section F / Q 6	Key working	7/70 max marks
Section F / Q 7	Engagement / Identifying	7/70 max marks
Section F / Q 8	<i>Social Value proposals</i>	4/40 max marks
<b>Total for quality</b>		<b>60% / 600 max marks</b>

**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
<b>Excellent</b>	<b>10</b>	<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>
	<b>9</b>	



<b>Good</b>	<b>8</b>	<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 to support the response.</i>
	<b>7</b>	
<b>Acceptable</b>	<b>6</b>	<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>
	<b>5</b>	
<b>Minor Reservations</b>	<b>4</b>	<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>
	<b>3</b>	
<b>Serious Reservations</b>	<b>2</b>	<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>
	<b>1</b>	
<b>Unacceptable</b>	<b>0</b>	<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 600 marks available for Quality. Other tenders will receive a final mark that reflects the % difference in the initial marks between those tenders and the tender receiving the highest initial mark for Quality overall.**

### **Price Evaluation and scoring**

The most competitively priced tender will receive the maximum mark for price being **400**. **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.

Each lot will be evaluated separately, to ensure that each lot is awarded to the highest scoring tender.

Where a provider tenders for both lots and is awarded both contracts, we will work with them to identify further benefits and efficiencies of operating both lots.

## **Section A:**

### **1. Form of Tender**

Form of Tender

**Shropshire Council**

Tender for     CMCV 031: Early Help Commissioned Services  
                    Lot 1: Targeted Family Support  
                    Lot 2: Support for Young Carers

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 Early Help Commissioned Services 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.

Signed ..... Name.....

Date .....

Designation .....

Company.....

Address .....

.....

..... Post Code .....

Tel No ..... Fax No .....

E-mail address .....

Web address .....

**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.

Signed (1) ..... Status.....

Signed (2) ..... Status.....

(For and on behalf of .....)

Date .....

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.

Signed (1) ..... Status.....

Signed (2) ..... Status.....

(For and on behalf of .....)

Date .....

## **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.*

Signed (1) ..... Status.....

Signed (2) ..... Status.....

(For and on behalf of .....)

Date .....

## 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](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. 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.

<sup>1</sup> 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) <sup>2</sup> ?	Yes <input type="checkbox"/> No <input type="checkbox"/>
1.1(n)	Details of Persons of Significant Control (PSC), where appropriate: <sup>3</sup> - 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.

<sup>2</sup> See EU definition of SME - [https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition\\_en](https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en)

<sup>3</sup> 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)	<b>Regulations 57(1) and (2)</b> 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.	
	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	Yes <input type="checkbox"/> No <input type="checkbox"/>

	relevant ground for exclusion? (Self Cleaning)	
2.3(a)	<b>Regulation 57(3)</b> 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?	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"> <li>○ to ensure ongoing confidentiality, integrity, availability and resilience of processing systems and services;</li> <li>○ to comply with the rights of data subjects in respect of receiving privacy information, and access, rectification, deletion and portability of personal data;</li> <li>○ to ensure that any consent based processing meets standards of active, informed consent, and that such consents are recorded and auditable;</li> <li>○ to ensure legal safeguards are in place to legitimise transfers of personal data outside the EU (if such transfers will take place);</li> <li>○ to maintain records of personal data</li> </ul>	

	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><b>Regulation 57 (8)</b> 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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## Part 3: Selection Questions

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 <b>one</b> 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 an alternative means of demonstrating financial status).	Yes <input type="checkbox"/> No <input type="checkbox"/>
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	<b>Technical and Professional Ability - Lot 1</b>
6.1	Please set out below why you feel your organisation is well placed to undertake this specific contract. You should include in your answer a brief description of your organisation's history, purpose and details of any previous similar contracts and experience in order to demonstrate that your organisation has the relevant knowledge, skills and experience to deliver this specific service in Shropshire (maximum 1500 words).
6.2	<p><b>Relevant experience and contract examples</b></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>

<b>Lot 1</b>	Contact 1	Contact 2	Contact 3
Name of customer organisation			
Point of contact in the organisation			
Position in the organisation			
E-mail address			
Telephone number			

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 6	<b>Technical and Professional Ability - Lot 2</b>
6.4	<p>Please set out below why you feel your organisation is well placed to undertake this specific contract. You should include in your answer a brief description of your organisation's history, purpose and details of any previous similar contracts and experience in order to demonstrate that your organisation has the relevant</p>

	knowledge, skills and experience to deliver this specific service in Shropshire (maximum 1500 words).
6.5	<p><b>Relevant experience and contract examples</b></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>

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

6.6	Where you intend to sub-contract a proportion of the contract, please demonstrate how
-----	---

	<p>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>

6.7	<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	<b>Modern Slavery Act 2015: Requirements under Modern Slavery Act 2015</b>	
	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

## 7. 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
	<p>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</p> <p>Employer's (Compulsory) Liability Insurance = £5 Million</p> <p>Public Liability Insurance = £5 Million</p> <p>*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.</p>

<sup>4</sup> Procurement Policy Note 14/15– Supporting Apprenticeships and Skills Through Public Procurement

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/456805/27\\_08\\_15\\_Skills\\_Apprenticeships\\_PPN\\_vfinal.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/456805/27_08_15_Skills_Apprenticeships_PPN_vfinal.pdf)

## 8.2 – 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.	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

### 8.3 – 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)?</p> <p>If your answer to 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.</p> <p>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

### 8.4 – 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> <p>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.</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

### 8.5 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></p> <p><i>The safeguarding duties placed on public authorities require the Council and its partners to work to the following guidance:</i></p> <p>“Working together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children (March 2015)”</p> <p><a href="http://www.safeguardingshropshireschildren.org.uk/scb/">http://www.safeguardingshropshireschildren.org.uk/scb/</a></p>
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	<p><b>“West Midlands Adult Safeguarding Policy &amp; Procedures”</b>  <a href="https://www.shropshire.gov.uk/media/1462593/wm-adult-safeguarding-policy-and-procedures-working-draft.pdf">https://www.shropshire.gov.uk/media/1462593/wm-adult-safeguarding-policy-and-procedures-working-draft.pdf</a></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	For information: our requests for references will include a question relating to your organisation’s record for safeguarding.	
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  <a href="http://www.safeguardingshropshireschildren.org.uk/scb/index.html">http://www.safeguardingshropshireschildren.org.uk/scb/index.html</a>          Shropshire Council’s approach to adult protection  <a href="http://www.shropshire.gov.uk/adultcarer.nsf/open/F54E8A80CF1343BC80257AAF0058F760">http://www.shropshire.gov.uk/adultcarer.nsf/open/F54E8A80CF1343BC80257AAF0058F760</a></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 .....          Status.....          (For and on behalf of .....)            Date .....</p>	
4	<p>a) Describe your approach to ensure that all staff and volunteers understand and effectively apply local safeguarding protocols.</p> <p>b) Describe how you will verify that your approach is effective.</p>	Pass/Fail

**SECTION C – TENDER SCHEDULE**

Are you applying for	Yes or No
Lot 1 only	
Lot 2 only	
Lot 1 and Lot 2	

Please note that where a provider tenders for both lots and is awarded both contracts, we will work with them to identify further benefits and efficiencies of operating both lots.

