

GB-Shrewsbury: PMCV 022 - Shropshire Healthwatch and Independent NHS Complaints Advocacy

Competitive Contract Notice

1. Title: GB-Shrewsbury: PMCV 022 - Shropshire Healthwatch and Independent NHS Complaints Advocacy

2. Awarding Authority:

Shropshire Council

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

Contact: Procurement, Attn: Procurement

3. Contract Type: Services

Sub Type: Health and social services.

4. Description: Health and social work services. Shropshire Council wishes to commission a local Healthwatch and a local Independent NHS Complaints Advocacy Service (IHCAS). Healthwatch and IHCAS will be offered as an integrated service. Bidders may submit a tender which proposes a sub-contracting arrangement for IHCAS. Shropshire Council is looking for proposals which recognise the benefits of an integrated Healthwatch and IHCAS or close operational links between Healthwatch and IHCAS which make the most efficient use of resources.

Total maximum funding available for Healthwatch and IHCAS will be £162,000 per annum. Bidders should indicate how the total funding is allocated to each element of the integrated service or how much they propose to allocate to IHCAS in the event of a sub-contracting arrangement. Shropshire Council will expect bidders to demonstrate and identify where efficiencies are gained through their proposed approach.

In addition, Shropshire Council wishes to commission an Independent Health Complaints Advocacy Service (IHCAS) in accordance with all relevant legislation and will be client centred, providing a flexible service that empowers a person (complainant) who wishes to resolve a complaint about healthcare commissioned and/or provided by the NHS in Shropshire. IHCAS can also support a local person to resolve a complaint about health services commissioned and delivered by an NHS provider within another local area.

IHCAS will need to link closely to Local Healthwatch organisations, in particular Healthwatch Shropshire, in order that learning and information can be shared regarding the quality of health and social care services in order to drive improvements.

Due to the close geographical links and shared NHS services, it is also important that the IHCAS for Shropshire shares learning with the IHCAS covering the Telford & Wrekin Council area.

The duration of the contract will be for 3 years commencing on 1st April 2023 with an option to extend for a further 2 years.

Applicants should note that it is considered that the Employee "Transfer of Undertakings (Protection of Employment) Regulations" 2006 ("TUPE") and any amendments to the regulations or related regulations may apply to this contract. Applicants are advised to seek their own legal advice about the practicality of these regulations.

5. CPV Codes:

85000000 - Health and social work services.

6. NUTS Codes :

UKG22 - Shropshire CC

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

8. Reference Attributed by the Awarding Authority: PMCV 022

9. Estimated Value of Requirement: Category G: 500K to 1M

Currency: GBP

10. Deadline for Expression of Interest: 02/12/2022 12:00:00

11. Address to which they must be sent:
Not Provided

12. Other Information:

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

<https://www.delta-esourcing.com/tenders/UK-GB-Shrewsbury:-PMCV-022---Shropshire-Healthwatch-and-Independent-NHS-Complaints-Advocacy/9N7R459V4R>

To respond to this opportunity, please click here:

<https://www.delta-esourcing.com/respond/9N7R459V4R>

Suitable for VCO: Yes

Procedure Type: OPEN

Period of Work Start date: 01/04/2023

Period of Work End date: 31/03/2028

Is this a Framework Agreement?: no

Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
Shropshire SY2 6ND

Date: 28th October 2022
My Ref: PMCV 022
Your Ref: PMCV 022

Dear Bidder

**PMCV 022 - SHROPSHIRE HEALTHWATCH AND INDEPENDENT NHS COMPLAINTS
ADVOCACY
SHROPSHIRE COUNCIL**

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

- Instructions for Tendering (for completion and return)
- Tender Response Document (for completion and return)
- TUPE Confidentiality Undertaking Letter (for completion and return)
- Draft Contract

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

Returning of Tenders

- The deadline for returning tenders is **noon on 2nd December 2022** 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**



Freedom of Information

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

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

Other Details

Please note that if supplementary questions are raised by any tenderer prior to the closing of tenders and Shropshire Council decides that the answers help to explain or clarify the information given in the Tender Documents, then both the questions and the answers will be circulated to all enterprises invited to submit a tender. Please raise all clarification questions before the deadline of **25th November 2022**.

Please note any required presentations / interviews with bidders have been provisionally booked for 14th December 2022.

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

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

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

Yours faithfully





INSTRUCTIONS FOR TENDERING

**PMCV 022
Shropshire Healthwatch and
Independent NHS Complaints
Advocacy**

Shropshire Council Instructions for tendering

Contract Description/Specification:

Context

The Health and Social Care Act 2012 established Healthwatch as the independent consumer champion for both publicly funded health and social care. Its core purpose is to understand the needs, experiences and concerns of people who use health and social care services and to speak out on their behalf.

Healthwatch Shropshire will gather people's views on, and experiences of, the health and social care system, enabling residents of Shropshire to have their voices heard. Using this feedback Healthwatch Shropshire will liaise with health and social care organisations to ensure maximum impact, by;

- amplifying the voices and experiences of the most pressing and difficult issues in health and social care
- speaking up on behalf of sometimes unpopular causes or groups who are marginalised and/or face disadvantages or discrimination
- designing and delivering services and activities that best meet the needs of the people of Shropshire

There has been a recent change in NHS structures meaning that healthcare services are planned and commissioned across both Shropshire and Telford & Wrekin Council areas by a new Integrated Commissioning Board. It is therefore important that Healthwatch Shropshire coordinates and collaborates with Healthwatch Telford & Wrekin to ensure there is a consistent approach across both areas. **Tenderers should note that Telford & Wrekin Council is tendering for its own Healthwatch at the same time as Shropshire Council.**

Healthwatch Stakeholder Survey

Both Shropshire Council and Telford & Wrekin Council have undertaken a survey with the aim of understanding what local people and stakeholders think of the way that Healthwatch currently operates across the two areas and what the priorities should be when setting out the requirements for the new Healthwatch contract.

Responses to the Shropshire Council survey identified the following themes as being most important and needing to be secured are:

- **Profile** Healthwatch must have a high profile and people and stakeholders should understand what Healthwatch does, how to engage with Healthwatch and what difference it can make. Healthwatch should make it easy for people to engage, regardless of geography or individual characteristics or circumstances
- **Demonstrated Influence and Impact** Healthwatch should be able to demonstrate clearly what difference it makes and the impact it is having on health and social care services and how local engagement has influenced this.
- **Independence** Healthwatch should be able to demonstrate that it is independent from health and social care commissioners, whilst at the same time being an important part of health and care planning
- **Good Local Knowledge** Healthwatch must operate for the benefit of the people of Shropshire. At the same time opportunities should also be sought to make the best use of its links with other organisations, including other Local Healthwatch, where there is mutual benefit

A number of comments received through the survey related to the role of Healthwatch across the new Shropshire, Telford & Wrekin Integrated Care System (ICS) and suggested much closer collaboration or partnering between the two Local Healthwatch.

Our Requirements

Shropshire Council wishes to commission a local Healthwatch and a local Independent NHS Complaints Advocacy Service (IHCAS). Healthwatch and IHCAS will be offered as an integrated service. Bidders may submit a tender which proposes a sub-contracting arrangement for IHCAS. Shropshire Council is looking for proposals which recognise the benefits of an integrated Healthwatch and IHCAS or close operational links between Healthwatch and IHCAS which make the most efficient use of resources.

Total maximum funding available for Healthwatch and IHCAS will be £162,000 per annum. Bidders should indicate how the total funding is allocated to each element of the integrated service or how much they propose to allocate to IHCAS in the event of a sub-contracting arrangement. Shropshire Council will expect bidders to demonstrate and identify where efficiencies are gained through their proposed approach.

Healthwatch

Shropshire Council wishes to commission a local Healthwatch organisation in accordance with all relevant legislation and as summarised in the guidance '[A Guide to Running Healthwatch](#)' published by Healthwatch England

Healthwatch Shropshire will be a body corporate which is a social enterprise and will use the Healthwatch trademark under licence from Healthwatch England in relation to its activities.

Healthwatch Shropshire will be influential in the health and social care 'landscape' in Shropshire and will have productive relationships with a wide range of stakeholders across the county including, but not limited to, the local authority, health bodies, GP practices, patient and service user representative groups, service providers, voluntary & community groups and organisations and the general public.

Healthwatch Shropshire will have mutually beneficial strategic and operational relationships with neighbouring local Healthwatch and other local organisations as appropriate. In particular there should be close working with neighbouring Healthwatch where there are shared providers and shared issues. Opportunities will be sought to make the most efficient use of resources with other local Healthwatch, for example sharing expertise, intelligence and/or other resources.

IHCAS

In addition, Shropshire Council wishes to commission an Independent Health Complaints Advocacy Service (IHCAS) in accordance with all relevant legislation and will be client centred, providing a flexible service that empowers a person (complainant) who wishes to resolve a complaint about healthcare commissioned and/or provided by the NHS in Shropshire. IHCAS can also support a local person to resolve a complaint about health services commissioned and delivered by an NHS provider within another local area.

IHCAS will need to link closely to Local Healthwatch organisations, in particular Healthwatch Shropshire, in order that learning and information can be shared

regarding the quality of health and social care services in order to drive improvements.

Due to the close geographical links and shared NHS services, it is also important that the IHCAS for Shropshire shares learning with the IHCAS covering the Telford & Wrekin Council area.

It is important that IHCAS will have close strategic, working and/or organisational links with other organisations who are involved in developing insight and collecting information about peoples' views and experiences of health services in Shropshire. In addition it is essential that IHCAS develops and sustains close strategic and operational links with other providers and complementary services including NHS organisations, providers of information and advice as well as with the Voluntary and Community Sector generally. The IHCAS service will demonstrate how these links are delivering better value for money, maximising use of resources and continuous improvement to the outcomes for people.

For the year 2021/22, 122 contacts were made with the current IHCAS service. Of these 23 subsequently requested the support of an advocate.

Applicants should note that it is considered that the Employee "Transfer of Undertakings (Protection of Employment) Regulations" 2006 ("TUPE") and any amendments to the regulations or related regulations may apply to this contract. Applicants are advised to seek their own legal advice about the practicality of these regulations.

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1.0 Invitation to Tender

- 1.1 You are invited to tender for the provision of Shropshire Healthwatch and Independent NHS Complaints Advocacy as detailed in the Tender Response Document. The contract will be for 3 years commencing on 1st April 2023 with an option to extend for a further 2 years.
- 1.2 Tenders are to be submitted in accordance with the draft contract of Shropshire Council, and the instructions outlined within this document.
- 1.3 Tenders must be submitted in accordance with the following instructions. Tenders not complying in any particular way may be rejected by Shropshire Council (the Council) whose decision in the matter shall be final. Persons proposing to submit a Tender are advised to read the Invitation to Tender documentation carefully to ensure that they are fully familiar with the nature and extent of the obligations to be accepted by them if their Tender is accepted.
- 1.4 The Invitation to Tender documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Invitation to tender document other than on an “in confidence” basis to those who have a legitimate need to know or who they need to consult for the purpose of preparing the tender as further detailed in these Instructions for Tendering.
- 1.5 Tenderers shall not at any time release information concerning the invitation to tender and/or the tender documents for publication in the press or on radio, television, screen or any other medium without the prior consent of the Council.
- 1.6 The fact that a Tenderer has been invited to submit a tender does not necessarily mean that it has satisfied the Council regarding any matters raised in the pre-tender questionnaire submitted. The Council makes no representations regarding the Tenderer’s financial stability, technical competence or ability in any way to carry out the required services. The right to return to any matter raised in any pre-tender questionnaire submitted as part of the formal tender evaluation is hereby reserved by the Council.
- 1.7 The Invitation to Tender is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a tenderer to submit a tender or enter into a Contract or any other contractual agreement.
- 1.8 Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council’s involvement.

2.0 Terms and Conditions

- 2.1 Every Tender received by the Council shall be deemed to have been made subject to the draft contract 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 may 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, 2nd December 2022**.

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. 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 **25th November 2022**.

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 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 Council's draft form of contract, the Tender Response document and these Instructions to Tender shall form the basis of the final binding agreement between the Contractor and the Council.

16.6 The Tenderer shall be prepared to commence the provision of Shropshire Healthwatch and Independent NHS Complaints Advocacy on the start date of the contract being **1st April 2023**.

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

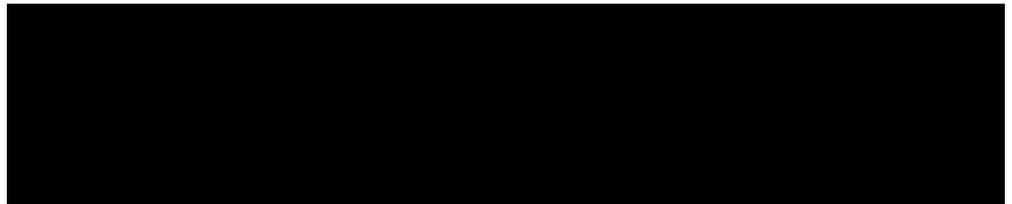
- 18.1** The Council does not bind himself to accept the lowest or any tender.
- 18.2** The Council does not accept any responsibility for any pre-tender representations made by or on its behalf or for any other assumptions that Tenderers may have drawn or will draw from any pre-tender discussions.
- 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 that we have read and understood these Instructions to Tender and agree to be bound by them when submitting our tender response. We confirm that all the responses provided within our tender response are true and accurate and acknowledge and accept that, if successful in being appointed as the Contractor, our tender responses shall be included as part of the final binding agreement between the Contractor and the Council.



Tender Response Document

PMCV 022 Shropshire Healthwatch and Independent NHS Complaints Advocacy

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:

Context

The Health and Social Care Act 2012 established Healthwatch as the independent consumer champion for both publicly funded health and social care. Its core purpose is to understand the needs, experiences and concerns of people who use health and social care services and to speak out on their behalf.

Healthwatch Shropshire will gather people's views on, and experiences of, the health and social care system, enabling residents of Shropshire to have their voices heard. Using this feedback Healthwatch Shropshire will liaise with health and social care organisations to ensure maximum impact, by;

- amplifying the voices and experiences of the most pressing and difficult issues in health and social care
- speaking up on behalf of sometimes unpopular causes or groups who are marginalised and/or face disadvantages or discrimination
- designing and delivering services and activities that best meet the needs of the people of Shropshire

There has been a recent change in NHS structures meaning that healthcare services are planned and commissioned across both Shropshire and Telford & Wrekin Council areas by a new Integrated Commissioning Board. It is therefore important that Healthwatch Shropshire coordinates and collaborates with Healthwatch Telford & Wrekin to ensure there is a consistent approach across both areas. **Tenderers should note that Telford & Wrekin Council is tendering for its own Healthwatch at the same time as Shropshire Council.**

Healthwatch Stakeholder Survey

Both Shropshire Council and Telford & Wrekin Council have undertaken a survey with the aim of understanding what local people and stakeholders think of the way that Healthwatch currently operates across the two areas and what the priorities should be when setting out the requirements for the new Healthwatch contract.

Responses to the Shropshire Council survey identified the following themes as being most important and needing to be secured are:

- **Profile** Healthwatch must have a high profile and people and stakeholders should understand what Healthwatch does, how to engage with Healthwatch and what difference it can make. Healthwatch should make it easy for people to engage, regardless of geography or individual characteristics or circumstances
- **Demonstrated Influence and Impact** Healthwatch should be able to demonstrate clearly what difference it makes and the impact it is having on health and social care services and how local engagement has influenced this.
- **Independence** Healthwatch should be able to demonstrate that it is independent from health and social care commissioners, whilst at the same time being an important part of health and care planning
- **Good Local Knowledge** Healthwatch must operate for the benefit of the people of Shropshire. At the same time opportunities should also be sought to make the best use of its links with other organisations, including other Local Healthwatch, where there is mutual benefit

A number of comments received through the survey related to the role of Healthwatch across the new Shropshire, Telford & Wrekin Integrated Care System (ICS) and suggested much closer collaboration or partnering between the two Local Healthwatch.

Our Requirements

Shropshire Council wishes to commission a local Healthwatch and a local Independent NHS Complaints Advocacy Service (IHCAS). Healthwatch and IHCAS will be offered as an integrated service. Bidders may submit a tender which proposes a sub-contracting arrangement for IHCAS. Shropshire Council is looking for proposals which recognise the benefits of an integrated Healthwatch and IHCAS or close operational links between Healthwatch and IHCAS which make the most efficient use of resources.

Total maximum funding available for Healthwatch and IHCAS will be £162,000 per annum. Bidders should indicate how the total funding is allocated to each element of the integrated service or how much they propose to allocate to IHCAS in the event of a sub-contracting arrangement. Shropshire Council will expect bidders to demonstrate and identify where efficiencies are gained through their proposed approach.

Healthwatch

Shropshire Council wishes to commission a local Healthwatch organisation in accordance with all relevant legislation and as summarised in the guidance ['A Guide to Running Healthwatch'](#) published by Healthwatch England

Healthwatch Shropshire will be a body corporate which is a social enterprise and will use the Healthwatch trademark under licence from Healthwatch England in relation to its activities.

Healthwatch Shropshire will be influential in the health and social care 'landscape' in Shropshire and will have productive relationships with a wide range of stakeholders across the county including, but not limited to, the local authority, health bodies, GP practices, patient and service user representative groups, service providers, voluntary & community groups and organisations and the general public.

Healthwatch Shropshire will have mutually beneficial strategic and operational relationships with neighbouring local Healthwatch and other local organisations as appropriate. In particular there should be close working with neighbouring Healthwatch where there are shared providers and shared issues. Opportunities will be sought to make the most efficient use of resources with other local Healthwatch, for example sharing expertise, intelligence and/or other resources.

IHCAS

In addition, Shropshire Council wishes to commission an Independent Health Complaints Advocacy Service (IHCAS) in accordance with all relevant legislation and will be client centred, providing a flexible service that empowers a person (complainant) who wishes to resolve a complaint about healthcare commissioned and/or provided by the NHS in Shropshire. IHCAS can also support a local person to resolve a complaint about health services commissioned and delivered by an NHS provider within another local area.

IHCAS will need to link closely to Local Healthwatch organisations, in particular Healthwatch Shropshire, in order that learning and information can be shared regarding the quality of health and social care services in order to drive improvements.

Due to the close geographical links and shared NHS services, it is also important that the IHCAS for Shropshire shares learning with the IHCAS covering the Telford & Wrekin Council area.

It is important that IHCAS will have close strategic, working and/or organisational links with other organisations who are involved in developing insight and collecting information about peoples' views and experiences of health services in Shropshire. In addition it is essential that IHCAS develops and sustains close strategic and operational links with other providers and complementary services including NHS organisations, providers of information and advice as well as with the Voluntary and Community Sector generally. The IHCAS service will demonstrate how these links are delivering better value for money, maximising use of resources and continuous improvement to the outcomes for people.

For the year 2021/22, 122 contacts were made with the current IHCAS service. Of these 23 subsequently requested the support of an advocate.

Applicants should note that it is considered that the Employee "Transfer of Undertakings (Protection of Employment) Regulations" 2006 ("TUPE") and any amendments to the regulations or related regulations may apply to this contract. Applicants are advised to seek their own legal advice about the practicality of these regulations.

Instructions for the completion of this document

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

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You must sign all 4 certificates in sections A1 to A4		
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Evaluation Criteria

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

Selection Criteria Pass/Fail Questions (Section B)

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

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

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

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

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

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



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

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

Award Criteria – Weighted Marked Questions

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

Section / Question No.	Award Criteria	Weighting / Max Marks Available
Quality 90% (900 marks)		
Section C / Q 1.1	Service Delivery	25% / 250 max marks
Section C / Q 1.2	Governance & Independence	12.5% / 125 max marks
Section C / Q 1.3	Partnerships	10% / 100 max marks
Section C / Q 1.4	Quality Assurance	10% / 100 max marks
Section C / Q 1.5	Impact	10% / 100 max marks
Section C / Q 1.6	Profile	7.5% / 75 max marks
Section C / Q 1.7	Outcomes & Effectiveness	5% / 50 max marks
Section C / Q 1.8	Implementation	10% / 100 max marks
Total for quality		90% / 900 max marks
Social Value 10% (100 marks)		
Section C / Q 2.1	Social Value proposals	10% / 100 max marks
Total for Social Value		10% / 100 max marks

Please note there is a supplementary unmarked question (3.1) to be answered by tenderers who are also considering submitting a tender for Telford & Wrekin's Healthwatch service

Shropshire Council is committed to securing Social Value through all its procurement activity. By requiring contractors to deliver Social Value we will improve social, economic and environmental outcomes for Shropshire and beyond. Our Social Value Framework sets how the Council's priorities can be met by a range of Social Value measures

<https://www.shropshire.gov.uk/social-value/>



Quality Questions/ Scoring Scheme

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

Assessment	Mark	Interpretation
Excellent	10	<i>Exceeds the requirement. Exceptional demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	9	
Good	8	<i>Satisfies the requirement with minor additional benefits Above average demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	7	
Acceptable	6	<i>Satisfies the requirement. Demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures, with evidence to support the response.</i>
	5	
Minor Reservations	4	<i>Satisfies the requirement with minor reservations Some minor reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with limited evidence to support the response.</i>
	3	
Serious Reservations	2	<i>Satisfies the requirement with major reservations. Considerable reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>
	1	
Unacceptable	0	<i>Does not meet the requirement Does not comply and/or insufficient information provided to demonstrate how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>

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

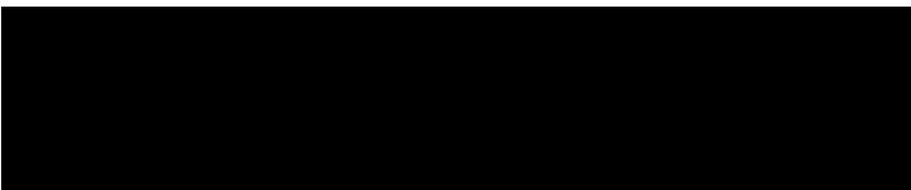
The tender receiving the highest initial mark for Quality Criteria overall will receive the full 900 marks available for Quality. Other tenders will receive a final mark that reflects the final % difference in the initial marks between those tenders and the tender receiving the highest initial mark for Quality overall.



Social Value Evaluation and Scoring

Proposals for delivery of Social Value in accordance with Shropshire Council's Social Value Framework will be scored using the scoring scheme applied to responses in the 'Quality' section of this tender response. Where we have not set out any particular measures for you to consider we will take into account the nature and proportionality of your Social Value commitment in relation to this contract. Where we have set out measures for you to consider we will take into account the extent to which your response meets these particular requirements.

The tender receiving the highest initial mark for Social Value will receive the full 100 marks available for Social Value. Other tenders will receive a final mark that reflects the final % difference in the initial marks between those tenders and the tender receiving the highest initial mark for Social Value.



Section A:
1. Form of Tender

Form of Tender

Shropshire Council

Tender for Shropshire Healthwatch and Independent NHS Complaints Advocacy

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 supply/provision of Shropshire Healthwatch and Independent NHS Complaints Advocacy at the prices and terms agreed and subject to the terms of the invitation to tender documentation and the Terms and Conditions, copies of which we have received.



Section A:
2. Non – Canvassing Certificate

Non-Canvassing Certificate

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

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

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



Non-collusive Tendering Certificate

To: Shropshire Council (hereinafter called "the Council")

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

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

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

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

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?

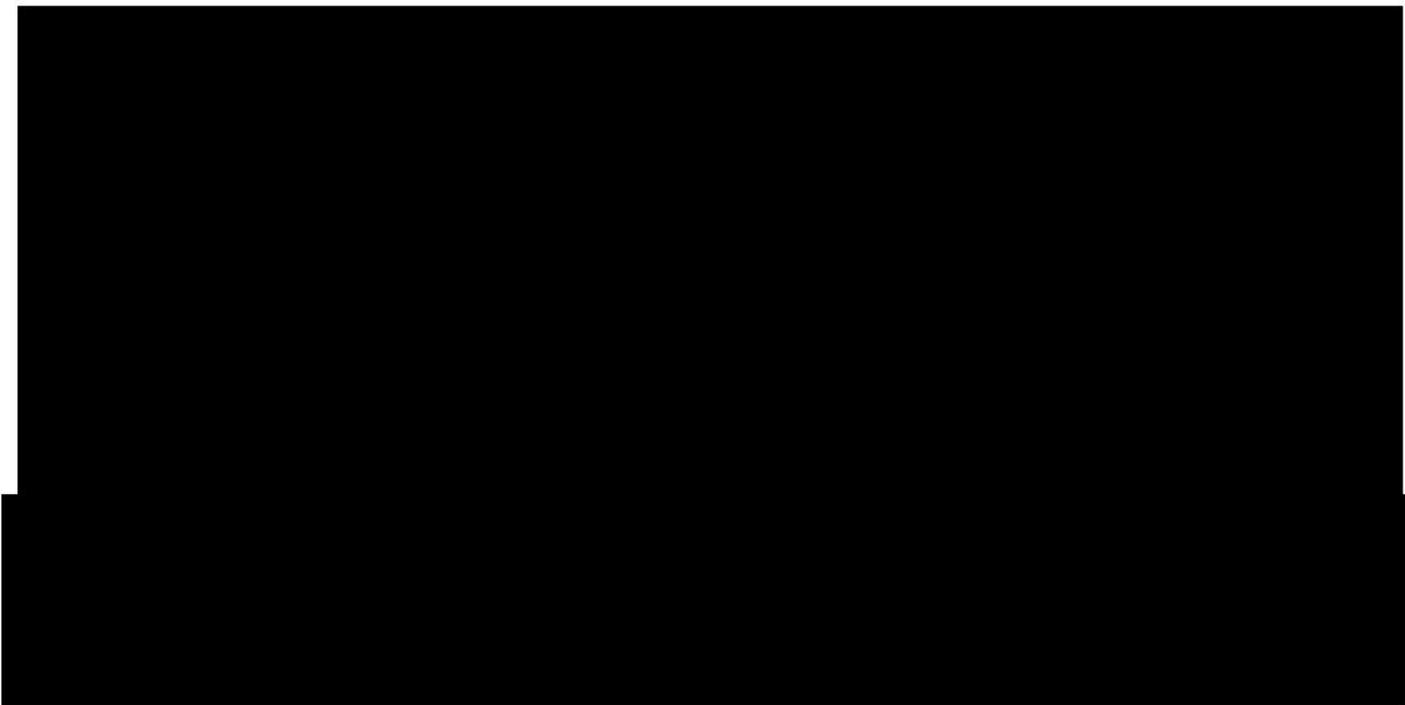


If yes, please give details:

Name	Relationship

Please note:

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



SECTION B

Standard Selection Questionnaire

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

The standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that you do not meet any of the grounds for exclusion. If there are grounds for exclusion (there is an opportunity to explain the background and any measures you have taken to rectify the situation (we call this self-cleaning). For the list of exclusion please see

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf

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

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

Supplier Selection Questions: Part 3

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

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

Consequences of misrepresentation

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



Notes for completion

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



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?	
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?	



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 Mutal	
1.1(m)	Are you a Small, Medium or Micro Enterprise (SME) ² ?	
1.1(n)	Details of Persons of Significant Control (PSC), where appropriate: ³ - Name; - Date of birth; - Nationality; - Country, state or part of the UK where the PSC usually lives; - Service address; - The date he or she became a PSC in relation to the company (for existing companies the 6 April 2016 should be used); - Which conditions for being a PSC are met; - Over 25% up to (and including) 50%, - More than 50% and less than 75%, - 75% or more. (Please enter N/A if not applicable)	
1.1(o)	Details of immediate parent company: - Full name of the immediate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	
1.1(p)	Details of ultimate parent company: - Full name of the ultimate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	

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

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

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



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

Section 1	Bidding Model				
Question number	Question	Response			
1.2(a) - (i)	Are you bidding as the lead contact for a group of economic operators?				
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?				
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.				
	Name				
	Registered address				
	Trading status				
	Company registration number				
	Head Office DUNS number (if applicable)				
	Registered VAT number				
	Type of organisation				
	SME (Yes/No)				
	The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables				
	The approximate % of contractual obligations assigned				



	to each sub-contractor					
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Contact details and declaration

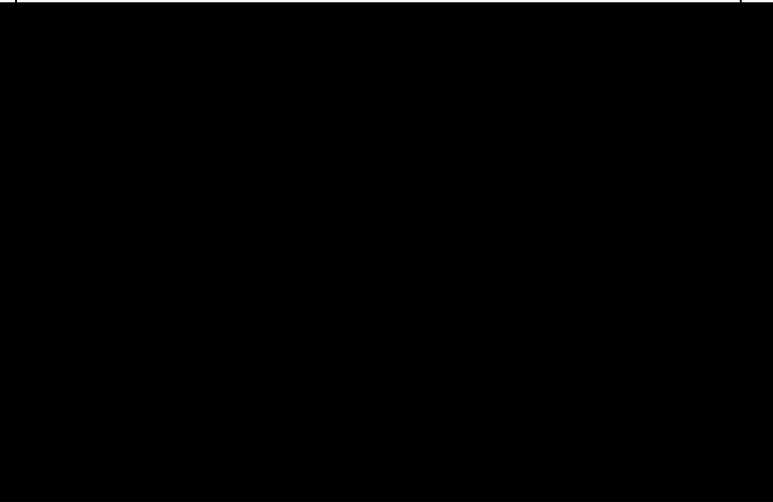
I declare that to the best of my knowledge the answers submitted and information contained in this document are correct and accurate.

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

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

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

I am aware of the consequences of serious misrepresentation.

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



Part 2: Exclusion Grounds

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

Section 2	Grounds for mandatory exclusion	
Question number	Question	Response
2.1(a)	<p>Regulations 57(1) and (2) The detailed grounds for mandatory exclusion of an organisation are set out on the webpage (see link on page 11), which should be referred to before completing these questions. Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed on the webpage.</p>	
	Participation in a criminal organisation.	
	Corruption.	
	Fraud.	
	Terrorist offences or offences linked to terrorist activities	
	Money laundering or terrorist financing	
	Child labour and other forms of trafficking in human beings	
2.1(b)	<p>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</p>	



	address, issuing authority, precise reference of the documents.
2.2	If you have answered Yes to any of the points above have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning)
2.3(a)	Regulation 57(3) Has it been established, for your organisation by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions?
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
2.4(a)	Please provide details of the technical facilities and measures (including systems and processes) you have in place, or will have in place by contract award, to ensure compliance with the General Data Protection Regulation and to ensure the protection of the rights of data subjects. Your response should include, but should not be limited to facilities and measures: <ul style="list-style-type: none"> ○ to ensure ongoing confidentiality, integrity, availability and resilience of processing systems and services; ○ to comply with the rights of data subjects in respect of receiving privacy information, and access, rectification, deletion and portability of personal data; ○ to ensure that any consent based processing meets standards of active,



informed consent, and that such consents are recorded and auditable;

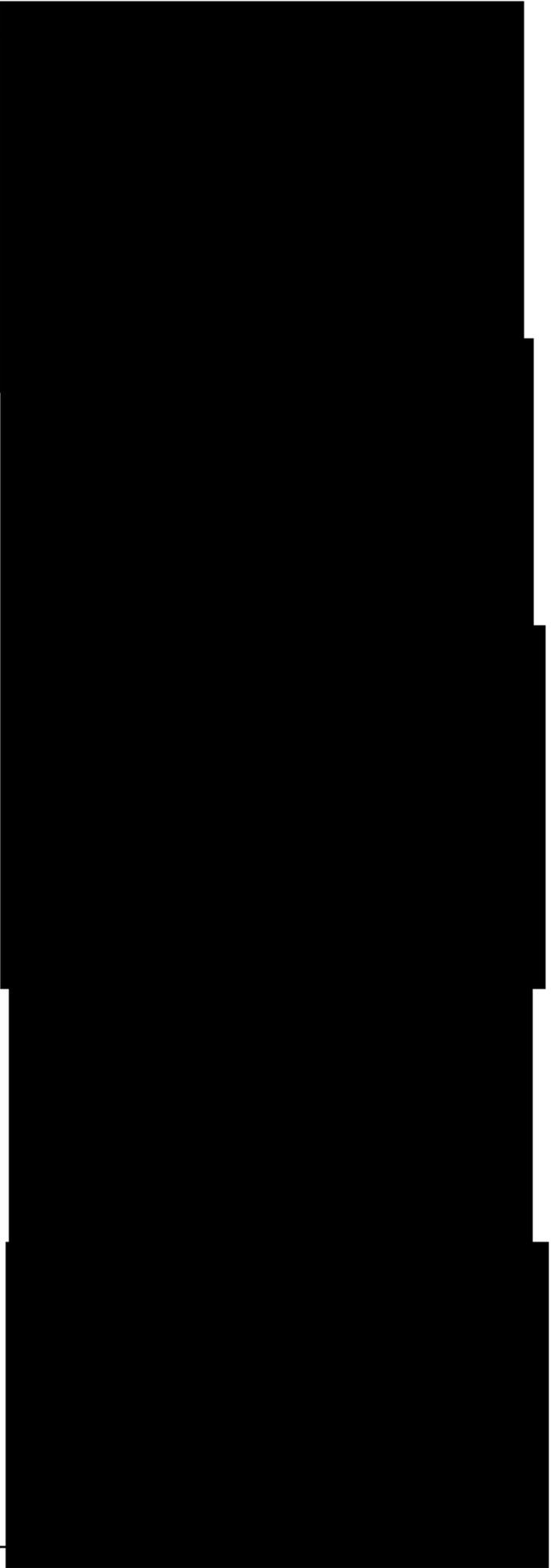
- to ensure legal safeguards are in place to legitimise transfers of personal data outside the EU (if such transfers will take place);

- to maintain records of personal data processing activities; and

- to regularly test, assess and evaluate the effectiveness of the above measures.