	<b>Tender Schedule for Lot 1</b>	<b>Max marks</b>						
1	<p>Provide a thorough &amp; relevant timeline with tasks to illustrate how you would structure your preparation for contract start on 1 April 2019.</p> <table border="1"> <tr> <td>When</td><td>What</td><td>By who</td></tr> <tr> <td></td><td></td><td></td></tr> </table>	When	What	By who				40
When	What	By who						
<b>2</b>	<b>Your service model</b>							
2a	<p>Describe how you are planning to deliver this service to meet all the criteria set out in the invitation to tender and the specification.</p> <p>Your response should demonstrate</p> <ul style="list-style-type: none"> <li>• how your understanding of the Shropshire context has informed your delivery model</li> <li>• how your understanding of our requirements and principles has informed your delivery model</li> <li>• how your delivery model will ensure that it will meet the strategic and specific outcomes of the service</li> </ul> <p>Your response needs to state whether you are tendering as a sole provider or a lead provider. In the case of the latter, your response needs to</p> <ul style="list-style-type: none"> <li>• list and describe your partners</li> <li>• describe what role they have in the service</li> <li>• describe what arrangements you, as the lead provider, will have with them</li> </ul>	100 Min score of 6						
2b	<p>Describe the staffing structure of your delivery model and insert / attach a staff diagram.</p> <p>Describe how your staff and volunteers will be supervised and developed.</p> <p>Describe your approach to case load management.</p>	70 Min score of 6						



3	<p>In section 3.4 of the Invitation to Tender (ITT), we said that workers need to seek evidence from children, young people and families to demonstrate that outcomes are being met.</p> <p>Describe your approach to this and how you know that it is effective. Provide an example of a situation, where your approach has not worked and how you adapted your approach in response.</p>	70
4	<p>In section 3.4 of the ITT, we said that referrals &amp; resources needed to be prioritised based on need, preventing escalation of need and on likely impact.</p> <p>Describe your approach to this and how you know that it is effective. Provide an example of a situation, where your approach has not worked and how you adapted your approach in response.</p>	70
5	<p>In section 3.7.9 of the ITT, we said that the service needed to support the outcome of improved preparation for adult life.</p> <p>Describe your approach to this and how you know that it is effective. Provide an example of a situation, where your approach has not worked and how you adapted your approach in response.</p>	70
6	<p>In section 3.8.7 of the ITT, we said that most Early Help practitioners will act as key workers, who will effectively coordinate additional support from colleagues and partners.</p> <p>Describe your workers' experience and effectiveness in this role. Describe how you prepare and support your workers for this.</p>	70
7	<p>In section 3.7.3 of the ITT we said that families may be difficult to engage.</p> <p>Describe your workers' experience and effectiveness in this role. Describe how you prepare and support your workers for this.</p>	70
8	<p>In section 2.4 of the ITT, we said that we wanted to secure wider social, economic and environmental benefits. Through this tender we are keen to secure social value benefits for Shropshire.</p>	40

	Describe what additional social, economic and environmental benefits your appointment will bring to Shropshire and how you will report on these.	
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	<b>Tender Schedule for Lot 2</b>	<b>Max marks</b>						
<b>1</b>	<p>Provide a thorough &amp; relevant timeline with tasks to illustrate how you would structure your preparation for contract start on 1 April 2019.</p> <table border="1"> <thead> <tr> <th>When</th><th>What</th><th>By who</th></tr> </thead> <tbody> <tr> <td> </td><td> </td><td> </td></tr> </tbody> </table>	When	What	By who				40
When	What	By who						
<b>2</b>	<b>Your service model</b>							
<b>2a</b>	<p>Describe how you are planning to deliver this service to meet all the criteria set out in the invitation to tender and the specification.</p> <p>Your response should demonstrate</p> <ul style="list-style-type: none"> <li>• how your understanding of the Shropshire context has informed your delivery model</li> <li>• how your understanding of our requirements and principles has informed your delivery model</li> <li>• how your delivery model will ensure that it will meet the strategic and specific outcomes of the service</li> </ul> <p>Your response needs to state whether you are tendering as a sole provider or a lead provider. In the case of the latter, your response needs to</p> <ul style="list-style-type: none"> <li>• list and describe your partners</li> <li>• describe what role they have in the service</li> <li>• describe what arrangements you, as the lead provider, will have with them</li> </ul>	100 Min score of 6						
<b>2b</b>	<p>Describe the staffing structure of your delivery model and insert / attach a staff diagram.</p> <p>Describe how your staff and volunteers will be supervised and developed. Describe your approach to case load management.</p>	70 Min score of 6						

3	<p>In section 3.4 of the Invitation to Tender (ITT), we said that workers need to seek evidence from children and young people to demonstrate that outcomes are being met.</p> <p>Describe your approach to this and how you know that it is effective. Provide an example of a situation, where your approach has not worked and how you adapted your approach in response.</p>	70
4	<p>In section 3.4 of the ITT, we said that referrals &amp; resources needed to be prioritised based on need, preventing escalation of need and on likely impact.</p> <p>Describe your approach to this and how you know that it is effective. Provide an example of a situation, where your approach has not worked and how you adapted your approach in response.</p>	70
5	<p>In section 3.9.9 of the ITT, we said that the service needed to support the outcome of improved preparation for adult life.</p> <p>Describe your approach to this and how you know that it is effective. Provide an example of a situation, where your approach has not worked and how you adapted your approach in response.</p>	70
6	<p>In section 3.8.7 of the ITT, we said that most Early Help practitioners will act as key workers, who will effectively coordinate additional support from colleagues and partners.</p> <p>Describe your workers' experience and effectiveness in this role. Describe how you prepare and support your workers for this.</p>	70
7	<p>In section 3.9.1 of the ITT we said that the service needed to identify young carers.</p> <p>Describe how you are planning to meet this outcome and how you know that your approach is effective.</p>	70
8	<p>In section 2.4 of the ITT, we said that we wanted to secure wider social, economic and environmental benefits. Through this tender we are keen to secure social value benefits for Shropshire.</p>	40

	Describe what additional social, economic and environmental benefits your appointment will bring to Shropshire and how you will report on these.	
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**Pricing Schedule for Lot 1**

(Note: The provider will not use any part of the contract payment to fund any other activities, which do not relate directly to the delivery of the service.)

<b>Total annual cost for the service</b>	<b>£xx.xx (scored)</b>
--	------------------------

<b>Break down of annual cost</b>	<b>Cost / £</b>	<b>%</b>
Delivery staff cost (salaries & on-cost)	xx.xx	X
Management cost (salaries & on-cost)	xx.xx	X
Corporate costs / over-heads	xx.xx	X
Other costs (Provide detail of what you have included as <i>other costs</i> )	xx.xx	X
Profit	xx.xx	X
<b>Total cost</b>	<b>£xx.xx</b>	<b>100%</b>

**Pricing Schedule for Lot 2**

(Note: The provider will not use any part of the contract payment to fund any other activities, which do not relate directly to the delivery of the service.)

<b>Total annual cost for the service</b>	<b>£xx.xx (scored)</b>
--	------------------------

<b>Break down of annual cost</b>	<b>Cost / £</b>	<b>%</b>
Delivery staff cost (salaries & on-cost)	xx.xx	X
Management cost (salaries & on-cost)	xx.xx	X
Corporate costs / over-heads	xx.xx	X
Other costs (Provide detail of what you have included as <i>other costs</i> )	xx.xx	X
Profit	xx.xx	X
<b>Total cost</b>	<b>£xx.xx</b>	<b>100%</b>

# CMCV 031 – EARLY HELP COMMISSIONED SERVICE

## Confidentiality Undertaking Regarding TUPE

[Date] 2018

[NAME]

Your ref: \*

Our ref: **CMCV 031**

Dear Bidder

We have taken legal advice in this matter and anticipate preparing a tender on the basis that the Transfer of Undertakings Regulations (Protection of Employment) Regulations 2006 and the EC Acquired Rights Directive 23 of 2001 may apply to this Contract. We also understand that there is confidential information relating to employees which will be provided on receipt of this letter.

We now formally request from you full details of the current provider staff and conditions of employment.

We hereby acknowledge that this information is confidential. We undertake: -

1. To treat the information in the strictest confidence
2. That the information will be used solely for the purpose of preparing this Tender
3. That it will not be disclosed to any other party for any purpose whatsoever, except for the purpose of preparing this Tender and we will not make copies thereof

We acknowledge that all documents and other information received from the Council as detailed above shall remain the current provider's property and that we will hold them as bailee for the current provider, exercising reasonable care to keep them safe from access by unauthorised persons. We shall also return them to the Council forthwith on written request.

We acknowledge that we shall fully indemnify the current provider against all losses claims damages fines costs and other liabilities as a consequence of or arising from our failure to comply with our obligations to keep such information confidential.

**DATED THIS DAY OF**

**Signature (as in Form of Tender)**

**Duly authorised to sign for and on behalf of the Tenderer (print full name and address of Tenderer)**

Please return to [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk), Procurement & Contracts Team, Shropshire Council, Shirehall, Abbey Foregate, SY2 6ND

# Contract Monitoring Template

<b>Contract Name: Targeted Family Support</b>	<b>Contract Ref No: CMCV 031 Lot 1</b>
<b>Date of Meeting Review:</b>	<b>Reporting Review Period:</b>

## Service Description:

The service provides targeted early help support for children, young people and their families. The service aims to improve the outcomes for children and young people aged 0-19 years by ensuring that they and their families receive appropriate support at the earliest opportunity.

EnHance is part of Shropshire Council's Targeted Early Help Support for children, young people and their families. Support is delivered on a one-to-one basis in the local community (including the family home) at flexible times to meet identified needs.

## Service Outcomes:

As part of the Targeted Early Help offer of support in Shropshire, this service will directly contribute to the following Strengthening Families Outcomes:

- Parents or children involved in crime or anti-social behaviour
- Children who have not been attending school regularly
- Children of all ages who need help
- Adults out of work or at risk of financial exclusion or young people at risk of worklessness
- Families affected by violence against women and girls
- Parents and children with a range of health problems

In addition the service will contribute to the following outcomes:

### **Increase the confidence and competence of parents in their parenting role:**

- Increase parental confidence in parenting role
- Increased parental confidence in managing child's behaviour
- Improved parental perception of whether child's behaviour has improve
- Parents access support to address own issues and are a positive role model for children

### **Increase the resilience of children, young people and parents/carers:**

- Parent and child feel better about their ability to cope with life changes and challenges
- Improved parent and child knowledge of where and how to access information and advice
- Parent and child feel that they have been helped
- Parent and child feel happier as a result of intervention

## **Update on actions identified from previous review:**

(Please provide an update on any actions identified at the previous review.)

1	
2	
3	

## Contract Monitoring Template

### Completion of the Performance Template and Associated Written Report.

In advance of the review please complete the agreed performance template and return to Katrina Lester, your Performance Officer within 10 working days of the formal contract review. The completed performance template and the written narrative within this document will inform the review meeting and enable both the provider and Shropshire Council to understand current performance in advance. This will ensure both a consistent and transparent approach.

Please refer to the explanatory notes to identify the information required both within the performance template and any supplementary information to support this.

Where possible please report by exception only unless stated otherwise.

If you require any support with regards to this process then please contact [REDACTED]

### A. Delivery and Performance Information

Please provide within the box below information to support the performance information provided. This relates to numbers 1 to 17 on the performance template.

### B. Evaluation and Performance Information

Please provide within the box below information to support the performance information provided. This relates to numbers 18 to 20 on the performance template

### C. Quality, Compliments and Complaints

Please provide within the box below information to support the performance information provided. This relates to numbers 21 to 25 on the performance template.



# Contract Monitoring Template

## D. Staffing

Please provide within the box below information to support the performance information provided. This relates to numbers 26 to 30 on the performance template.

## E. Innovation and Development (measures and milestones)

Please provide within the box below details of future developments and/or partnerships which may impact upon the performance of the contract. This relates to numbers 31 to 33 on the performance template

## F. Financial Assurance

Please provide within the box below information to support the performance information provided. This relates to numbers 34 to 37 on the performance template.

## G. Company Assurance

Please provide within the box below information to support the performance information provided. This relates to numbers 38 to 39 on the performance template.

# Contract Monitoring Template

## H. Health and Safety

Please provide within the box below details of any health and safety incidents, accidents and near misses that have arisen relating to both clients and staff. This relates to number 40 on the performance template.

## I. Safeguarding

Please provide within the box below details of any safeguarding issues that have arisen relating to both clients and staff. This relates to number 41 on the performance template.

## J. Operational Issues

Please provide within the box below details of changes, eg buildings being used for delivery of the contract and infrastructure which may have an impact on contract performance.

## K. Case Studies

Please provide examples of the work undertaken that demonstrates impact. This should relate to the service outcomes specified on page 1 of this template and include the ECINs Case ID, Profile ID and start/end dates.

# Contract Monitoring Template

- L. If you would like to detail any additional information for consideration at the review then please provide this in the box below.

## M. Confirmation of actions to be taken forward

Detailed below are the actions agreed during the contract review, confirming responsibility and timescales and/or milestones for completion.

Number	Action Agreed	Responsible Officer	Completion Date
1	This will be completed/agreed during the review by both contractor and Shropshire Council Officers		
2			
3			
4			
5			

**Early Help Performance Monitoring Template**  
**Period:**

**Service Name:** CMCV 031 Lot 1  
**Provided By:**  
**Last Update:**

			Actual count by quarter					Cumulative	Actual count by quarter					Cumulative
			Q1	Q2	Q2	Q2		End of Year	Q1	Q2	Q3	Q4		End of Year
			2019/20	2019/20	2019/20	2019/20		2019/20	2020/21	2020/21	2020/21	2020/21		2020/21
<b>A</b>	<b>Delivery &amp; Activity Information</b>													
1a	Number of requests for intervention received	Actual												
1b	Number of requests for intervention (that are compliant) awaiting allocation	Actual												
2	Number of requests for intervention not accepted	Actual												
3	Overall number of new cases allocated (phone & caseload)	Actual												
4	Number of cases offered telephone support	Actual												
5a	Number of cases accepted telephone support	Actual												
5b	Number of cases declined telephone support	Actual												
6	Number of cases allocated to 1:1 support worker	Actual												
7	Average time between request for intervention to commencement of casework	Actual												
8	Number of active cases (families)	Actual												
9	Number of children supported (whole family approach)	Actual												
10	Number of cases where intervention complete (for provider)	Actual												
11a	Number closed - received telephone support	Actual												
11b	Number closed - received telephone and 1:1 support	Actual												
11c	Number closed - received 1:1 support	Actual												
12a	Number of interventions with outcome achieved (2017/18 item only)	Actual												
12b	Number of interventions with outcomes achieved - received telephone support	Actual												
12c	Number of interventions with outcomes achieved - recvd telephone & 1:1 support	Actual												
12d	Number of interventions with outcomes achieved - received 1:1 support	Actual												
13	Percentage of interventions stating outcomes achieved	Actual												
14	Average support period in weeks	Actual												
15	Number of re-requests received	Actual												
16	Average time between case closure and re-request	Actual												
17	Number of cases closed where outcomes achieved and resulted in a SF outcomes claim	Actual												