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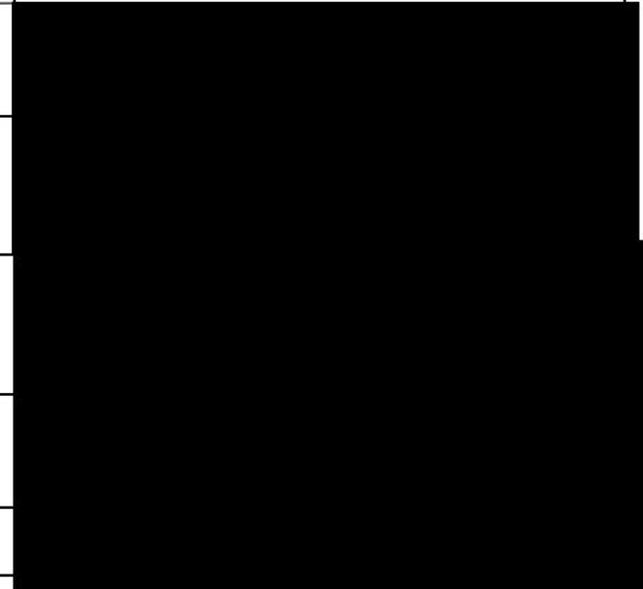
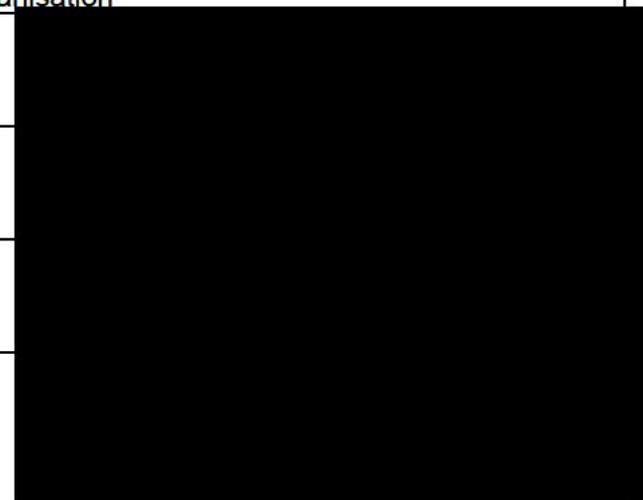


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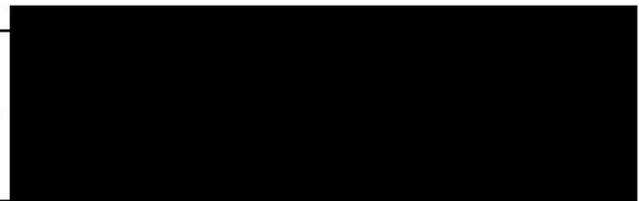


Please Note: The authority reserves the right to use its discretion to exclude a potential supplier where it can demonstrate by any appropriate means that the potential supplier is in breach of its obligations relating to the non-payment of taxes or social security contributions.

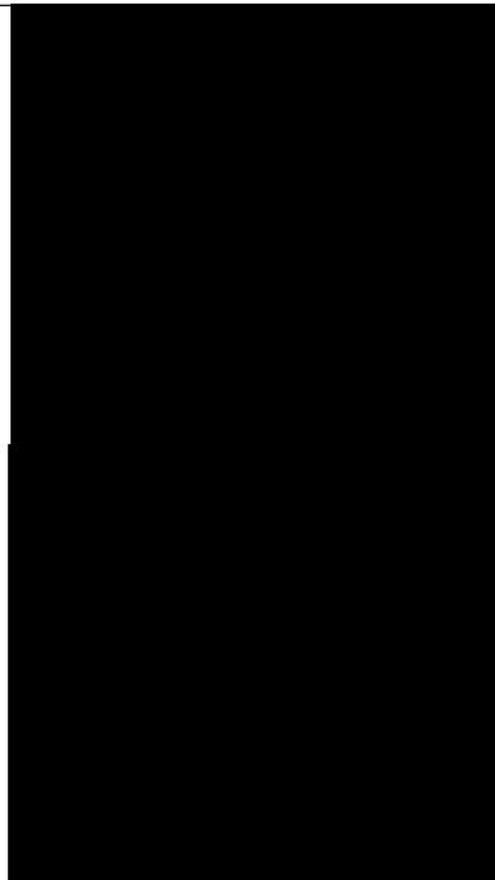
Section 3	Grounds for discretionary exclusion	
Question number	Question	Response
	<p>Regulation 57 (8) The detailed grounds for discretionary exclusion of an organisation are set out on this webpage (see link on page 11), which should be referred to before completing these questions.</p> <p>Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation</p>	
3.1(a)	Breach of environmental obligations?	
3.1(b)	Breach of social obligations?	
3.1(c)	Breach of labour law obligations?	
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?	
3.1(e)	Guilty of grave professional misconduct?	
3.1(f)	Entered into agreements with other economic operators aimed at distorting competition?	
3.1(g)	Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure?	
3.1(h)	Been involved in the preparation of the procurement procedure?	
3.1(i)	Shown significant or persistent deficiencies in the performance of a substantive	



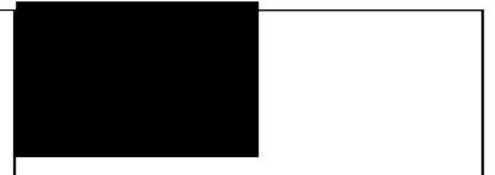
	requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions?
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3.1(j)	Please answer the following 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.
3.1(j) - (ii)	The organisation has withheld such information.
3.1(j) –(iii)	The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.
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.



3.2	If you have answered Yes to any of the above, explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant
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Section 4	Economic and Financial Standing	
Question number	Question	Response
4.1	Are you able to provide a copy of your audited accounts for the last two years, if requested? If no, can you provide one of the following: answer with Y/N in the relevant box.	
	(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.	
	(b) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position.	
	(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).	
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.	

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?	
5.2	If yes, would the parent company be willing to provide a guarantee if necessary?	
5.3	If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank)?	

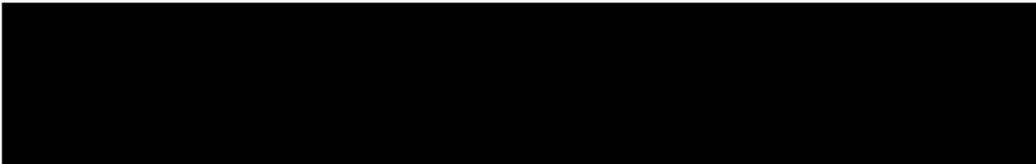
Section 6	Technical and Professional Ability
6.1	<p>Relevant experience and contract examples</p> <p>Please provide details of up to three contracts, in any combination from either the public or private sector; voluntary, charity or social enterprise (VCSE) that are relevant to our requirement. VCSEs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



	<p>Where the Supplier is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the main intended provider(s) or sub-contractor(s) who will deliver the contract.</p> <p>If you cannot provide examples see question 6.3</p>
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	Contact 1	Contact 2	Contact 3
Name of customer organisation			
Point of contact in the organisation			
Position in the organisation			
E-mail address			
Description of contract			
Contract Start date			
Contract completion date			
Estimated contract value			

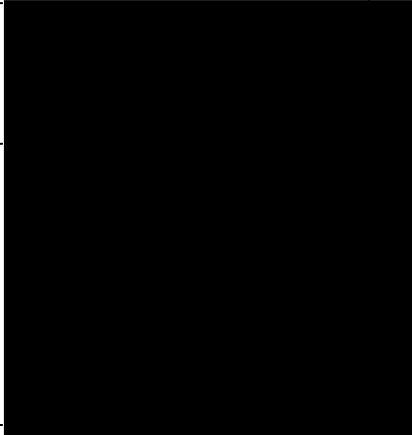
6.2	<p>Where you intend to sub-contract a proportion of the contract, please demonstrate how you have previously maintained healthy supply chains with your sub-contractor(s)</p> <p>Evidence should include, but is not limited to, details of your supply chain management tracking systems to ensure performance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



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6.3	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.
	

Section 7	Modern Slavery Act 2015: Requirements under Modern Slavery Act 2015
	Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?
	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?



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:</p> <p></p> <p>Employer's (Compulsory) Liability Insurance = £5 Million </p> <p>Public Liability Insurance = £5 Million </p> <p>Professional Indemnity Insurance = £2 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>

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.	<p>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)?</p>	
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>	
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>	

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)? If your answer to the this question is “Yes”, please provide details in a separate Appendix of the conviction or notice and details of any remedial action or changes you have made as a result of conviction or notices served. The Authority will not select bidder(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless the Authority is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches.</p>	
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>	

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>	
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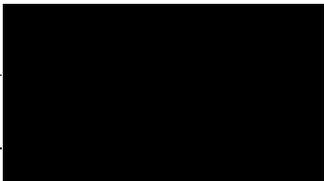


2.	<p>Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?</p> <p>If your answer to this question was “Yes”, please provide details in a separate Appendix 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>
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>

8.5 Climate Impact / Carbon Reduction Plans

The Council has declared a climate emergency and is committed to achieving ‘net-zero’ carbon impact by 2030. Procured goods, works and services make up a significant proportion of the Council’s total carbon footprint. It is therefore important that all contractors take steps to understand the carbon impact of the goods, works or services they provide and are able to set out how they will work with the Council to help us achieve ‘net-zero’.

1.	<p>Please certify if your organisation has a Carbon Reduction / Climate Impact / Environmental Policy or Plan that aims to reduce your carbon footprint over the term of this contract.</p> <p>If your answer to this question was “Yes” and you are successful in this tender, we may ask you to submit a copy of your policy or plan.</p>
2.	<p>Does your organisation use a recognised tool to generate Climate Impact Statements and report the climate impact of your operations?</p> <p>If your answer to this question was “Yes” and you are successful in this tender, we may ask you to submit details of the reporting tool you use and any outputs from it.</p>
3.	<p>Is your organisation certified or accredited under any recognised framework (eg Carbon Trust or Planet Mark or equivalent)?</p> <p>If your answer to this question was “Yes” and you are successful in this tender, we may ask you to submit a copy of your latest certification / accreditation.</p> <p>If your answer to this question was “No” please say whether you plan to achieve certification / accreditation under a recognised framework in future.</p>
4.	<p>If you use sub-contractors, do you have processes in place to check whether any of the above apply to these other organisations?</p>

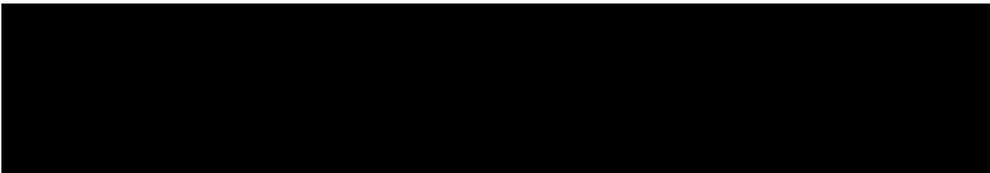
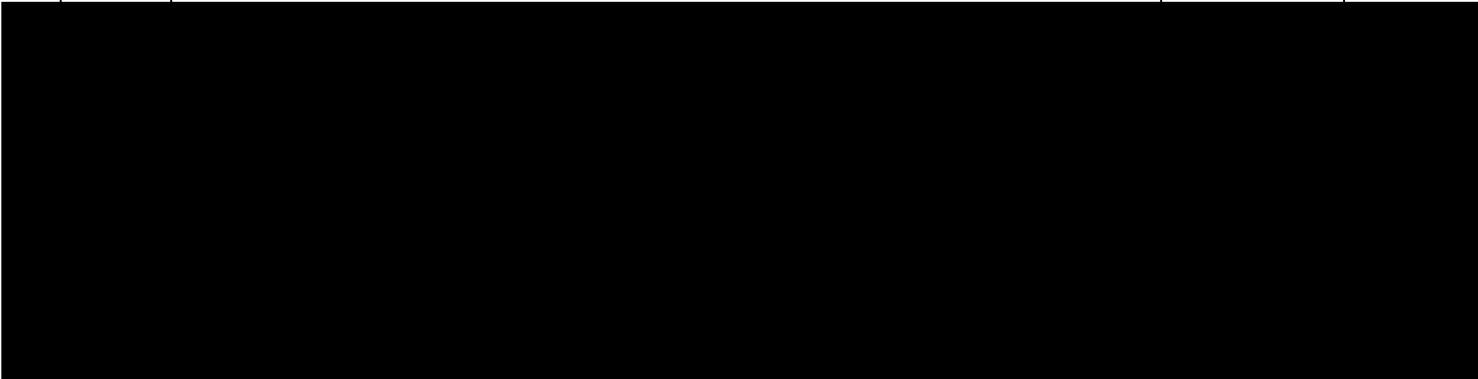
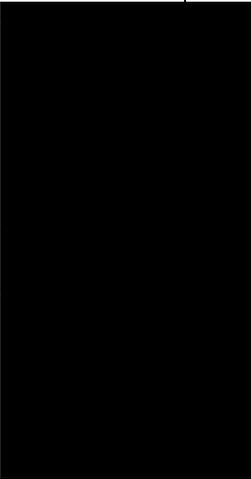


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8.6 Safeguarding of adults and children

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

	<p><i>Why do we need to know this?</i> <i>The safeguarding duties placed on public authorities require the Council and its partners to work to the following guidance:</i> “Working together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children (March 2015)” http://www.safeguardingshropshireschildren.org.uk/scb/ “West Midlands Adult Safeguarding Policy & Procedures” https://www.shropshire.gov.uk/media/1462593/wm-adult-safeguarding-policy-and-procedures-working-draft.pdf</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>
2	<p>For information: our requests for references will include a question relating to your organisation’s record for safeguarding.</p>
3	<p>As a contractor providing a public service on behalf of a Shropshire Council, we expect that you will be familiar and committed to the local safeguarding procedures as prescribed by Shropshire’s Safeguarding Children Board (SSCB) and http://www.safeguardingshropshireschildren.org.uk/scb/index.html Shropshire Council’s approach to adult protection http://www.shropshire.gov.uk/adultcarer.nsf/open/F54E8A80CF1343BC80257AAF0058F760 I/We certify that I/We are familiar with and committed to deliver our service in compliance with local safeguarding processes.</p>



DATED: day of 2023

BETWEEN

SHROPSHIRE COUNCIL (1)

[.....] ¹⁽²⁾

Contract Ref: PMCV 022

Contract for HEALTHWATCH SHROPSHIRE AND INDEPENDENT NHS
COMPLAINTS ADVOCACY



LEGAL AND DEMOCRATIC SERVICES
The Shirehall Abbey Foregate Shrewsbury SY2 6ND
DX 702024 Shrewsbury 2

¹ Insert Service Provider's name

	accounts and any other operational issues that may arise
'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 this contract on its behalf
'Best Practice'	means in accordance with the best practice within the industry of the Service Provider
Best Value	the requirement under section 3 of the Local Government Act 1999 for local authorities to secure continuous improvement.
'Brexit'	Means the withdrawal of the United Kingdom from the European Union with effect from 31 st January 2020
'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.