			Actual count by quarter					Cumulative	Actual count by quarter					Cumulative
			Q1	Q2	Q2	Q2		End of Year	Q1	Q2	Q3	Q4		End of Year
			2019/20	2019/20	2019/20	2019/20		2019/20	2020/21	2020/21	2020/21	2020/21		2020/21
<b>B</b>	<b>Evaluation &amp; Performance Information</b>													
18	Feedback received from families:	Actual												
18a	Number of families feedback collected from	Actual												
18b	Number of families stating outcomes met	Actual												
19	Feedback received from parent/carers:	Actual												
19a	Number of families feedback collected from	Actual												
19b	Number of families stating outcomes met	Actual												
20	Feedback received from children and young people	Actual												
20a	Number of families feedback collected from	Actual												
20b	Number of families stating outcomes met	Actual												

C	Quality, Compliments & Complaints		Q1	Q2	Q3	Q4	End of Year	Q1	Q2	Q3	Q4	End of Year
			2017/18	2017/18	2017/18	2017/18	2017/18	2018/19	2018/19	2018/19	2018/19	2018/19
21	Number of compliments received	Actual										
22	Number of complaints received	Actual										
23	Number of complaints closed	Actual										
24	Number of complaints open	Actual										
25	Quality Marks	Confirm										

D	Staffing		Actual count by quarter					Cumulative				
			Q1	Q2	Q3	Q4	End of Year	Q1	Q2	Q3	Q4	End of Year
			2017/18	2017/18	2017/18	2017/18	2017/18	2018/19	2018/19	2018/19	2018/19	2018/19
26	Key Personnel	Confirm										
27	Number of new staff	Actual										
28	Induction	Confirm										
29	DBS check	Confirm										
30	Training attended	Actual										

E	Innovation & Development (measures and milestones)		Actual count by quarter					Cumulative				
			Q1	Q2	Q3	Q4	End of Year	Q1	Q2	Q3	Q4	End of Year
			2017/18	2017/18	2017/18	2017/18	2017/18	2018/19	2018/19	2018/19	2018/19	2018/19
31	To ensure a decision is made whether to accept a request for intervention deemed <b>compliant</b> (ie all relevant information is available) within x14 days of receipt	Confirm										
32	To ensure all accepted requests for intervention are offered an appropriate service within 14 days. (Any exceptions to the 14 day timeline should be recorded appropriately on ECINS and communicated with the lead professional.)	Confirm										
33	To be the lead professional for <b>all</b> families that meet the Troubled Families criteria. To actively work with partners to maximise the resources available to support families	Actual										

F	Finance (LA Funding for 2018/19 = £xxx)		Actual count by quarter					Cumulative				
			Q1	Q2	Q3	Q4	End of Year	Q1	Q2	Q3	Q4	End of Year
			2017/18	2017/18	2017/18	2017/18	2017/18	2018/19	2018/19	2018/19	2018/19	2018/19
34	Financial Healthcheck	Confirm										
35	Quarterly income and outgoings update	Confirm										
36	Other sources of income matched to contract	Confirm										
37	Annual healthcheck (LA action)	Confirm										

G	Company Assurance		Actual count by quarter					Cumulative				
			Q1	Q2	Q3	Q4	End of Year	Q1	Q2	Q3	Q4	End of Year
			2017/18	2017/18	2017/18	2017/18	2017/18	2018/19	2018/19	2018/19	2018/19	2018/19
38	Indemnity and insurance	Confirm										
39	Data Protection	Confirm										
40	Health and safety incidents	Actual										
41	Safeguarding incidents	Confirm										

# Contract Monitoring Template

<b>Contract Name: Young Carers</b>	<b>Contract Ref No: CMCV 031 Lot 2</b>
<b>Date of Meeting Review:</b>	<b>Reporting Review Period:</b>

## Service Description:

The aim of the service is to identify, assist and support Young Carers from the administrative area of the Council by providing the following:

- Information and advice to young people, families and professionals providing support
- Enabling access to regular short breaks from their caring responsibilities by ensuring increased participation in activities for young people with their peers. This may involve providing one-to-one support in the short-term until the young person can participate in group activities
- Raising the profile of young carers

“Young Carers” are young people i.e. children or young persons who are 18 and under, whose life is in some way restricted or limited because of the need to take responsibility for the care of a person who is ill, has a disability, is experiencing mental distress or is effected by substance abuse. Young Carers’ responsibilities may include help with medication, domestic chores, organising household, shopping, personal care, lifting, helping young members of the family, emotional support for the rest of the family and much more.

## Service Outcomes:

The outcomes for the Young Carers service are:

- Support young people to develop live skills relevant to their family circumstances
- Provision of respite opportunities
- Identification of young carers not currently receiving support
- Engage in multi agency working as appropriate to the support needs of the individual young carer

## Update on actions identified from previous review:

(Please provide an update on any actions identified at the previous review.)

1.	
2.	
3.	
4.	
5.	

## Contract Monitoring Template

### Completion of the Performance Template and this Report:

In advance of the review please complete the agreed performance template and return to Katrina Lester, your Performance Officer within 10 working days of the formal contract review. The completed performance template and this report will inform the review meeting and enable both the provider and Shropshire Council to understand current performance in advance. This will ensure both a consistent and transparent approach.

Please refer to the explanatory notes to identify the information required both within the performance template and any supplementary information to support this. If you require any support with regard to this process please contact

### A. Delivery and Activity Information

Please provide within the boxes below a progress update information to support the performance summary provided. This relates to numbers 1 to 8 on the performance template.

**1. Please provide a general update on progress during the reporting period:**

**2. Provide Analysis of the Delivery and Activity Information (collated in the Performance Monitoring Template):**

**3. What has Gone Well?**

**4. Has anything not Progressed as Planned?**

### B. Evaluation and Performance Information

Please provide within the box below information to support the evaluation and performance information provided. This relates to numbers 9 to 10 on the performance template.

## C. Quality, Compliments and Complaints

Please provide within the box below information to support the performance information provided. This relates to numbers 11 to 15 on the performance template.

## D. Staffing

Please provide within the box below information to support the performance information provided with regard to any changes or issues relating to staffing. This relates to numbers 16 to 20 on the performance template.

## E. Financial Assurance – Income and Costings

Please provide a breakdown in the box below – the income and costings to support the performance information provided. This relates to numbers 21 to 24 on the performance template.

## F. Company Assurance

Please provide within the box below information to support the performance information provided. This relates to numbers 25 to 26 on the performance template.



## G. Health and Safety

Please provide within the box below information to support the performance information provided. This relates to number 27 on the performance template.

## H. Safeguarding

Please provide within the box below information to support the performance information provided. This relates to number 28 on the performance template.

## I. Operational Issues

Please provide within the box below details of any changes, eg buildings being used for the delivery of the contract and infrastructure which may have an impact on contract performance.

## J. Case Studies

Please provide examples of the work undertaken that demonstrates impact. The examples provided should relate to the service outcomes specified in the contract documentation.