'Commencement Date'

1st April 2023

'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;

'Contract Documents'	means all of the documents annexed to, contained and referred to within this Agreement
'Council'	means the party named above and includes its employees, officers, servants and agents acting on its behalf
Covid 19	Means all forms and mutations of the viral infection (also known as Coronavirus) being the cause of a global pandemic prior to the Commencement Date and which may continue to have impacts upon general society during the term of this Agreement.
Covid 19 Safe Working Practices	Means working practices complying with all applicable guidance issued by the government from time to time with respect to safeguarding individuals from the spread of the Covid-19 virus
Data Controller	is as defined in the Data Protection Legislation
'Data Processor'	is as defined in the Data Protection Legislation
'Data Protection Legislation'	all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018)

(and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party

DPA 2018

Data Protection Act 2018

'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'

means any information or class of information (including but not limited to any document, report, Agreement or other material containing information) relating to this Agreement or otherwise relating to the parties to this Agreement which potentially falls within an exemption to

	FOIA (as set out therein)
“Expiry Date”	<p>Shall be either:</p> <p>i) the Initial Expiry Date; or</p> <p>ii) the last day of any agreed Extension Period further to clause 2 below;</p> <p>or such other date as this Agreement is terminated in accordance with its terms</p>
‘Extension Period’	Means an extension to the duration of this Agreement as agreed between the parties further to clause 2 of this Agreement
‘Fees’ <i>*[TBC upon award of Contract]</i>	shall be the sum of £162,000.00 (One Hundred and Sixty Two Thousand Pounds) per Financial Year and includes all expenses, materials, labour and all other things necessary for the supply of the required Services unless where specifically stated otherwise
Financial Year	the period of 12 months from and including 1 st April in one year to the 31 st March in the next.
‘FOIA’	means the Freedom of Information Act 2000 and all subsequent regulations made under this or any superseding or amending enactment and regulations; any words and expressions defined in the FOIA shall have the same meaning in this

'FOIA notice'

Agreement

means a decision notice, enforcement notice and/or an information notice issued by the Information Commissioner.

Force Majeure Event

means any circumstance not within a party's reasonable control including, without limitation:

- a) acts of God, flood, drought, earthquake or other natural disaster;
- b) epidemic or pandemic;
- c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- d) nuclear, chemical or biological contamination or sonic boom;
- e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- f) collapse of buildings, fire, explosion or accident; and

- g) any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on clause 35, or companies in the same group as that party);
- h) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause 35 (Force Majeure); and
- i) interruption or failure of utility service.

provided always that COVID-19 and Brexit and their impacts including associated Government acts and regulations shall be treated as foreseeable by and within the control of the Parties

GDPR

Means the General Data Protection Regulation 2016/679 as they apply and are incorporated into UK law by UKGDPR

Healthwatch England

Healthwatch England is a statutory committee of the Care Quality Commission (CQC) with a remit to provide national leadership, guidance and support to local Healthwatch organisations; to escalate concerns

raised by local Healthwatch organisations to CQC; and to provide advice and information to local authorities, the Secretary of State, NHS Commissioning Board and NHS Improvement.

Healthwatch Legislation

The Health and Social Care Act 2012 (“the 2012 Act”) and the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) as amended to make provisions about Local Healthwatch and regulations arising from that legislation and The NHS Bodies and Local Authorities Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 (“the 2012 Regulations”)

‘Initial Term’

means a period of three years commencing on the Commencement Date and expiring on the Initial Expiry Date

‘Initial Expiry Date’

means 31st March 2026

‘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, 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;
'Option to Extend'	means the Council's option to extend the Initial Term by a period of up to two years from the 1 st April 2026
Order Number	Means an order reference given by the Council to the Service Provider which must be quoted on all Valid Invoices submitted for payment
'Parties'	the Service Provider and the Council and 'Party' shall mean either one of them
Performance Indicators	The performance indicators relating to this Contract issued by the Council from time to time and set out in Schedules 1
'Personal Data'	shall have the same meaning as set out in the Data Protection Legislation
'Prohibited Act'	the following constitute Prohibited Acts: <ul style="list-style-type: none"> (a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to: <ul style="list-style-type: none"> (i) induce that person to perform improperly a relevant function or

activity; or

(ii) reward that person for improper performance of a relevant function or activity;

(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 Agreement;

(c) committing any offence:

(i) under the Bribery Act;

(ii) under legislation creating offences concerning fraudulent acts;

(iii) at common law concerning fraudulent acts relating to this Agreement or any other contract with the Council; or

(d) defrauding, attempting to defraud or conspiring to defraud the Council.

'Public body'

as defined in the FOIA 2000

'Receiving Party'

means a party to this Agreement 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. ²
'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 Agreement 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
'Relevant Transfer'	means a relevant transfer for the purposes of TUPE
'Request for Information'	means a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
'Review'	means a formal review of the progress of the Services and the achievement of the Performance

² Delete this definition if the services being delivered do not include any Regulated Activity and this Agreement does not include any Safeguarding clauses

Indicators

'Service Provider'	means the party named above and includes its employees, servants and agents paid or unpaid acting on its behalf
'Service Provider Personnel'	all employees, agents, consultants and contractors of the Service Provider and/or of any Sub-Contractor paid or unpaid;
'Service Provider's Representative'	the representative appointed by the Service Provider to manage the contract on its behalf
'Services '	means the provision of the Healthwatch Shropshire service and Independent NHS Complaints Advocacy service as more specifically referred to in Part A and Part B of the Specification
'Specification'	The specific description of the Services as set out in Schedule 1 annexed to this Agreement
'Sub-Contract'	any contract or agreement, or proposed contract or agreement between the Service Provider and any third party whereby that third party agrees to provide to the Service Provider the Services or any part thereof, or facilities or services necessary for the provision of the Services or any part of the Services, or necessary for the management,

	direction or control of the Services or any part of thereof.
'Sub-Contractor'	the third parties that enter into a Sub-Contract with the Service Provider.
Sub-processor	any third party appointed to process Personal Data on behalf of the Service Provider related to this Agreement.
'Tender'	means the tender dated [.....] submitted by the Service Provider and accepted by the Council annexed to this Agreement in Appendix 1
'Term'	means the period commencing on the Commencement Date and expiring on the Expiry Date
'TUPE'	means the Transfer of Undertakings (Protection of Employment) Regulations 2006
'Valid Invoice'	Means an invoice submitted by the Service Provider which must contain the following detail required by the Council to enable payment as specified in clause 9 of this Agreement: 1) invoices to be addressed to Commissioning Development Manager, Shropshire Council at the address referred to above; and 2) submitted on the Service

	<p>Provider's business letterhead including the Service Providers name and address, and VAT registration number (where applicable); and</p> <p>3) details of service activity and timeframe to which payment relates; and</p> <p>4) the Council's Order Number</p>
'Working Day'	<p>any day other than a Saturday, Sunday or public holiday in England and Wales.</p>

1.2 Interpretation

In this Agreement unless the context otherwise requires:

- 1.2.1 words importing any gender include every gender
- 1.2.2 words importing the singular number include the plural number and vice versa
- 1.2.3 A person includes an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of any person.
- 1.2.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.2.5 A 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.
- 1.2.6 references to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement
- 1.2.7 reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule
- 1.2.8 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
- 1.2.9 the headings to the clauses, schedules and paragraphs of this Agreement are not to affect the interpretation
- 1.2.10 A 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.
- 1.2.11 where the word ‘including’ is used in this Agreement, it shall be understood as meaning ‘including without limitation’
- 1.2.10 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.
- 1.2.12 A reference to writing or written includes e-mail, unless otherwise specifically stated.

2. Term:

- 2.1** It is agreed between the Parties that this Agreement will be for the Initial Term commencing on the Commencement Date and ending on the Initial Expiry Date
- 2.2** It is further agreed between the Parties that the Council may exercise its Option to Extend this Agreement at the expiry of the Initial Term for a further period of up to two years commencing on 1st April 2026. For the avoidance of doubt, the total duration of this Agreement permitted by its terms shall be five years from the Commencement Date.
- 2.3** Not less than four months prior to the expiry of the Initial Term the Parties

- shall meet for the purposes of undertaking a Review of the delivery of the Services. Following such review, 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 Period to the Initial Term the provisions of this Agreement between the Council and the Service Provider shall be the terms to be applied to the Extension Period, SAVE FOR any agreed variations to such terms and/or to the Fees which shall be formalised in writing by way of a Deed of Variation and signed by the Parties in advance of the commencement of any agreed Extension Period.
- 2.4** If the Council decides that it does not wish to exercise its Option to Extend then this Agreement shall terminate on the Initial Expiry Date and the provisions of clause 39 (Consequences of Termination) shall apply
- 3. Estimated Contract Value: Not Used**
- 4. Services**
- 4.1** The Service Provider shall provide the Services to the Council in consideration for the Council paying the Fee(s) to the Service Provider, subject to the provisions of this Agreement
- 4.2** The Service Provider shall provide the Services either (subject to local or central government Covid-19 restrictions or guidance in place at the applicable time) in such places and locations as agreed by the Parties from time to time) or virtually and in accordance with Covid-19 Safe Working Practices
- 4.3** Not used
- 4.4** The Services shall only be performed/delivered by the Service Provider unless otherwise agreed in writing between the Parties
- 4.5** The Service Provider shall provide the Services in accordance with the Specification with all due skill, care and diligence and in accordance with Best Practice and the Service Standards set out in Schedule 2 to this Agreement.
- 4.6** The Service Provider shall provide the Services in accordance with all current and relevant statutory provisions, guidance, regulations or other legislation from time to time in force (including, but not limited to, the

- Healthwatch Legislation and Data Protection Legislation) relating to the provision of the Services
- 4.7** The Service Provider shall during the Term ensure that every person employed by the Service Provider in the provision of the Services is properly trained and instructed with regard to his/her tasks in relation to the Services
- 4.8** The Service Provider shall carry out its own risk assessments relevant to the Services.
- 4.9** The Service Provider shall have a written procedure for dealing with complaints about the Services in accordance with clause 33 (Complaints) hereof
- 4.10** before the Service Provider 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
- 4.12** Prior to the engagement by the Service Provider of any staff or Sub-Contractor engaged to provide any part of the Services where such individuals will have contact with children up to the age of eighteen years old or where the performance of the Services may involve contact with vulnerable adults (as defined in the Safeguarding Vulnerable Groups Act 2006) the Service Provider shall procure in respect of all staff or potential staff or other persons intended to perform any part of the Services:
- 4.12.1** that each person being considered for engagement be questioned as to whether he/she has any convictions; and
- 4.12.2** 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.

- 4.12.3** that a copy of the DBS check results are notified to the Council
- 4.13** The Parties agree that there shall be, on dates to be agreed, regular Annual Reviews of the progress of the development of the Services between the Service Provider and the Council to ensure that the Services are being delivered as required and the Performance Indicators are being met.
- 4.14** In the event that an Annual Review reveals that the Services are not being delivered as required or that Performance Indicators are not being met the Council may:
- 4.14.1** serve the Service Provider with a written notice (“Notice”) within one month of the Annual Review meeting specifying which areas of the Services have not been delivered as required or which of the Performance Indicators 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
- 4.14.2** 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 Agreement and the Agreement may be terminated in accordance with the provisions contained in clause 37 (Termination) herein
- 4.14.3** 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 Agreement pursuant to this clause.

5. Use of the [describe premises] and Facilities: NOT USED

6 Insurance

- 6.1** 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 Agreement, 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) for

each and every claim.

6.2 Not Used

6.3 Where the Service Provider is providing Services of a professional nature, or the Council otherwise specifies that professional indemnity insurance is required, the Service Provider shall hold and maintain professional indemnity insurance cover and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain policy cover which indemnifies the Service Provider for negligent acts arising out of the performance of this Agreement. To comply with its obligations under this clause, and as a minimum, the Service Provider shall ensure professional indemnity insurance held by the Service Provider and by any agent, Sub-Contractor or consultant involved in the performance of Services has a limit of indemnity of not less than £2,000,000 (TWO MILLION POUNDS) in respect of each and every claim.

6.3.1 The Service Provider shall hold and maintain the Professional Indemnity insurances required under this Agreement for a minimum of 6 years following the expiration or earlier termination of this Agreement

6.4 The Service Provider warrants that it has complied with this clause 6 and shall provide the Council with certified copies of the relevant policy documents (including any warranties or exclusions) together with receipts or other evidence of payment of the latest premiums due under those policies prior to the commencement of this Agreement and annually thereafter during the Term. If, for whatever reason, the Service Provider fails to give effect to and maintain the insurances required under this clause 6, the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Service Provider.

6.5 The Service Provider shall:

- (a) do nothing to invalidate any insurance policy
- (b) notify the Council if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change

6.6 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.

6.7 Where the minimum limit of indemnity required in relation to any of the insurances is specified as being "in the aggregate":

6.7.1 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:

- (i) details of the policy concerned; and
- (ii) its proposed solution for maintaining the minimum limit of indemnity specified; and

6.7.2 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:

- (i) 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

- (ii) 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.

7 Indemnity

7.1 The Service Provider shall fully indemnify the Council against all liabilities, costs, expenses, damages losses and breach of its statutory duties or breach of an obligation under the Data Protection Legislation (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 Agreement 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 Agreement 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 Agreement to the extent that the defective performance is attributable to the acts or omissions of the Service Provider or the Service Provider Personnel

7.2 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 Agreement.

7.3 Nothing in this Agreement 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 7

8. Fee rates based on time spent – NOT USED

9. Payment

9.1 Payment of the Fee(s) shall be made in equal instalments by the Council to the Service Provider within 30 days of receipt of an undisputed Valid Invoice monthly in arrears

9.2 Not Used

9.3 The Parties agree that where the Service Provider fails to submit a Valid Invoice, the Council shall be entitled to withhold payment until the Service Provider submits the information required by the Council.

9.4 In the event of late payment, interest thereon shall be charged at the prevailing statutory rate further to the Late Payment of Commercial Debts (Interest) Act 1998 above the National Westminster Bank base rate.. Such interest shall accrue daily from the due date until actual payment of the

overdue amount, whether before or after Judgment.

- 9.5 The Service Provider shall not be entitled to vary the Fee(s) during the existence of this Agreement unless with the prior written consent of the Council.
- 9.6 The Service Provider shall not charge, and the Council shall not be liable, for any expenses, charges, costs, fees except the Fee(s) as set out in this Agreement
- 9.7 All amounts stated are exclusive of VAT which will be charged in addition at the rate in force at the time the Council is required to make payment
- 9.8 Unless otherwise agreed in writing by the Council, the Service Provider will pay any of its appointed Sub-Contractors within the time period specified in the Sub-Contract but in any event no later than 30 days from receipt of an undisputed invoice.

10. The Council's Obligations

To enable the Service Provider to perform its obligations under this Agreement the Council shall:

- 10.1 Co-operate with the Service Provider and ensure that the Council's staff and agents co-operate with and assist the Service Provider as is reasonable and appropriate
- 10.2 Provide the Service Provider with any information reasonably required by the Service Provider;
- 10.3 Comply with such other requirements as may be otherwise agreed between the parties.
- 10.4 Not Used
- 10.5 Save as provided in this Agreement, 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.

11. Authorised Officer and Service Provider Representative:

- 11.1 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 Agreement.

- 11.2** 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 Agreement
- 11.3** 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.
- 11.4** 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.

12. Intellectual Property

- 12.1** 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:
- 12.1.1** in the course of performing the Services; or
- 12.1.2** exclusively for the purpose of performing the Services,
- shall vest in the Council on creation.
- 12.2** Unless stated expressly in writing in this Agreement, neither Party will acquire any ownership interest in or licence of the other's Intellectual Property by virtue of this Agreement
- 12.3** 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.
- 12.4** This provision shall survive the expiration or termination of the Agreement.

13. Confidentiality

13.1 Subject to clause 13.2, the Parties shall keep confidential all matters relating to this Agreement and each Party shall use all reasonable endeavours to prevent their respective staff and Service Provider Personnel from making any disclosure to any person of any matters relating hereto.

13.2 Clause 13.1 shall not apply to any disclosure of information:

13.2.1 required by any applicable law, provided that clause 25.1 shall apply to any disclosures required under the FOIA or the Environment Information Regulations;

13.2.2 that is reasonably required by persons engaged by a Party in the performance of such Party's obligations under this agreement;

13.2.3 where a Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 13.1;

13.2.4 by the Council of any document to which it is a Party and which the Parties to this agreement have agreed contains no commercially sensitive information;

13.2.5 to enable a determination to be made under clause 34 (Disputes);

13.2.6 which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;

13.2.7 by the Council to any other department, office or agency of the Government; and

13.2.8 by the Council relating to this Agreement and in respect of which the Service Provider has given its prior written consent to disclosure.

13.3 On or before the Expiry Date the Service Provider shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of the Council's employees, rate-payers or service users, are delivered up to the Council or securely destroyed.

13.4 The provisions of this Clause shall survive the expiration or termination of this Agreement.

14. Agreement and Transparency

14.1 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 Agreement 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 Agreement or the Tender Submission is exempt from disclosure in accordance with the provisions of the FOIA.

14.2 Notwithstanding any other term of this Agreement, the Service Provider hereby gives his consent for the Council to publish this Agreement and the Tender Submission in its entirety, including from time to time agreed changes to the Agreement, to the general public.

14.3 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.

14.4 The Service Provider shall assist and cooperate with the Council to enable the Council to publish this Agreement and the Tender Submission.

15 Council Data – NOT USED

16. Not Used

17. Not Used

18. Data Protection

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 and:

18.1 The Parties to this Agreement intend that in the event that data is shared between the Parties as part of the delivery of the Services it shall be anonymised data and shall not constitute the sharing of Personal Data but:

a) To the extent that any data constitutes Personal Data (or constitutes anonymised data, but then the data becomes Personal Data in the hands of the data recipient), the data recipient shall hold and process such Personal Data at all times:

- (i) as Data Controller of the Personal Data;
- (ii) in accordance with Data Protection Legislation; and
- (iii) using appropriate technical and organisational security

measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, the Personal Data.

- 18.2 The parties acknowledge that the Service Provider shall have access to and will process Personal Data for the purpose of the provision of the Services and whilst the Parties acknowledge that the Data Protection legislation will ultimately determine the status of the parties under the legislation, following an assessment of their respective roles under the Agreement, the Parties agree that the Service Provider is not processing Personal Data on behalf of the Council but is a Data Controller in its own right in respect of the Personal Data which it processes pursuant to the terms of this Agreement.
- 18.3 The Provider shall indemnify the Council against all liabilities, costs, expenses, damages and losses (including all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Council arising directly out of or in connection with the breach of the Data Protection Legislation by the Provider and/or its employees

19. Council Data and Personal Information Audits – Not Used

20. Assignment, Transfer and Sub-contracting

- 20.1 Neither Party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement without the prior written consent of the other Party PROVIDED that the Council may,
- (a) assign any of its rights under this Agreement; 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;

- 20.2 Any consent required under Clause 20.1 must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.
- 20.3 The Service Provider will not, without the written consent of the Council, sub-contract its right or obligations under this Agreement nor allow Services

to be provided other than through the Service Provider Personnel and using its own equipment.

- 20.4** 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
- 20.5** Subject to clause 20.1, in the event that either Party wishes to assign its rights and obligations under this Agreement, 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 Agreement.
- 20.6** Notwithstanding the Service Provider's right to sub-contract pursuant to this clause 20, the Service Provider shall remain responsible for all acts and omissions of its Sub-Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own and shall be responsible for the work of the Sub-Contractor whose work shall be undertaken to the same standard as stated in the Specification.
- 20.7** Where 20% or more of the Service Provider's overall workforce is made up of people from agencies (or not employed directly by the Service Provider's) 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.

21. Public Interest Disclosure ('Whistleblowing')

The Service Provider will ensure that his employees and agents 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.

22. Publicity

The Service Provider will not make any press or other release or public announcement in relation to this Agreement without the prior approval of the Council

23. Prevention of Bribery

23.1 The Service Provider:

- a) shall not, and shall procure that all Service Provider Personnel shall

not, in connection with this Agreement commit a Prohibited Act;

b) 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 Agreement, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Agreement.

23.2 The Service Provider shall:

a) 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;

b) 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 23 and provide such supporting evidence of compliance with this clause 23 by the Service Provider as the Council may reasonably request.

23.3 If any breach of clause 23.1 is suspected or known, the Service Provider must notify the Council immediately.

23.4 If the Service Provider notifies the Council that it suspects or knows that there may be a breach of clause 23.1, 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 Agreement.

23.5 The Council may terminate this Agreement 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 Service Provider Personnel (in all cases whether or not acting with the Service Provider's knowledge) breaches clause 23.1. At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 23.5, the Council shall give consideration, where appropriate, to action other than termination of this Agreement unless the Prohibited Act is committed

by the Service Provider or a senior officer of the Service Provider or by 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 Service Provider; 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.

23.6 Any notice of termination under clause 23.5 must specify:

- a) the nature of the Prohibited Act;
- b) the identity of the party whom the Council believes has committed the Prohibited Act; and
- c) the date on which this Agreement will terminate.

23.7 Despite clause 34 (Disputes), any dispute relating to:

- a) the interpretation of this clause 23; or
 - b) the amount or value of any gift, consideration or commission,
- shall be determined by the Council and its decision shall be final and conclusive.

23.8 Any termination under clause 23.5 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

24. Warranties, liability and indemnities

The Service Provider warrants, represents and undertakes that:

24.1 it will carry out the work by the Expiry Date

24.2 it will perform the Services with all due skill and diligence and in a good and workmanlike manner, and in accordance with the Best Practice within the industry of the Service Provider and will have adequate numbers of Service Provider Personnel to provide the Service

24.3 its Service Provider Personnel will have the necessary skill, professional qualifications and experience to deliver the Services in accordance with the Specification and Best Practice

24.4 NOT USED

24.5 it has full capacity and authority to enter into this Agreement

24.6 it has obtained all necessary and required licences, consents and permits to provide the Services

24.7 it shall be responsible for all costs, fees, expenses and charges for training necessary or required for the Service Provider Personnel to perform the Services

24.8 NOT USED

24.9 The Service Provider and the Service Provider Personnel shall where appropriate take account of the Human Rights Act 1998, be aware of it, respect the rights of colleagues, service users, carers and the public and shall not do anything in breach of it.

24.10 The Service Provider will at all times in providing the Services to the Council comply with the provisions of the Health and Safety at work Act 1974 and provide evidence of doing so to the Council at any time upon request and:

24.10.1 The Service Provider shall promptly notify the Council of any health and safety hazards which may arise in connection with the performance of this Agreement.

24.10.4 The Service Provider shall report all accidents and/or injuries relating to the provision of the Services to the Council immediately.

24.10.5 The Service Provider shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Council upon request.

24.11 The Service Provider warrants that none of its current Directors have been involved in liquidation or receivership or have any criminal convictions.

24.12 Not Used

24.13 the Service Provider warrants that the signing of this Agreement on its behalf has been validly authorised and the obligations expressed as being assumed by the Service Provider under this Agreement constitute valid legal and binding obligations of the Service Provider enforceable against the Service Provider in accordance with their terms.

24.14 The Service Provider acknowledges and confirms that:

- 24.14.1** 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 Agreement;
- 24.14.2** it has received all information requested by it from the Council pursuant to sub-clause 24.14.1 to enable it to determine whether it is able to provide the Services in accordance with the terms of this Agreement;
- 24.14.3** 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 24.14.2;
- 24.14.4** it has raised all relevant due diligence questions with the Council before the Commencement Date; and
- 24.14.5** it has entered into this Agreement in reliance on its own diligence
- 24.14.6** 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 Agreement AND shall promptly notify the Council in writing if it becomes aware during the performance of this Agreement 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
- 24.14.7** 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 24.14.6 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.

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

24.16 In performing its obligations under this Agreement, the Service Provider shall and shall ensure that each of its Sub-Contractors shall :

- 24.16.1**
- i) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force (“Anti-Slavery Laws”) including but not limited to the Modern Slavery Act 2015;
 - ii) include in contracts with its Sub-Contractors anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause 24.16; and
 - iii) notify the Council as soon as it becomes aware of any actual or suspected breach of clause 24.16.1 or such actual or suspected breach of Anti-Slavery Laws by its Sub-Contractors and other participants in its supply chain and shall provide reasonable assistance to the Council, including access to the Service Provider’s premises and staff, to allow the Council to carry out an audit of the Service Providers anti-slavery and human trafficking procedures or those of its Sub-Contractors or participants in its supply chain.

24.16.2 The Service Provider represents and warrants that neither it, nor any of its officers, employees or agents have been convicted of any offence involving slavery and human trafficking or been the subject of any investigation, inquiry or

enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.

24.16.3 Breach of this clause 24.16 shall be deemed a material breach under clause 37 (Termination).

25. Freedom of Information Act 2000 & Environmental Information Regulations 2004

25.1 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.

25.2 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.

25.3 The Service Provider shall and shall procure that its Sub-Contractors shall:

25.3.1 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;

25.3.2 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

25.3.3 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.

25.4 The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement 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.

25.5 In no event shall the Service Provider respond directly to a Request for Information unless expressly authorised to do so by the Council.

25.6 The Service Provider acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Department of Constitutional Affairs' 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:

25.6.1 in certain circumstances without consulting the Service Provider;
or

25.6.2 following consultation with the Service Provider and having taken their views into account;

provided always that where sub-clause 25.6.1 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.

25.7 The Service Provider shall ensure that all Information required to be produced or maintained under the terms of this Agreement, or by law or professional practice or in relation to the Agreement is retained for disclosure for at least the duration of the Agreement plus one year together with such other time period as required by the Agreement, law or practice and shall permit the Council to inspect such records as requested from time to time.

25.8 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 Agreement or otherwise relating to any other party.

26 Not Used

27. Equalities

27.1 The Service Provider and any Sub-Contractor 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 Services under this Agreement, and
- b) in its employment practices.

27.2 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).

27.3 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

27.4 The Service Provider and any Sub-Contractor 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.

27.5 In the event of any finding of unlawful discrimination being made against the Service Provider and any Sub-Contractor 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 Sub-Contractor shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.

27.6 The Service Provider and any Sub-Contractor 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.

28. Non-compliance

28.1. If the Council identifies areas of the Services which do not comply with the requirements of this Agreement (including any Schedules to this Agreement) 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).

28.2 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).

28.3 If, in the reasonable opinion of the Council, the Service Provider fails to undertake all of the remedial actions in the final non-compliance notice by the due date this may be considered a material breach of this Agreement and 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 34 (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 Agreement; or

(ii) to recover such sums from the Service Provider as a debt;

And/or

(b) to terminate the Agreement in accordance with clause 38
Termination

29. Waiver

The failure by either Party to enforce at any time or for any period any one or more of the terms and conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all the terms and conditions of this Agreement.

30. Sustainability

The Service Provider will at all times use its best endeavours to assist the Council and operate themselves in a manner which meets the aims and objectives set out in the sustainable policies of the Council, copies of which are available on the Council's website

31. Audit And Monitoring

- 31.1 The Service Provider will allow access for the Council and its officers to all relevant information for the purposes of audit and the monitoring of this Agreement;
- 31.2 The Service Provider will facilitate the inspection of all financial records held in connection with the Service and shall produce a copy of its independent financial statement as soon as is reasonably practicable if requested to do so by the Council.
- 31.3 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.
- 31.4 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.
- 31.5 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 Commissioner 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 Council

32. Safeguarding

32.1 Where the Service or activity being undertaken in this Agreement is a Regulated Activity the Service Provider shall :

(a) 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

(b) monitor the level and validity of the checks under this clause 32.1 for each member of the Service Provider's Personnel.

32.2 The Service Provider warrants that at all times for the purposes of this Agreement 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.

32.3 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 32 have been met.

32.4 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.

32.5 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.

32.6 Where the service requirement or specification specifies that the Service or activity to be provided under this Agreement involves a Regulated Activity, or the Council otherwise notifies the Service Provider, acting reasonably, that the Service Provider's Personnel are required to be subject to a Disclosure and Barring Service check, the Service Provider shall comply with clause 32.1 above.

32.7 The Service Provider shall in addition comply with clause 4.11 above

33. Complaints Procedure

33.1 The Service Provider shall operate a complaints procedure in respect of any services or works provided under this Agreement to deal with any complaint received about the standard of services or the manner in which any services have been supplied or work has been performed or any other matter connected with the performance of the Service Provider's obligations under this Agreement ("the Complaints Procedure"). For the avoidance of doubt any complaint or issue that the Council has in respect of the Service Provider's performance of this Agreement shall be dealt with in accordance with the remainder of this Agreement.

33.2 The Service Provider's Complaints Procedure shall comply with applicable Law and the requirements of any regulatory body to which the Service Provider is subject or which are applicable to the service being provided (including any change in such requirements) and shall meet the following minimum standards:

33.2.1 is easy for complainants to access and understand

33.2.2 clearly sets out time limits for responding to complaints and keeping the complainant and the Council informed of progress;

33.2.3 provides confidential record keeping to protect employees under this Agreement and the complainant

33.2.4 provides information to the Service Provider's management so that services can be improved

33.2.5 provides effective and suitable remedies

- 33.2.6** is regularly monitored and audited and which takes account of complainant and Council feedback
- 33.3** The Service Provider shall inform any users of the services or works provided under this Agreement of the existence of the complaints procedure and how to access it and will make its Complaints Procedure available on request.
- 33.4** The Service Provider shall investigate and deal with any complaints it receives about the services or works, whether direct from the public or services users, or referred to it by the Council, in accordance with its published complaints procedure.
- 33.5** The Service Provider shall ensure that:
- 33.5.1** it promptly, and within a maximum of 10 days of receiving the complaint, notifies the complainant that the Service Provider is dealing with the complaint
 - 33.5.2** under no circumstances is a complaint investigated by a member of its staff employed under this contract who may be part of the complaint.
 - 33.5.3** someone who is independent of the matter complained of carries out the investigation
 - 33.5.4** the complainant is made aware that they are entitled to have the complaint investigated by the Council if they are not satisfied with either the process of investigation or finding of the Service Provider's investigations
 - 33.5.5** it deals with the complaint fully, expeditiously and fairly and shall use its reasonable endeavours to resolve the complaint within 21 Working Days of receiving the complaint
 - 33.5.6** where a complaint is received by the Service Provider relating to the policy or decisions of the Council rather than the Service Provider's delivery of its obligations under this Agreement, the Service Provider shall promptly, and within two Working Days, refer the complaint to the Council for investigation.
- 33.6** The Service Provider shall ensure that all its employees and persons employed under this Agreement are made aware of its Complaints

- Procedure and shall designate one employee (who shall be identified to the Council) to whom a complaint may be referred should the complainant not be satisfied with the initial response to their complaint
- 33.7** 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 within 5 Working Days of being requested or at 12 monthly intervals in any event.
- 33.8** Where the Council is investigating a complaint the Service Provider is required to participate fully in all investigations within the timescales requested by the Council.
- 33.9** The Service Provider should note that if a complaint is made to the Council by a third party relating to the services or works provided, 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 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.
- 34. Disputes**
- 34.1** If any dispute or difference shall arise between the parties as to the construction of this Agreement or any matter or thing of whatever nature arising under this Agreement or in connection with it then the same shall be dealt with as follows:-
- 34.1.1** 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 representatives shall use their reasonable endeavours to resolve the dispute
- 34.1.2** If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Council's Chief Executive and the Service Provider or other authorised officer whose details have been notified to the Council, with notice of the dispute and those officers shall then appoint their representative to

adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such notice

34.1.3 If the dispute cannot be resolved in accordance with the preceding sub-clause then it shall be referred to the Centre for Effective Dispute Resolution or such other mediation body as the Parties shall agree and the Parties shall then seek to resolve the dispute or difference amicably by using an alternative dispute resolution (“ADR”) procedure (other than arbitration) acceptable to both Parties before pursuing any other remedies available to them. Each Party shall pay its own costs of such a referral.

35. Force Majeure

35.1 Neither the Council nor the Service Provider shall be in breach of this Agreement nor liable for any failure or delay in performing their obligations under this Agreement where it is directly caused, arising from or attributable to acts, events, omissions or accidents beyond its reasonable control (“Force Majeure Event”), provided that:-

35.1.1 any delay by a Sub-Contractor or supplier of the Party who is delayed will not relieve that Party from liability for delay except where the delay is beyond the reasonable control of the sub-contractor or supplier concerned; and

35.1.2 staff or material shortages or strikes or industrial action affecting only the Party who is delayed will not relieve that Party from liability for delay.

35.2 If a Party is subject to a Force Majeure Event it shall not be in breach of this Agreement provided that:-

35.2.1 it promptly notified the other Party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and

35.2.2 it has used its reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible

in which case the performance of that Party’s obligations will be suspended during the period that those circumstances persist and that Party will be

granted a reasonable extension of time for performance up to a maximum equivalent to the period of the delay.