## K. Links to other Groups and Fora

Please provide an update within the box below information to support the performance information provided.

## L. Future Developments

Please provide within the box below details of future developments and/or partnerships which may impact upon the performance of the contract.

## M. If you would like to detail any additional information for consideration at the review then please provide this in the box below:

# Early Help Performance Monitoring Template

Period:

Service Name: CMCV 031 Lot 2  
 Provided By:

Last Update:

Cumulative  
 Unique count\*

Unique count by quarter\*

A	Delivery & Activity Information		Quarter 1 2019/20	Quarter 2 2019/20	Quarter 3 2019/20	Quarter 4 2019/20	Running Total/ Cumulative							
1	New Requests for Support received during Reporting Quarter:													
a	Number of requests received	Actual												
	- Shrewsbury													
	- Oswestry													
	- Ludlow													
	- Bridgnorth													
	- Whitchurch/Market Drayton													
b	Number of requests accepted	Actual												
c	Number of requests rejected	Actual												
d	Number of offers of support not taken up	Actual												
2	Breakdown of Requests for Support Sources:													
a	Bee U (formerly CAMHs)	Actual												
b	Social Work Teams													
c	Early Help (Enhance, TYS, Parenting, Lifelines, Cctres)													
d	Education Access Service													
e	GPs/Hospital													
f	Hope House													
g	School - Primary													
h	School - Secondary													
i	Self/Family													
j	Other (please provide further info) - OT													
3	Number of Individual Young Carers Supported:													
a	Total number of young carers supported	Actual												
b	Number supported by geographical area:	Actual												
	- Shrewsbury													
	- Oswestry													
	- Ludlow													
	- Bridgnorth													
	- Whitchurch/Market Drayton													
c	Number supported by age and gender:	Actual	M	F	O	M	F	O	M	F	O	M	F	O
	- 5-7 years													
	- 8-10 years													
	- 11-13 years													
	- 14-18 years													
4	Numbers of Young Carers by Type of Support Provided:													
a	Peer Support Meetings (PSMs)	Actual												
	Shrewsbury													
	Oswestry													
	Ludlow													
	Bridgnorth													
	Whitchurch/Market Drayton													
b	Activities	Actual												
	Shrewsbury													
	Oswestry													
	Ludlow													
	Bridgnorth													
	Whitchurch/Market Drayton													
d	1:1s	Actual												
	Shrewsbury													
	Oswestry													
	Ludlow													
	Bridgnorth													
	Whitchurch/Market Drayton													
e	Forum Meetings	Actual												
	Shrewsbury													
	Oswestry													
	Ludlow													
	Bridgnorth													
	Whitchurch/Market Drayton													
5	Breakdown of Service Data - Number of Young Carers (where known):													
a	Young Carers on Child Protection Plan	Actual												
b	Young Carers on Child in Need Plan	Actual												
c	Young Carers with Early Help Plan	Actual												
6	Cases closed to service	Actual												
7	Number of Events:													
a	Sessions delivered in schools (promoting awareness of YC)	Actual												
b	EHPMs attended	Actual												
c	Core Group/Case Conference Meetings	Actual												
d	External networking events/opportunities	Actual												
8	Number of Referrals/Signposting:													

table to be extended into

a	Safeguarding	Actual					
b	External Agencies	Actual					

		Quarter 1 2019/20	Quarter 2 2019/20	Quarter 3 2019/20	Quarter 4 2019/20	Running Total/ Cumulative
<b>B Evaluation and Performance Information</b>						
<b>9 Feedback received from parents - Annual Review</b>						
9a	Number of parents feedback collected from	Actual			Annual	
9b	Number stating support made a difference	Actual			Annual	
<b>10 Feedback received from Young Carers attending Peer Support Groups:</b>						
10a	Number of young carers feedback collected from	Actual				
10b	Number stating support has made a difference	Actual				

		Quarter 1 2019/20	Quarter 2 2019/20	Quarter 3 2019/20	Quarter 4 2019/20	Running Total/ Cumulative
<b>C Quality, Compliments &amp; Complaints</b>						
11	Number of compliments received	Actual				
12	Number of complaints received	Actual				
13	Number of complaints closed	Actual				
14	Number of complaints open	Actual				
15	Quality Marks	Confirm				

		Quarter 1 2019/20	Quarter 2 2019/20	Quarter 3 2019/20	Quarter 4 2019/20	Running Total/ Cumulative
<b>D Staffing</b>						
16	Key Personnel	Confirm				
17	Number of new staff	Actual				
18	Induction	Confirm				
19	DBS check	Confirm				
20	Training attended	Actual				

		Quarter 1 2019/20	Quarter 2 2019/20	Quarter 3 2019/20	Quarter 4 2019/20	Running Total/ Cumulative
<b>E Finance (LA Funding for 2018/19 = £xxx)</b>						
21	Financial Healthcheck	Confirm				
22	Quarterly income and outgoings update	Confirm				
23	Other sources of income matched to contract	Confirm				
24	Annual healthcheck (LA action)	Confirm				

		Quarter 1 2019/20	Quarter 2 2019/20	Quarter 3 2019/20	Quarter 4 2019/20	Running Total/ Cumulative
<b>F Company Assurance</b>						
25	Indemnity and insurance	Confirm				
26	Data Protection	Confirm				
27	Health and safety incidents	Actual				
28	Safeguarding incidents	Confirm				

**\* Notes**

**Cumulative Unique count** = count the young carer once regardless of how many times they have received support during the reporting year

**Unique Actual count** = count the young carer regardless of how many times they have received support during the reporting quarter



[REDACTED]  
YSS Limited  
Polysec House  
Blackpole Trading Est  
Hindlip Lane  
Worcester  
WR3 8BJ

Shropshire Council  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire SY2 6ND

Date: 19th November 2018

Emailed to: [REDACTED]

Dear Lorraine

**CMCV 031 – EARLY HELP COMMISSIONED SERVICE  
LOT 1 – TARGETED FAMILY SUPPORT**

**SUBJECT TO CONTRACT**

This is an Award Decision Notice pursuant to The Public Contracts Regulations 2015 (the “Regulations”).

We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer to form part of the above proposed contract as set out in your recent tender.

However, this letter is not, at this stage, a communication of Shropshire Council’s formal acceptance of your offer. A mandatory “standstill” period is now in force pursuant to the Regulations; this period will end at midnight on 29<sup>th</sup> November 2018.



Subject to Shropshire Council receiving no notice during the standstill period of any intention to legally challenge the award process, the Council aims to conclude the award of the contract after the expiry of the standstill period.

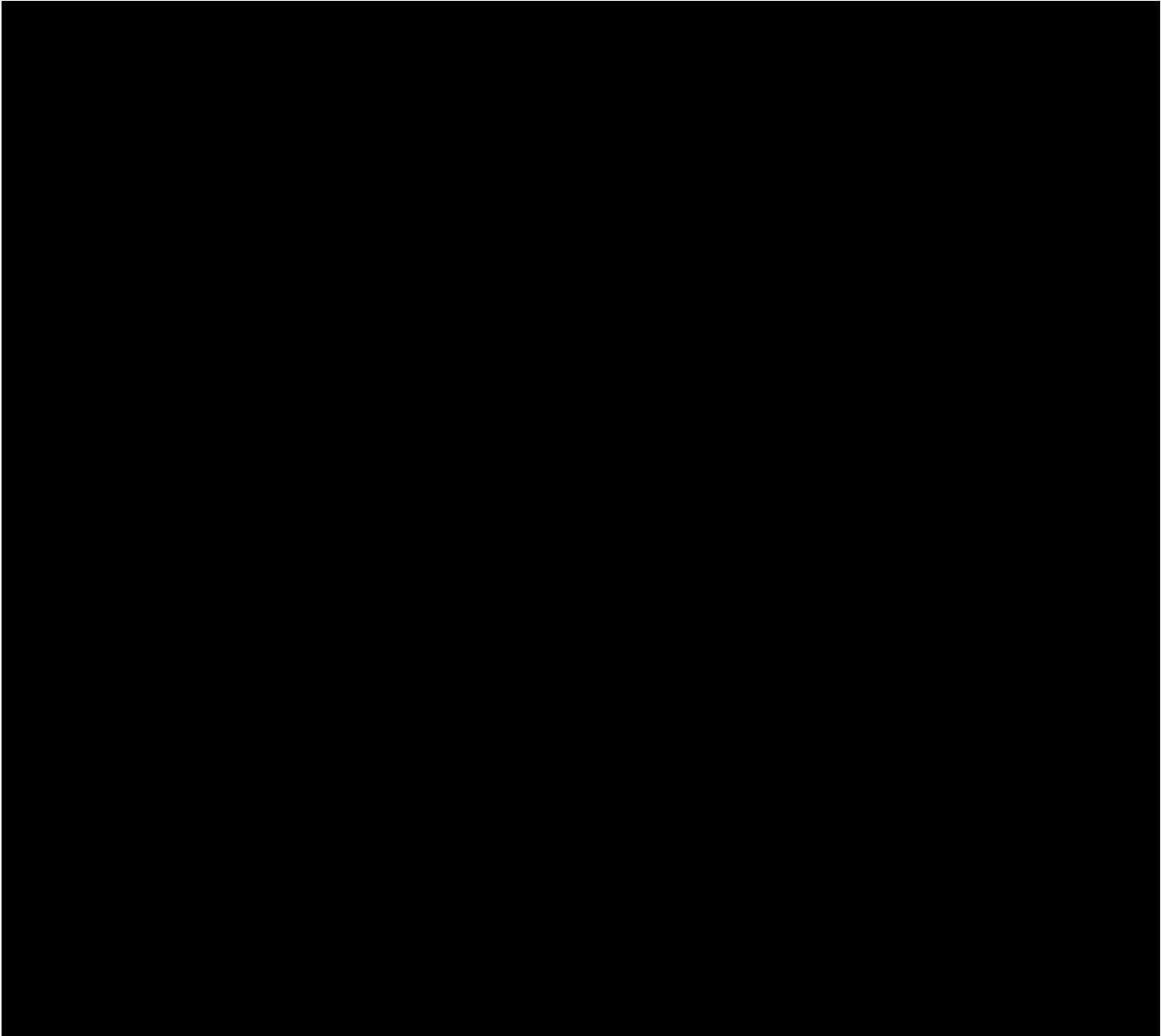
The award criteria for this contract was set out in full in Invitation to Tender with quality accounting for 60% and price for 40% of the total marks.

We can confirm that your tender received the following scores and ranking:-

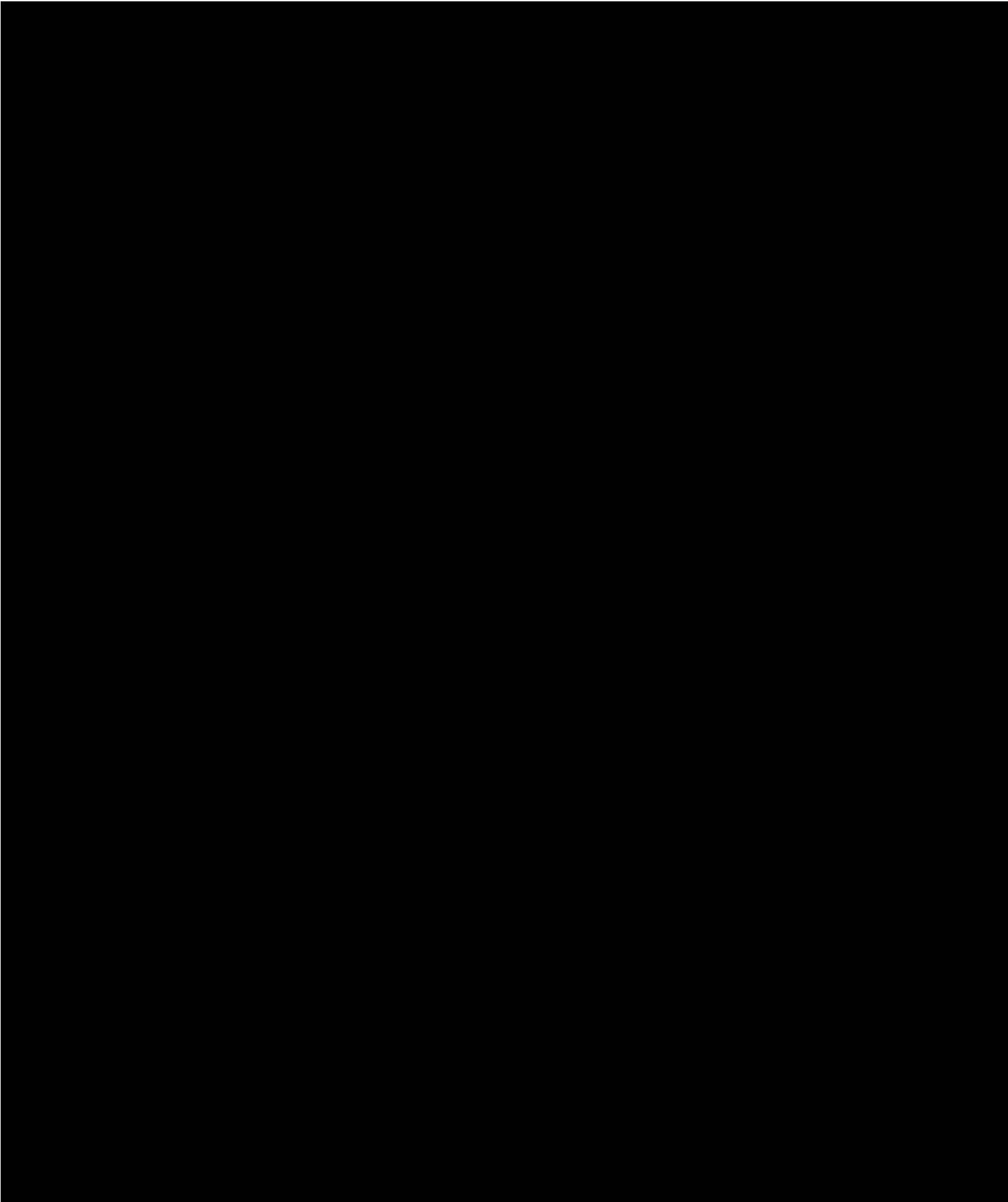
commercial info

Criteria	Your Weighted Score	Your rank (out of all 2 tenders received)
Price (out of 400 marks)	████	█
Quality (out of 600 marks)	████	█
Overall	████	█