35.3 Save where that delay is caused by the act or failure to act of the other Party (in which event the rights, remedies and liabilities of the Parties will be those conferred by the other terms of this Agreement and by law):-

35.3.1 any costs arising from that delay will be borne by the Party incurring the same; and

35.3.2 either Party may, if that delay continues for more than 5 weeks, terminate this Agreement immediately on giving notice in writing to the other. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

36. Rights of Third Parties

The Parties to this Agreement do not intend that any of its terms will be enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999 (or any amendment or re-enactment thereof).

37. Notices

37.1 Unless otherwise communicated to the Party in writing any notice to be given by either party to the other may be served by email, personal service or by post to the address of the other party that is the registered office or main place of business of the Service Provider or if the Council, to the Executive Director of Health, Wellbeing and Prevention at the Shirehall, Abbey Foregate, Shrewsbury SY2 6ND

37.2 A Notice sent by email shall be deemed to be received providing receipt is acknowledged and confirmed, Notice given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by second class post shall be deemed to have been delivered in the ordinary course of post and if by first class post shall be deemed to have been delivered 48 hours after posting and acknowledged

38. Termination

38.1 Either Party may terminate this Agreement by giving to the other Party at least 6 months' notice in writing.

38.2 Either Party may terminate this Agreement by notice in writing to the other

- if:
- 38.2.1** the other Party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 14 calendar days of being given notice in writing setting out the breach and indicating that failure to remedy the breach may result in termination of this Agreement.
 - 38.2.2** the other Party commits a series of minor breaches which, when taken together, amount to a material breach;
 - 38.2.3** the other Party commits a material breach of this Agreement which cannot be remedied under any circumstances;
 - 38.2.4** the other Party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
 - 38.2.5** the other Party ceases to carry on its business or substantially the whole of its business; or
 - 38.2.6** the other Party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.
- 38.3** The Council may terminate this Agreement forthwith by notice where the Service Provider:
- 38.3.1** 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
 - 38.3.2** is issued with a Notice from the Health and Safety Executive or Registration Body prohibiting it from operating
 - 38.3.3** assigns any of his obligations under this Contract without the prior written consent of the Council
- 38.4** Where notice to terminate is given pursuant to this clause 38, this

- Agreement shall terminate with effect on the date specified in the notice
- 39. Consequences of Termination**
- 39.1** Other than as set out in this Agreement, neither Party shall have any further obligations to the other under this Agreement after its termination
- 39.2** Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect
- 39.3** Termination of this Agreement, for any reason, shall not affect the accrued rights, remedies obligations or liabilities of the Parties existing at termination
- 39.4** Notwithstanding its obligations in this clause 39, 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.
- 39.5** upon termination of this Agreement 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 employees, agents or Sub-Contractors at the date of termination.
- 39.6** Where this Agreement is terminated by the Council further to clause 23 (Prevention of Bribery) and 38.2 and 38.3 (Termination), **the Council shall:**
- 39.6.1** cease to be under any obligation to make further payment of the Fee until the cost loss and/or damage resulting from or arising out of the termination of this Agreement shall have been calculated and provided such calculation shows a sum or sums due to the Service Provider;
- 39.6.2** be entitled to make other arrangements and if necessary pay other persons to provide the Services
- 39.6.3** 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 Services provided that the Council will be under a duty to take all reasonable action to mitigate the loss or damage pursuant to this clause.

40. Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)

The Parties agree that the provisions of Schedule 3 shall apply to any Relevant Transfer of staff under this Agreement

41. Staffing Security – NOT USED

42. Security Requirements– NOT USED

43. Governing Law And Jurisdiction

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

44. Severance

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

45. Parent Company Guarantee – NOT USED

46. Amendments

This Agreement may only be amended in writing signed by duly authorised representatives of the Parties.

47. Agency, Partnership etc

This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than

Print Name (s).....

SCHEDULE 1

SPECIFICATION

Part A

HEALTHWATCH SERVICE SPECIFICATION

1	Service Specification
1.1	Title of Service Healthwatch Shropshire
1.2	Context <p>The Health and Social Care Act 2012 established Healthwatch as the independent consumer champion for both publicly funded health and social care. Its core purpose is to understand the needs, experiences and concerns of people who use health and social care services and to speak out on their behalf.</p> <p>Healthwatch Shropshire will gather people's views on, and experiences of, the health and social care system, enabling residents of Shropshire to have their voices heard. Using this feedback Healthwatch Shropshire will liaise with health and social care organisations to ensure maximum impact, by;</p> <ul style="list-style-type: none">• amplifying the voices and experiences of the most pressing and difficult issues in health and social care• speaking up on behalf of sometimes unpopular causes or groups who are marginalised and/or face disadvantages or discrimination• designing and delivering services and activities that best meet the needs of the people of Shropshire <p>In this way, the local community view from service users, carers and citizens will have real influence on those who commission and provide services. Healthwatch will therefore be the voice of people with lived experience, to hold health and social care organisations in Shropshire to account and champion the issues that are important to residents of Shropshire.</p> <p>Shropshire's Population Shropshire has a higher than average proportion of people aged over 65 and this proportion continues to grow. Key population highlights from the 2021 census show:</p> <ul style="list-style-type: none">• Shropshire's population rose from 306,100 in 2011 to 323,600 in 2021, an increase of 5.7%.• The population density in Shropshire was 101 persons per square kilometre compared to 434 in England as a whole

	<ul style="list-style-type: none"> • The female population was 163,900 • The male population was 159,700 • The number of older people living in Shropshire over the age 65 was 82,000. This rose from 63,300 in 2011 • The number of people over the age of 65 accounts for 25.3% of the total population in Shropshire compared to 20.7% in 2011. In England this figure is 18.4% • The number of people aged 85 and over increased from 8,400 in 2011 to 10,800 in 2021 • The number of children under 15 years living in Shropshire was 48,000. This has fallen since 2011 from 49,200 • There were 139,600 households in Shropshire in 2021, compared to 129,700 in 2011, an increase of 9,900 approximately 7.6% compared to a 6.2% increase in England <p>Life expectancy in Shropshire is 80.5 years for males, 83.5 years for females compared to the England average of 79.6 year males and 83.1 years females.</p> <p>Health and Wellbeing Board Priorities The Vision of Shropshire’s Health and Wellbeing Strategy 2022 – 2027 is for Shropshire people to be healthy and fulfilled. The Strategic Priorities of the Strategy are:</p> <ul style="list-style-type: none"> • Joined-up working • Improving population health • Working with and building strong and vibrant communities • Reduce inequalities <p>There will also be key areas of focus around:</p> <ul style="list-style-type: none"> • Workforce • Children and young people • Mental health • Healthy weight and physical activity
<p>1.3</p>	<p>Purpose of Healthwatch Shropshire</p> <p>Healthwatch Shropshire, through its membership of the Health and Wellbeing Board, will bring forward the views and experiences of local people to make a key contribution to the preparation of the statutory Joint Strategic Needs Assessment and Health and Wellbeing Strategy on which local commissioning decisions will be based. This ensures that, through Healthwatch Shropshire, local people have much more influence on decision-making and</p>

	<p>makes public engagement a key influencer on the strategic planning of health and care services from the start.</p> <p>In addition, Healthwatch Shropshire will provide advice and information about access to local health and care services. This will enable people to take more control of their own health, treatment and care, and understand and use the increased choices available to them.</p> <p>Healthwatch Shropshire will cover the administrative area of Shropshire Council and will be embedded and fully networked into Shropshire communities and will provide people with a single point of contact.</p> <p>Healthwatch Shropshire will:</p> <ul style="list-style-type: none"> • be part of a system rooted in local experience, harnessing the expertise of the public, community and voluntary sectors and others at the local level, particularly those working with people and groups who have a difficult time getting their voice(s) heard • Play an important role and as a key partner in supporting Health and Wellbeing priorities across Shropshire • Help to influence and inform local decision making and encourage local action to be taken and will provide feedback to residents and a wide range of stakeholders. • Be a key strategic partner across the local health and social care system and work strategically with community and professional groups. • Build effective partnerships and networking across the local health and social care landscape. • Develop and/or maintain a collaborative relationship with Healthwatch Telford & Wrekin. There is an expectation that both Healthwatch will work towards closer integration for the benefit of all residents of Shropshire and Telford & Wrekin
<p>1.4</p>	<p>Key Attributes</p> <p>Healthwatch Shropshire will be:</p> <ul style="list-style-type: none"> • Independent - people tell us that it is important that Healthwatch Shropshire must be seen as being independent from the council and health and social care services and will be a free-standing body which is respected for its independence and trusted by residents and stakeholders. • Influential – able to clearly demonstrate how it makes an impact on the local commissioning of health and social care in order to improve outcomes • Transparent – operates openly and involves the public in decision-making

- **Clearly recognised** – a body with a clear identity which is strong and distinctive from existing local organisations. It will embrace and utilise the Healthwatch brand and identity
- **Knowledgeable** – a range of experience and expertise in health and social care amongst staff, board members and volunteers
- **Credible** – local people, commissioners and partners are able to trust the reliability of information, the ability to influence and the evidence underpinning its work
- **User-focused** – relentlessly championing the voice of the patient and service user in the health and social care system
- **Inclusive** – an organisation which finds ways to work with the many different patient and service user representative groups across the Shropshire Council area
- **Well-connected and networked** – able to maintain strong relationships with a variety of local and regional statutory, voluntary and provider organisations; able to signpost people to good quality information to help them make choices about health and social care; with access to established networks to gather comprehensive patient and service user views.
- **Evidence based** – a body which uses good evidence to underpin its priorities, inform its reports and target its efforts
- **Competent** – an organisation that can demonstrate the relevant skills and competencies amongst its board, staff and volunteers required to deliver its functions
- **Flexible** – an organisation which can work in partnership with key decision-makers (including Shropshire Council, Shropshire County Clinical Commissioning Group, the Health and Wellbeing Board and other bodies at strategic level) while still being able to listen to individual patient concerns, represent them effectively, and challenge those same decision-making bodies when necessary.
- **Self-aware** – an organisation which actively seeks feedback on its own performance and critically assesses its strengths and weaknesses.
- **Accountable** – working to a clear vision, purpose and set of standards against which commissioners and the residents it serves can appreciate its success.

	<ul style="list-style-type: none"> • Good value for money – an organisation that makes the best and most efficient use of its resources by seeking to avoid duplication with other bodies in the local authority area, maximising opportunities for collaborative working with others both inside and outside the local authority area and, where possible, working creatively with them to deliver the most cost effective solutions to achieve its chosen priorities.
1.5	Governance
	<p>Healthwatch must be a body corporate that is a social enterprise operating for the benefit of the community and must state the nature of its legal entity (including company name, company number and registered address) on the Healthwatch Shropshire website. For clarity a social enterprise is an organisation which either falls into one of the following three categories:</p> <ul style="list-style-type: none"> • Companies limited by guarantee and registered as a charity • Community Interest Companies (CIC) • Charitable Incorporated Organisations (CIO) <p>Or have a constitution which:</p> <ul style="list-style-type: none"> • Ensures that over 50% of its distributable profits in each financial year will be used for Healthwatch activities • Contains a statement or condition that the local Healthwatch is carrying out its activities for the benefit of the community in England, and • Contains specified provisions relating to the distribution of assets in the event of the body being dissolved or wound up. <p>Healthwatch will have appropriate governance arrangements that ensure:</p> <ul style="list-style-type: none"> • Impartial decision making to direct Healthwatch priorities and activities that is independent from other interests and prevents undue influence from any other organisation (including statutory bodies) or individuals. This includes influence from within the ‘body corporate’ described above (if it has any other interests apart from Healthwatch) • The involvement of lay members and volunteers • Its primary purpose is not political • It holds meetings in public (except where there are legitimate reasons to meet in private on specific occasions) • It makes demonstrable efforts to ensure involvement of people from across Shropshire, including under-represented groups • It considers potential equality impacts during planning of significant activity and puts in place governance oversight of mitigating action • It uses the intelligence it gathers to inform future priorities • It publishes and updates its priorities/action plan not less than once a year

	<ul style="list-style-type: none"> • It operates to the Nolan Principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership <p>Healthwatch must issue clear and consistent role/job descriptions for Board Members, Chair and Chief Officer to provide clarity and avoid overlap or conflicting responsibilities. This should be supported by regular business meetings between the Chair and Chief Officer.</p> <p>In order to be effective the Healthwatch Shropshire Board should strive to appoint board members:</p> <ul style="list-style-type: none"> • Strong and effective leadership (Chair of the Board) • With adequate time and ability to invest in the organisation • Whose values and goals are aligned with those of the organisation and have a balance of personalities • With diverse and relevant areas of expertise and experience (including legal and financial management) that can provide a range of insights and perspectives and are complementary to the activities of Healthwatch Shropshire and the wider skills of the operational Healthwatch team • Who have connections with key stakeholder groups that Healthwatch Shropshire seeks to engage and influence
1.5	Skills and Competencies
	<p>Skills, competencies and experience for key Healthwatch Shropshire staff, volunteers and representatives include, but are not limited to:</p> <ul style="list-style-type: none"> • Good leadership and management skills (Chief Officer) • Good communicators – the ability to communicate with people and organisations at all levels • Good analytical skills • Good awareness of health and social care issues, both nationally and locally, and how public involvement can best be harnessed • Good financial awareness • Good strategic awareness and the ability to keep up to date with legislation, national and local strategies • The ability to represent other people and groups effectively and fairly • The ability to develop or maintain a high profile on issues related to health and social care
1.6	Who is Healthwatch Shropshire for?
	<p>Healthwatch Shropshire is for anyone who is entitled to access health or social care services (both adults and children) in the Shropshire Council administrative area or anyone</p>

	<p>who cares for or represents anyone who has access to health or social care services in Shropshire.</p> <p>Healthwatch Shropshire has a duty to assist local health and social care commissioners and providers, and other community stakeholders, by providing feedback, research, and information on local people’s views and experiences of health and social care, to improve services.</p>
1.7	Who is Healthwatch accountable to?
	<p>Healthwatch Shropshire will be accountable to:</p> <ol style="list-style-type: none"> 1. Local service users and resident taxpayers in the local authority area 2. Shropshire Council as commissioner in terms of value for money, contract responsibilities, quality, performance and outcomes 3. Healthwatch England in terms of quality standards <p>Tools available to Local Healthwatch for ensuring accountability include but are not limited to:</p> <ul style="list-style-type: none"> • an annual meeting, open and accessible to local stakeholders/ members • an annual report as detailed below • independent financial statement available for public inspection
1.8	Access to Healthwatch Shropshire
	<p>Healthwatch Shropshire will be accessible to all across the Shropshire Council administrative area and will actively seek the views and experiences of local people, including those people who find it difficult to engage and to be engaged, using multiple communications platforms including established media and outlets and innovative techniques. Through ongoing consultation and dialogue the most effective methods of enabling broad access to Healthwatch Shropshire will be utilised. These will include but not be limited to:</p> <ul style="list-style-type: none"> • A dedicated website and other digital/online services (including access to surveys) • Social networking techniques and media (digital platforms such as Twitter, Facebook) • Text / SMS messaging • Face to face access • Telephone (including out of hours contact) • Access to accommodation for meetings, where/when required

	<ul style="list-style-type: none"> • Community Outreach Services including engagements and events • Advertising, leaflets, newsletter, and other media such as local radio • Email • Mail Address (including a freepost facility where necessary) <p>Healthwatch Shropshire will make full use of existing and well-established information and support systems, community networks, community assets, existing infrastructure, etc.</p>
2	Service Delivery
2.1	<p>Functions</p> <p>Healthwatch Shropshire will carry out its functions in accordance with relevant legislation, regulations and guidance. This includes:</p> <ul style="list-style-type: none"> • Health and Social Care Act 2012 (“the 2012 Act”) • Local Healthwatch Regulations 2013 • Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) • The Care Act 2014 • NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 (Regulations 35, 38, 40, 42 & 43) • The Public Bodies (Admission to Meetings) Act 1960, as amended by Section 189 of the Health and Social Care Act 2012 • The Local Authorities (Public Health Functions and entry to Premises by Local Healthwatch Representatives) Regulations 2013 • ‘A Guide to Running Healthwatch’ published by Healthwatch England <p>The statutory activities to be carried out by Healthwatch Shropshire under the above legislation are:</p> <ul style="list-style-type: none"> • Promoting and supporting the involvement of local people in the commissioning, the provision and scrutiny of local care services. This means: <ul style="list-style-type: none"> ○ Have ‘easy to reach’ facilities and capacity – Healthwatch Shropshire will have a high profile and local people will know how to contact Healthwatch Shropshire ○ Promote public and patient involvement in health and social care services to commissioners, service providers and the public ○ Have strategies and plans for inclusion of all groups in the Shropshire local community and to ensure that groups and networks are kept up to date with Healthwatch Shropshire plans and how they can be involved