Please find details of the marks allocated to you for Quality and reasoning behind the Quality marks as follows: -



commercial info



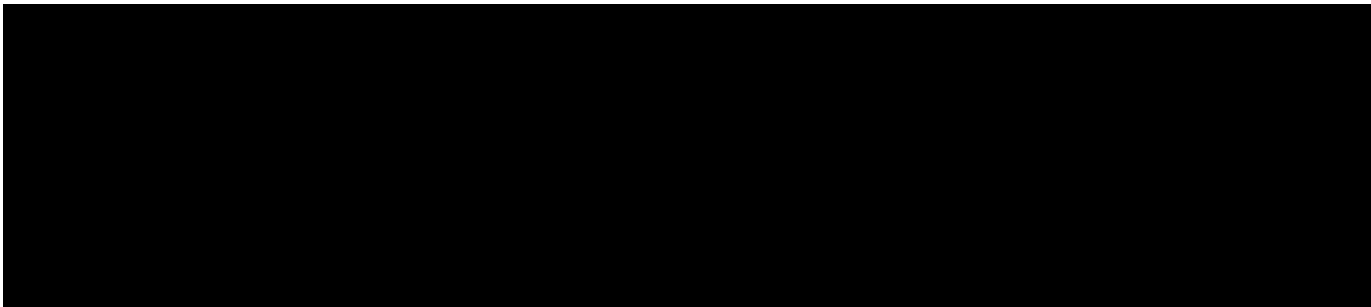
commercial & personal info



We will be in touch with you again at the end of the standstill period.

In the meantime, please hold the date of the 23rd November 2018, 10.00 – 12.00, for the first pre-contract meeting at Shirehall in Shrewsbury, Shropshire SY2 6ND. We would like to meet with Lorraine and Angela in the first instance to provide feedback on your tender and plan next steps.

Yours faithfully



Head of Early Help & Commissioning

Commissioning Development Officer





[REDACTED]  
YSS Limited  
Polysec Hous  
Blackpole Trading Est  
Hindlip Lane  
Worcester  
WR3 8BJ

Shropshire Council  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire SY2 6ND

Date: 19th November 2018

Emailed to: [REDACTED]

Dear Lorraine

**CMCV 031 – EARLY HELP COMMISSIONED SERVICE  
LOT 2 – SUPPORT FOR YOUNG CARERS**

**SUBJECT TO CONTRACT**

This is an Award Decision Notice pursuant to The Public Contracts Regulations 2015 (the “Regulations”).

We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer to form part of the above proposed contract as set out in your recent tender.

However, this letter is not, at this stage, a communication of Shropshire Council’s formal acceptance of your offer. A mandatory “standstill” period is now in force pursuant to the Regulations; this period will end at midnight on 29<sup>th</sup> November 2018

[REDACTED]

Subject to Shropshire Council receiving no notice during the standstill period of any intention to legally challenge the award process, the Council aims to conclude the award of the contract after the expiry of the standstill period.

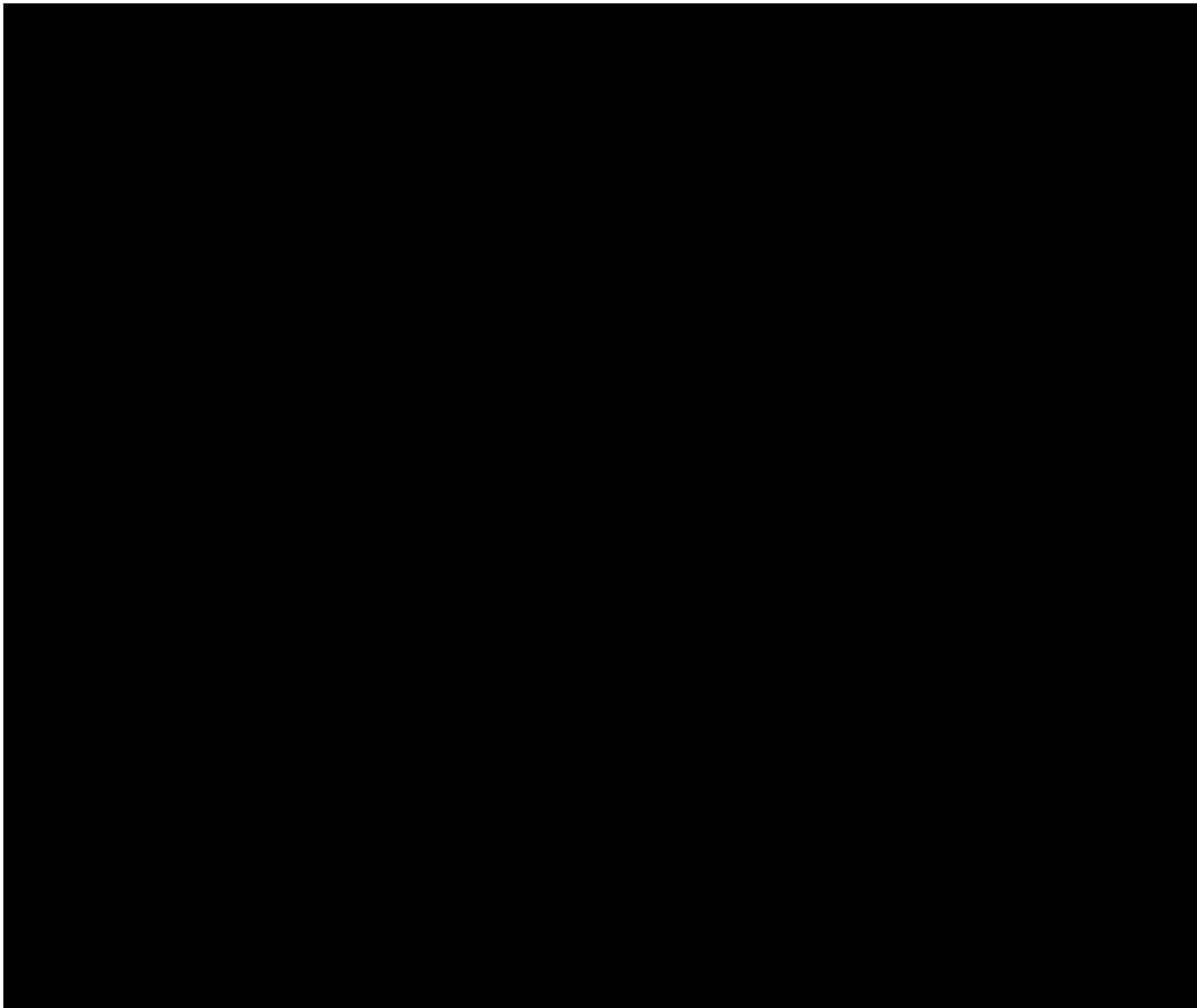
The award criteria for this contract was set out in full in Invitation to Tender with quality accounting for 60% and price for 40% of the total marks.

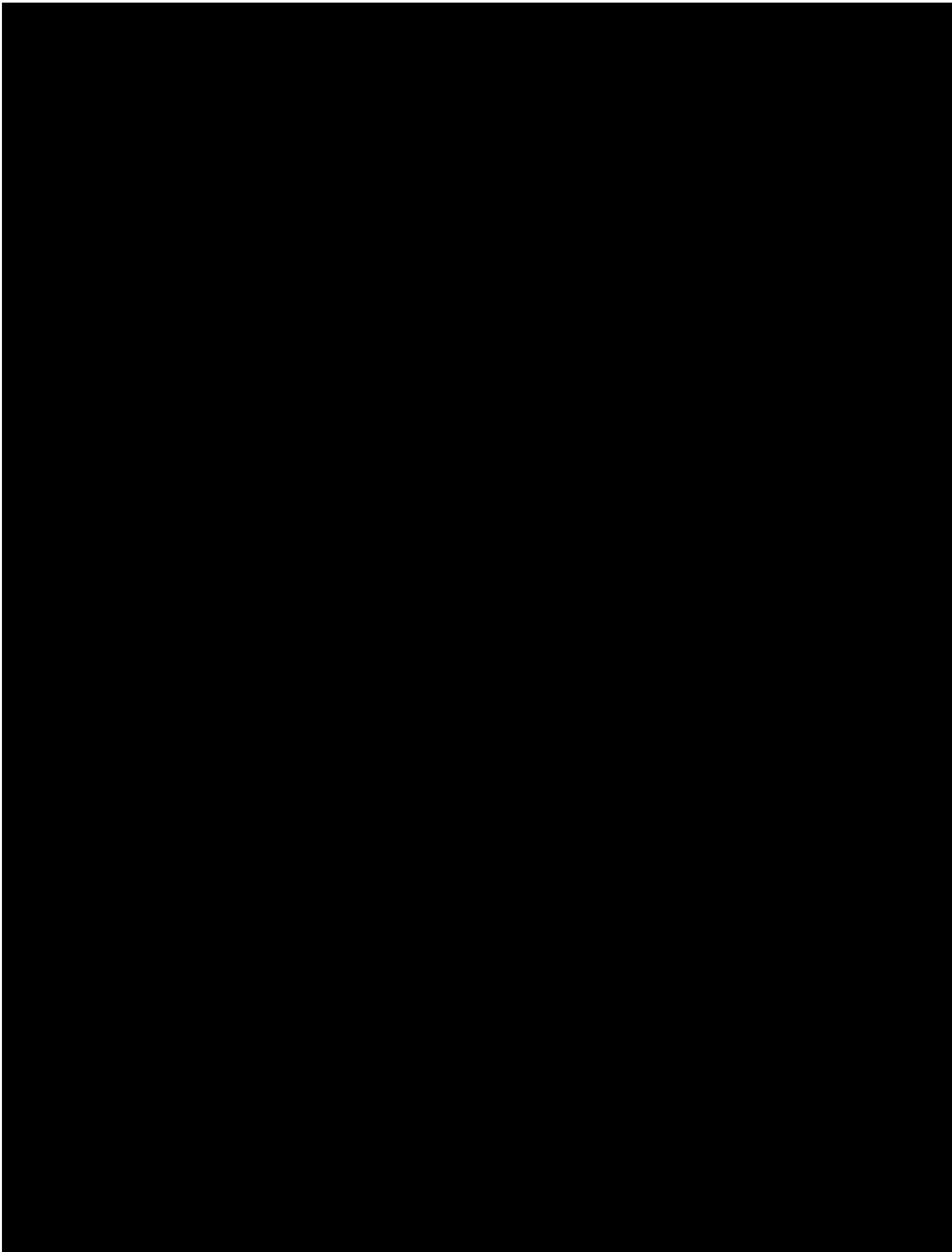
commercial info

We can confirm that your tender received the following scores and ranking:-

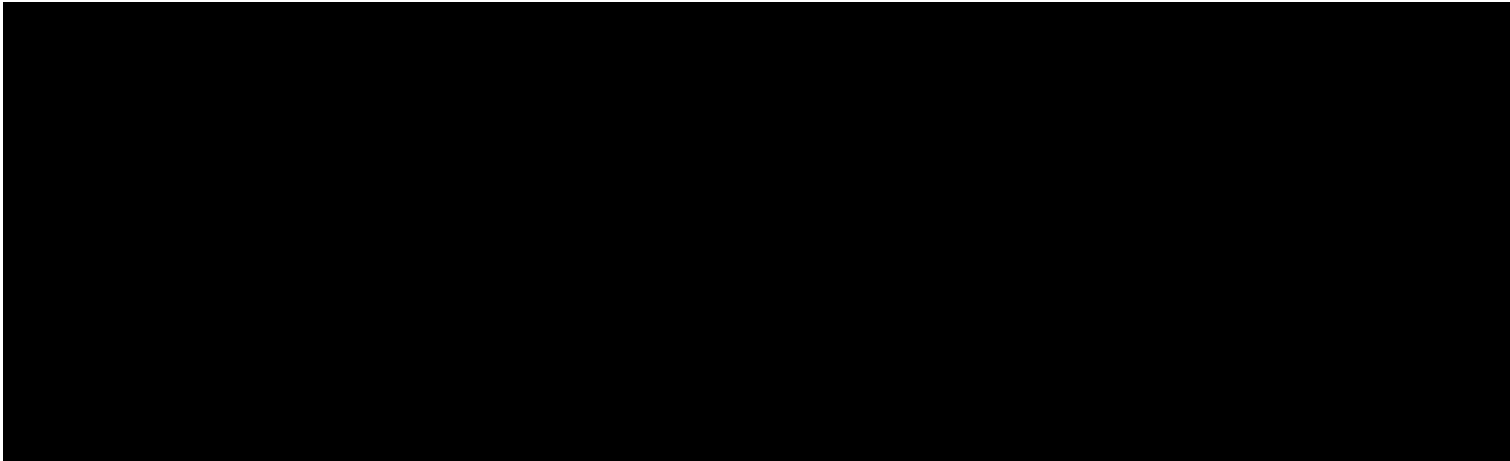
Criteria	Your Weighted Score	Your Rank (out of 1 tender received)
Price (out of 400 marks)	████	█
Quality (out of 600 marks)	████	█
Overall	████	█

Please find details of the marks allocated to you for Quality and reasoning behind the Quality marks as follows: -





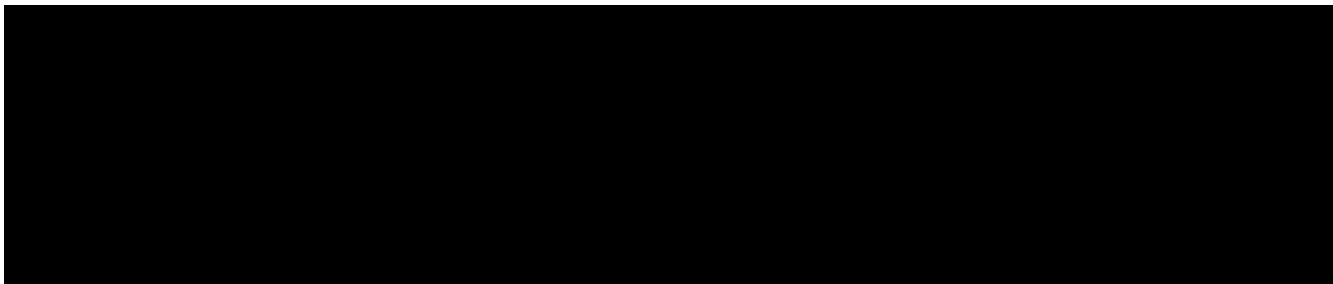
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In the meantime, please hold the date of the 23rd November 2018, 10.00 – 12.00, for the first pre-contract meeting at Shirehall in Shrewsbury, Shropshire SY2 6ND. We would like to meet with Lorraine and Angela in the first instance to provide feedback on your tender and plan next steps.

Yours faithfully



Head of Early Help & Commissioning

Commissioning Development Officer