- Effective collaboration and involvement with existing networks
 - Practical support and training for board members, staff and volunteers
 - Provide advice on best practice for public and patient involvement to commissioners and service providers of health and social care services
 - Adopt a clear and consistent position when responding to individual requests for assistance with public and patient involvement.
 - Publicise local and national consultations about health and social care to encourage public involvement
 - Act as critical friend to commissioners, including Health and wellbeing Board, and providers of services to help bring about improvements
 - Ensure HW's contributions, comments and feedback are always based on the evidenced input of local people rather than the views of individual staff, volunteers or board members.
- Enabling local people to monitor the standard of provision of local care services and whether and how local care services could and ought to be improved. This means:
 - Where deemed appropriate carry out the Enter and View process in accordance with current legislation and guidance and a robust quality assurance mechanism. Volunteers will be safely recruited, trained, DBS checked and supported in accordance with this legislation
 - Obtaining the views of local people regarding their need for, and experiences of, local care services and importantly to make these views known to those responsible for commissioning, providing, managing or scrutinising local care services and to Healthwatch England. This means:
 - Information that is collected will be co-ordinated, consolidated and analysed systematically in order to get a wide understanding of local views and experiences of health and social care services
 - Undertake on-going formal and informal engagement with all sections of the local population (including those who do not usually come forward) to capture public opinion, experience and aspirations for health and social care
 - Seek views about the current provision of health and social care to identify inequalities. Include using existing information, for example from other surveys or reports, as well as conducting high quality research. Work with other organisations to reach the widest possible audience, for example local voluntary and community sector organisations

- Healthwatch will have a strategy to ensure the effectiveness of information gathering, how this is used and opportunities for publicising information
- Have strong collaboration and co-ordination with CQC
- Have capacity and expertise for the interpretation of data and information
- Engage with the public in a range of creative, interesting and inclusive ways
- Collaborate with other local Healthwatch to undertake joint investigations, particularly where services operate across Local Authority boundaries and/or where impact of resources may be maximised
- Making reports and recommendations about how local care services could or ought to be improved. These should be directed to commissioners and providers of care services, and people responsible for managing or scrutinising local care services and shared with Healthwatch England. This means:
 - Using evidence from engagement activity identify specific areas for improvement, change or further investigations
 - Highlight people's positive experiences of using services as a way of celebrating and promoting good practice
 - Publish reports and recommendations based on engagement activity and bring them to the attention of relevant local decision makers, commissioners and service providers
 - Share the views of the local community as appropriate with Healthwatch England, Care Quality Commission (CQC) and national regulators including Ofsted and the Secretary of State
 - Represent local people's views at the Health and Wellbeing Board and make requests to the Health and Adult Social Care Overview and Scrutiny Committee to consider Healthwatch findings, reports and recommendations
- Providing advice and information about access to local care services so choices can be made about local care services. This means:
 - Have a clear 'whole-system' view of the health and social care 'landscape' in Shropshire
 - Understand how local people prefer to seek and receive information; that information is up to date, relevant, impartial and accurate; and that people can have access to this information regardless of background, disability, age, etc
 - Work collaboratively with providers of information and advice in Shropshire to identify issues and trends, including identifying gaps in the information available about health and social care services.

- Have access to, capacity to provide and analytical capacity for currently available information e.g. NHS Choices, Shropshire Choices
- Develop the availability of good quality information in the formats that people want and in the places that people go and make best use of partnerships and collaboration to achieve this
- Identify local people who contact Healthwatch who may benefit from information and/or advice about health and social care services, and either sign-post or refer them to information and advice providers in a prompt and timely manner, taking account of the person's individual access requirements.
- Record details of sign-posting or referrals for information and/or advice about health and social care services. Monitor this data to help detect patterns or emerging issues that may require further investigation.
- Formulating views on the standard of provision and whether and how the local care services could and ought to be improved; and sharing these views with Healthwatch England. This means:
 - Analyse information effectively in a measured and ethical manner. This includes articulating tensions or conflicts between the views of different people, or different groups of people, in the county
 - Collaborate with other local Healthwatch by sharing feedback/results and jointly issuing reports & recommendations where this may increase impact on decision-makers, commissioners and service providers
 - Use appropriate information governance when recording, sharing and publishing information
- Making recommendations to Healthwatch England to advise the Care Quality Commission (CQC) to conduct special reviews or investigations (or, where the circumstances justify doing so, making such recommendations direct to the CQC); and to make recommendations to Healthwatch England to publish reports about issues. This means:
 - Have robust processes in place for recommending investigation or special review of services
 - Ensure that urgent concerns are escalated effectively and promptly
 - Work to NHS Constitution (Health) and 'Think Local, Act Personal' (Social Care)
 - Ensure that urgent concerns relating to safeguarding of individuals are escalated appropriately in accordance with local/regional policy. See <https://westmidlands.procedures.org.uk/> and

<https://www.keepingadultssafeinshropshire.org.uk/multi-agency-procedures-and-guidance/the-adult-safeguarding-process-in-shropshire/>

- Ensure quality and/or safeguarding concerns about individual services/providers are escalated as appropriate to Shropshire Council Adult Services or Children's Services, Shropshire CCG and the CQC
- Use the CQC's 'Essential Standards of Quality and Safety' to help determine what action should be taken in response to evidence obtained by Healthwatch about individual local services
- Make recommendations for special reviews or investigations to the CQC through HWE where there is robust local intelligence to support this.
- Providing Healthwatch England with the intelligence and insight it needs to enable it to perform effectively. This means:
 - Have a process for timely two-way information flows and clarity of accountability between HWE and Healthwatch Shropshire
 - Ensure information requirements of HWE are met and that local intelligence gathering systems complement those established by HWE including, for example, HWE's data taxonomy
 - Have robust processes and protocols for sharing information relevant to wider health and social care issues with HWE and other local Healthwatch organisations
 - Participate in national or regional pieces of work where they help meet local priorities and/or benefit local people
 - Act on feedback received from HWE
 - As appropriate develop a data sharing agreement with HWE
- Provide access to the Independent NHS Complaints Advocacy Service (IHCAS). This means:
 - Ensure effective signposting to IHCAS
 - Identify local people who contact Healthwatch who may benefit from IHCAS and either sign-post or refer them to the locally commissioned IHCAS in a prompt and timely manner, taking account of the person's individual access requirements
 - Monitor referrals and signposting to IHCAS to identify patterns or emerging issues that may require further investigation

	<ul style="list-style-type: none"> ○ Work collaboratively with the IHCAS provider to identify issues and trends, including identifying gaps in the information available about health and social care services
<p>2.2</p>	<p>Partnerships</p> <p>Healthwatch Shropshire will:</p> <ul style="list-style-type: none"> • Work closely with Shropshire Council as the commissioning local authority, which will support Healthwatch Shropshire in its role. • Foster good relationships with all its partners in the health and care system speaking up for local people and helping those responsible for services to improve outcomes. • Represent local people through its role on the Shropshire Health and Wellbeing Board (e.g. to assist in developing the Health and Wellbeing Strategy and the Joint Strategic Needs Assessment). • Recognise that Shropshire, Telford and Wrekin have a shared NHS Hospital Trust, a shared Community NHS Trust and are both covered by the Midlands Partnership NHS Foundation Trust. In addition there is a single Integrated Care System that covers the two separate local authority areas, incorporating a single Integrated Care Board and Integrated Care Partnership. It is therefore essential that the provider develops a collaborative approach with the neighbouring Healthwatch. There is an expectation that both Healthwatch will work towards closer integration for the benefit of the people in Telford and Wrekin and Shropshire. • Work closely with the national body, Healthwatch England, and the two will work together to deliver a strong public voice. • Foster a broad range of relationships with local health and social care commissioners and with provider agencies in the voluntary and private sectors (and hospitals). • Nurture partnerships with local service-users and patient groups, existing VCS networks and other Local Healthwatch organisations to ensure high quality feedback and research. In addition, make full use of experienced volunteers already engaged with or working on representation groups to act as representatives of Healthwatch Shropshire and to ensure that such volunteers have clarity as to their role.
<p>2.3</p>	<p>Outcomes</p>

Healthwatch Shropshire will make a positive contribution to the successful local achievement of outcomes set out in national and local frameworks for the NHS, primary care, children's and adult social care and public health. In particular:

The Vision of Shropshire's Health and Wellbeing Strategy 2022 – 2027 is for Shropshire people to be healthy and fulfilled. The Strategic Priorities of the Strategy are:

- Joined-up working
- Improving population health
- Working with and building strong and vibrant communities
- Reduce inequalities

The Shropshire Plan priorities as:

- Healthy People
- Healthy Economy
- Healthy Environment

Other outcomes for a successful Healthwatch Shropshire will include:

- Health and social care services change and improve as a result of community engagement and Enter & View processes
- Shropshire residents, service providers, professionals and commissioners recognise Healthwatch and use Healthwatch appropriately
- People are able to access Healthwatch in a way that meets their needs
- Enter and View activities are high quality, transparent and drive improvements in services
- People understand how to access services and information which meet their needs
- Healthwatch is recognised as a key partner in Shropshire's health and social care economy and is able to use intelligence and evidence to influence change
- Strong and effective collaborative working with Healthwatch Telford & Wrekin
- The needs of hard to reach and minority groups are highlighted, understood and services are influenced to reflect these needs in their plans
- Healthwatch is a well-run and effective organisation which is trusted and credible
- Healthwatch is trusted by people who use health and social care services and by the general public
- Improved patient and service user experience

	<ul style="list-style-type: none"> • Improved communications • Improved satisfaction with health and social care services in Shropshire • Greater patient and public involvement in health and social care • Strong, positive relationship with commissioners and Shropshire Health and Wellbeing Board • Improved access to services and information about services • Improved understanding among the general public of their rights (this is the ‘consumer champion’ role for Healthwatch). • High public awareness/profile of Healthwatch Shropshire. • High level of public trust in Healthwatch Shropshire <p>Social Value</p> <p>Healthwatch Shropshire will contribute to the following social value priorities for Shropshire:</p> <ul style="list-style-type: none"> • Employment created for local people working on Council contracts • Prime contractor spend in the local supply chain • Promotion of locally important careers with associated training, work placements, etc (eg care work) • Apprenticeships / work placements / training in the workplace • Reducing the carbon impact of our commissioned services <p style="text-align: center;">a.</p>		
<p>2.4</p>	<p>Healthwatch Trademark Licence</p> <p>The Provider will be required to use the National Healthwatch branding. The Healthwatch provider must sign and abide by a trademark licence issued by Healthwatch England. The licence includes schedules that set out use of the Mark. This can include style and branding guidance and other specifications. This provision also applies to any sub-contractors delivering Healthwatch functions.</p>		
<p>2.5</p>	<p>Transparency</p> <p>Healthwatch are specifically included in the Freedom of Information Act 2000, although only in respect of information held in connection with arrangements made under section 221(1) or arrangements made in pursuance of those arrangements. It provides the public a right to access information held by public bodies, unless certain exemptions apply. It also requires local Healthwatch to have a publication scheme in relation to their statutory activities.</p> <p>The Information Commissioner has produced a model publication scheme, which sets out a checklist of the information which Local Healthwatch should publish proactively on their website:</p> <table border="1" data-bbox="386 1896 1562 1934"> <tr> <td data-bbox="386 1896 971 1934">Who Healthwatch are and what they do</td> <td data-bbox="971 1896 1562 1934">Organisational information</td> </tr> </table>	Who Healthwatch are and what they do	Organisational information
Who Healthwatch are and what they do	Organisational information		

	<p>Locations and contacts Constitutional and legal governance</p> <p>Healthwatch spending Financial information relating to projected and actual income and expenditure Tendering Procurement and contracts</p> <p>Healthwatch priorities are and how they are meeting these Strategy and performance information Plans Assessments Inspections and reviews</p> <p>How Healthwatch make decisions Policy proposals and decisions Decision making processes Conflict of interest – including a register to be maintained on Healthwatch website Internal criteria and procedures Consultations Minutes of meetings</p> <p>Healthwatch policies and procedures Current written protocols for delivering your functions and responsibilities</p> <p>Lists and registers Information held in registers required by law Other lists and registers relating to the function of the authority</p> <p>The services Healthwatch offer Advice and guidance Booklets and leaflets Transactions and media releases A description of the services offered</p> <p>Any breaches of the decision-making process are to be reported to the Council.</p>
2.6	<p>Quality Standards</p> <p>Healthwatch Shropshire should meet the following quality standards as set out by Healthwatch England:</p> <p>Leadership and Decision Making:</p> <ul style="list-style-type: none"> • Clear goals and a rationale for prioritising work • Strength of leadership and governance • Maintaining independence and accountability <p>People:</p> <ul style="list-style-type: none"> • The importance of staff and volunteers • Ensuring the board, staff and volunteers have the right knowledge and skills • Delivering an effective and consistent service <p>Sustainability and Resilience:</p> <ul style="list-style-type: none"> • Delivering a business model that enables the service to plan and operate effectively

- Adapting to the changing needs of communities

Collaboration:

- Local Healthwatch will recognise the value of working in partnership
- Learn for other Healthwatch

Consultation, Engagement, Involvement and Reach:

- Reaching out to all sections of the community
- Gathering and understanding people's views and making peoples' views know
- Promoting engagement of local people
- Providing signposting, advice and information
- Involving people to raise awareness of inequalities with health and social care provision

Influence and Impact:

- Focus on purpose of activity
- Evidencing the difference a service can make
- Ensuring those in charge of health and social care services hear and act of peoples' views

Quality Framework		
Context	How Healthwatch will operate in different environments and how they will overcome this so this does not affect their ability to make a difference for local people	
	Leadership and decision making	
Enablers	<p>There is a clear defined approach to strategy and business planning and the decision-making process</p> <p>Ability to demonstrate independence and ability to hold health and social care services to account</p> <p>Clear governance processes</p>	<p>Clear, defined approach to how the Board/Advisory group oversee effectiveness and management of resources</p> <p>Healthwatch approach safeguarding, confidentiality and data security</p> <p>Clear and defined approach to equality duty</p>
	People	Sustainability and Resilience
	Clear and defined approach that ensures staff and volunteers understand what	Healthwatch will understand and engage with the commissioning process

	<p>people should expect from their local Healthwatch</p> <p>Clear and defined approach so people understand their roles and responsibilities in the organisation and feel supported and valued</p> <p>Clear defined policy on recruitment, induction, support and development of Healthwatch staff</p> <p>Ensure volunteers feel supported, valued and involved in their work with Healthwatch</p>	<p>Healthwatch will develop and sustain relationships with key individuals</p> <p>Healthwatch will monitor and report on their finances</p> <p>Healthwatch will consider any potential changes to ensure sustainability</p> <p>Healthwatch will provide a suitable working environment for staff and volunteers</p>
	Collaboration	
	Healthwatch will prioritise and work with key local and regional partners	Healthwatch will collaborate with other Healthwatch Demonstrate how Healthwatch will work with Healthwatch England and CQC
	Engagement, Involvement and Reach	
	<p>Healthwatch will understand, prioritise and reach different sections of the community</p> <p>Hold a clear policy and procedure on how Healthwatch will gather the views of local people</p>	<p>Healthwatch will involve local people in their work and support partners to involve local people</p> <p>Provide local people with the Healthwatch statutory advice and information they need to navigate and access health and social care services</p>
	Influence and Impact	
	<p>Healthwatch will be known and trusted as a credible voice on behalf of local people</p> <p>Stakeholders in the local health and care system will recognise Healthwatch as a system leader and credible partner</p> <p>Local people and stakeholders will understand what Healthwatch does and the value it brings</p> <p>Healthwatch will know whether they have made an impact</p>	

2.7	<p>Continuity</p> <p>In the event of a change of Provider the incoming and outgoing Providers shall cooperate with the Council in accordance with the Healthwatch England guidance ‘When Healthwatch changes provider’.</p>
3	<p>Information, Reporting, Measures and Monitoring</p>
3.1	<p>Annual Report</p> <p>An Annual Report will be produced in accordance with Department of Health Guidance ‘Local Healthwatch annual reports: Directions 2013’ https://www.gov.uk/government/publications/local-healthwatch-annual-reports-directions-2013</p> <p>The Annual Report will be produced by 30th June each year and will be made publicly available and copies of it will be sent to those persons detailed in the relevant legislation which will include:</p> <ul style="list-style-type: none"> • Shropshire Council • Shropshire Clinical Commissioning Group • Shropshire Health and Adult Social Care Overview and Scrutiny Committee • Healthwatch England • NHS England • Care Quality Commission
3.2	<p>Quarterly Reporting</p> <p>Healthwatch Shropshire will report on its activities, achievements and finances, in a format to be agreed, to the council in respect of this contract on a quarterly basis.</p>
3.3	<p>Contract Review Meetings</p> <p>Quarterly contract review meetings will be arranged to review performance under this contract.</p> <p>A stakeholder group will be supported by Healthwatch Shropshire, consisting of key stakeholders and including patient and service user representatives to review the overall effectiveness of Healthwatch Shropshire and to inform the contract monitoring process.</p>
3.4	<p>Measures</p> <p>Performance measures will be developed and agreed with the council which will provide management information and needs data, service utilisation data and feedback on the effectiveness of Healthwatch Shropshire. Targets will be developed where appropriate. Areas to be covered will include but not necessarily limited to:</p> <ul style="list-style-type: none"> • Volumes and nature of enquiries and signposting activity • Timeliness of responses • Customer satisfaction

	<ul style="list-style-type: none"> • Numbers and characteristics of customers assisted through Healthwatch Shropshire • Accessibility • Numbers of reports and recommendations produced and the outcomes of these • Numbers and nature of enter and view visits undertaken and the outcomes of these <p>In addition Healthwatch Shropshire will report its outcomes and impact based on the 'Local Healthwatch Outcomes and Impact Development Tool', adapted as appropriate to local requirements and in agreement with the Council https://www.local.gov.uk/sites/default/files/documents/local-healthwatch-outcome-981.pdf</p>
3.5	<p>Demographics</p> <p>The Provider shall gather and report demographic information relating to board members, Staff, volunteers and people who Healthwatch engage during their activities.</p>
3.6	<p>Stakeholder Input</p> <p>In addition to the stakeholder group detailed in point 3.3 above it is important that Healthwatch Shropshire understands clearly how its effectiveness is perceived by all its stakeholders.</p> <p>Feedback from stakeholders will be sought in a range of ways appropriate to the individual or organisation and used to inform the way that Healthwatch Shropshire operates and engages with people, organisations and stakeholders.</p> <p>Healthwatch Shropshire will need to demonstrate how such stakeholder feedback is used to ensure the continued effectiveness of its service.</p>

Part B

INDEPENDENT NHS COMPLAINTS ADVOCACY SERVICE

SPECIFICATION

1	Background
1.1	<p>Title of Service</p> <p>Independent Health Complaints Advocacy Service (IHCAS) for Shropshire</p>
1.2	<p>Vision & Rationale</p> <p>The Health and Social Care Act 2012 placed a duty on Local Authorities to commission a local Independent Health Complaints Advocacy Service. Local authorities are required to commission “the provision of assistance for individuals making or intending to make an NHS complaint (which includes a complaint to the Health Service Ombudsman)”. The NHS complaints process covers:</p> <ul style="list-style-type: none"> • All NHS Trusts and NHS Bodies including NHS Foundation Trusts • Family Health Services provided for the NHS by GPs, Dentists, Opticians or Pharmacists. • Integrated Care Boards (ICBs) • Private health care establishments if the treatment has been paid for by the NHS • All other health services commissioned by NHS funding <p>Independent health complaints advocacy is a vital component of the local complaints system. It provides support to people, for a wide range of reasons, who find it difficult to navigate the complaints system themselves. Independent advocacy helps people to speak up, supporting a person to express their views, have these taken seriously and achieve personal outcomes. An effective complaints process is essential not only in putting things right for individuals when health services have fallen short but also in identifying strategic issues and driving improvements across the system. It is therefore important that IHCAS will have close strategic, working and/or organisational links with other organisations who are involved in developing insight and collecting information about peoples’ views and experiences of health services in Shropshire.</p>
1.3	<p>Service Aims & Objectives</p> <p>IHCAS in Shropshire will provide a free independent complaints advocacy service which gives practical support and direction to a complainant in order to assist the individual in finding a resolution to a complaint about Health Services.</p>
1.4	Principles

	<p>The Service will be a free, independent, professional support service to clients wishing to pursue a formal complaint against the NHS. The quality and professional make-up of this service should meet recognised professional standards.</p> <p>In addition to the Core Characteristics described in section 1.5 below and with the expectations set out in 'Practice guidelines for independent health complaints advocacy services' (https://www.local.gov.uk/practice-guidelines-independent-health-complaints-advocacy-services)</p> <p>The Service Provider will apply the following principles in the design and delivery of the Service:</p> <p>Accessibility</p> <p>The Service Provider will respect the diversity of clients and provides support appropriate to the needs of the client by:</p> <ul style="list-style-type: none"> • Ensuring support is accessible at the point of contact all through the complaints process providing a range of access options, both in terms of the physical environment where it is delivered and the mode of communication used • Providing appropriate services and materials for those clients who do not have English as their first language and/or have other specific communication needs. <p>Resolution</p> <p>The Service Provider will support clients in trying to achieve a resolution to their complaint within the NHS complaints procedure by:</p> <ul style="list-style-type: none"> • Supporting the process of Local Resolution, where clients and NHS staff work together to resolve complaints, at a point as close as possible to the point of service that has caused dissatisfaction. <p>Confidentiality</p> <p>The Service Provider will treat all interactions between clients as confidential, in line with the Service Provider's confidentiality policies.</p> <p>Compliance</p> <p>Be fully compliant with Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and relevant regulations of the Health and Social Care Act 2012</p>
1.5	<p>Core Characteristics of IHCAS</p> <p>The core characteristics of the IHCAS in Shropshire to be demonstrated are:</p> <ol style="list-style-type: none"> 1. Known, accessible and responsive

	<ol style="list-style-type: none"> 1.1. Clear communications, based on specific characteristics of the community 1.2. Proactive engagement of all sections of the community – in particular seldom heard groups – and removing barriers to access 1.3. Focused on empowerment and the promotion of self-advocacy, wherever appropriate 1.4. Part of and knowledgeable about the local landscape for complaints, information and signposting <p>2. Professional</p> <ol style="list-style-type: none"> 2.1. Clear purpose and description of service 2.2. All staff, including volunteers, are appropriately trained, supported and managed to recognised professional standards 2.3. Staff understand the policy framework and statutory responsibilities for confidentiality, safeguarding and consent, and information management in line with current guidance from the Department for Health and Social Care (DHSC) 2.4. All staff are accountable, with a clear and accessible complaints procedure 2.5. Clear standards for timeliness and responsiveness 2.6. Clear understanding of best use of resources. <p>3. Independent</p> <ol style="list-style-type: none"> 3.1. Commissioning and funding arrangements do not compromise provision of independent advocacy to clients 3.2. Clear process for identifying, registering and addressing conflicts of interest 3.3. Demonstrable commitment to the principles of the Advocacy Charter and Code of Practice (http://www.advocacyproject.org.uk/what-we-do/advocacy/principles-of-advocacy/) or local equivalent. <p>4. Makes a difference</p> <ol style="list-style-type: none"> 4.1. Measure and report on outcomes from a client and system perspective and can demonstrate what difference the service has made 4.2. Proactively seeks and acts on client feedback 4.3. Identifies systemic issues and trends and takes action to promote systemic change 4.4. There are robust systems to share information with local and national organisations involved in complaints and service improvement
1.6	<p>Geographical Location of the Service</p> <p>The IHCAS service will be available to people who live in, or wish to make a complaint about NHS services located in, the administrative area of Shropshire Council.</p>

	<p>The Service Provider delivering IHCAS in this contract is expected to work in partnership with providers of similar services across England.</p> <p>This may mean providing advocates for local residents making complaints about NHS services based outside the local area covered by this contract, or liaison with other IHCAS service providers to make best use of local funding for this service. This arrangement may be time-limited, such as supporting a complainant at a specific meeting, or for a longer period up to the whole length of the complaints process.</p>
2	Service Delivery
2.1	<p>Functions / Role</p> <p>The Service Provider is required to empower and assist people to go through the NHS complaints procedure. The Service Provider will focus on providing support at each of the following points or activities in the NHS complaints procedure, those being:</p> <ul style="list-style-type: none"> • Identifying what the available options and possible outcomes are, and deciding which option to take • Making the complaint to the appropriate service provider • Deciding how to proceed with the complaint, following a service provider's initial response • Complete the local resolution phase by attending meetings or entering into correct correspondence • Making a complaint to the Parliamentary and Health Service Ombudsman • Understanding the Health Service Ombudsman's final decision
2.2	<p>Eligibility</p> <p>The Service Provider is required to deliver the service to all residents including prisoners, and children and young people who live within the Shropshire Council administrative area.</p> <p>Exclusion criteria – The Service will not support:</p> <ul style="list-style-type: none"> • Non-health advocacy related complaints • Health complaints from people under the age of sixteen (16) unless supported by an adult or the child demonstrates 'Gillick competence'
2.3	<p>Other Service Delivery Requirements</p> <p>The Service Provider will have a good understanding of the local Health landscape, will have good relationships within the health and care system and will be able to respond to changing needs and priorities.</p>
2.4	Delivery Locations, Hours of Operation and Access

	<p>Area of Operation</p> <p>The IHCAS service will be available to people who live in, or wish to make a complaint about NHS services located in, the administrative area of Shropshire Council.</p> <p>Hours of Operation</p> <p>The Service Provider will ensure that it meets the demands of the people seeking support. As a minimum the IHCAS will be available for contact on all Mondays to Thursdays inclusive 9.00am to 5.00pm, excluding Bank Holidays, although the Service Provider will be responsive to clients' reasonable needs where appropriate.</p> <p>During Out of Office hours an answer phone will be expected to operate to facilitate contact with the service and to give clear information. It is expected that the phone message alters in accordance with any specific changes that may occur locally, or at key times such as Christmas periods.</p> <p>Other access features</p> <p>The Service Provider will be required to support people experiencing a wide range of personal, social, economic and health problems as well as reflecting the rural, economic and ethnic diversity of the Shropshire Council area. The Provider will be required to communicate in the most appropriate method including, but not exclusive to:</p> <ul style="list-style-type: none"> • Having access to appropriate foreign language translation service • Having access to appropriate sign language translation service and an understanding of deaf culture • Having access to appropriate pictorial supported information and an understanding of those with learning disability
2.5	<p>Referrals and Partnership Working</p> <p>Referrals and Signposting</p> <p>Through effective marketing and awareness raising it is expected that the majority of referrals will be self-referrals and/or as a result of signposting. The IHCAS service will have in place and will further develop effective referral and signposting arrangements. The IHCAS service will detail how it will operate with referring and signposting agencies as well as Healthwatch Shropshire, networks of providers of information and advice as well as wider 'wraparound' services. This will include (but is not limited to) all NHS bodies operating locally.</p> <p>Local capacity building (networks & partnerships)</p> <p>The IHCAS service will, over the contract duration, develop an approach and plan to build capacity within communities to provide a wider range of information about NHS Complaints which contribute to meeting outcomes.</p> <p>Partnership Working</p>

	<p>It is essential that the IHCAS service develops and sustains close strategic and operational links with other providers and complementary services including NHS organisations, Healthwatch Shropshire, providers of information and advice, as well as with the Voluntary and Community Sector generally. The IHCAS service will demonstrate how these links are delivering better value for money, maximising use of resources and continuous improvement to the outcomes for people.</p>
2.6	<p>Staffing and Volunteers</p> <p>The Service Provider will ensure that there are sufficient staff at all times with the appropriate experience, background and qualifications to deliver the service.</p> <p>All staff and volunteers will be properly trained, managed to recognised professional standards and with relevant qualifications, including and with a quality system appropriate for the size and nature of the Service Provider's organisation. Evidence of appropriate advocacy qualifications will be provided.</p> <p>Staff involved in providing advocacy support will have an enhanced DBS check in place.</p>
2.7	<p>Advertising and Promotion</p> <p>The IHCAS service will advertise and undertake promotional campaigns and ongoing activities to ensure people living in Shropshire, and in particular vulnerable and hard to reach groups, are aware of the service and how and when it can be accessed.</p>
2.8	<p>Service User and Stakeholder Involvement</p> <p>The IHCAS service will actively seek out feedback from customers, partners and stakeholders and will demonstrate how feedback is used to shape ongoing improvements to the service.</p> <p>This qualitative feedback will form part of the regular monitoring arrangements.</p>
3	<p>Outcomes, Social Value & Reporting</p>
3.1	<p>Outcomes</p> <p>The IHCAS service will contribute to Shropshire Council's high-level Healthy People outcome.</p> <p>The IHCAS service will demonstrate delivery of the following outcomes:</p> <ul style="list-style-type: none"> • People have access to easy to understand information about the NHS complaints system which is consistent, accurate, accessible and up to date

	<ul style="list-style-type: none"> • Information about NHS complaints is available in a format and setting that people find easy to access • People are helped to help themselves where appropriate and know what courses of action are open to them and how to make the most of them • People gain the skills, information and confidence to address NHS complaints • People have access to a high quality IHCAS service when and where they need it and have confidence that the staff involved in the service are well trained and suitably qualified
<p>3.2</p>	<p>Social Value</p> <p>The IHCAS will be delivered and organised in a way that maximises the positive social, economic and environmental impacts that an excellent, comprehensive and integrated IHCAS service can provide.</p> <p>Specific ‘Social Value’ requirements to be demonstrated by IHCAS will be determined through procurement of the IHCAS but may include:</p> <p><u>Economic Value</u></p> <ul style="list-style-type: none"> • The IHCAS will, where possible, support local employment <p><u>Social value</u></p> <p>The IHCAS is required to demonstrate how it contributes to the social value priorities of the Council in:-</p> <ul style="list-style-type: none"> • Empowering people and increasing resilience <p><u>Environmental Value</u></p> <ul style="list-style-type: none"> • The IHCAS will demonstrate that it is reducing the carbon impact of the service over the term of the contract
<p>3.3</p>	<p>Measures</p> <p>Measures to be reported may include:</p> <p><u>Quantitative indicators</u></p> <ul style="list-style-type: none"> • Volume of NHS CA activity • Case breakdown • Case duration • Case referral sources • Case overview by Equality Act 2010 protected characteristics • Complaints by organisation • Complaints by topic • Complaint trends

	<p><u>Qualitative indicators</u></p> <ul style="list-style-type: none"> • NHS CA service user feedback • Challenges • Lessons Learned • Case studies • Key highlights • Outcomes Star analysis • Outcome analysis: <ul style="list-style-type: none"> ○ Service User outcomes ○ Added value to the service and national health complaints agenda • Client Evaluation Survey • Written updates evidencing impact (i.e. Engagement with seldom heard communities and/or service user groups)
<p>3.4</p>	<p>Reporting and Monitoring</p> <p>The IHCAS will provide quarterly monitoring data reports and attend monitoring meetings as agreed with the Council. The IHCAS service is required to supply the following information for discussion, (as well as the output and outcome monitoring detailed above):</p> <ul style="list-style-type: none"> • Progress on development of the outcomes and measurement frameworks detailed above • Overview of operational issues • Feedback from Service Users/stakeholders – where appropriate • Overall client profile, to identify potential gaps in the accessibility of the service • Overview of training and development

Schedule 2

SERVICE STANDARDS

1.0 GUIDING PRINCIPLES

- 1.1 The Parties will seek to provide a Service that:
 - 1.1.1 encourages the rights of patients and service users to make decisions about their own lives
 - 1.1.2 acknowledges and seeks to address and avoid the ways in which patients and service users are marginalised and subjected to discrimination
 - 1.1.3 ensures that members of Service Provider Personnel are committed to anti-discriminatory and anti – oppressive practice and seek to examine their own attitudes.
 - 1.1.4 ensures that the privacy and individuality of all people making contact with the Service is respected
 - 1.1.5 respects the confidentiality of any information gained about people making contact with the Service
- 1.2 The Service Provider must provide the Service in accordance with the terms of this Contract and with all the skill, care and diligence to be expected of a competent provider of services of a similar kind to the Service
- 1.3 In providing the Service the Service Provider must also comply with any of the practices performance ratings and quality standards that are set out or referred to in this Contract and all statutory provisions and guidance which apply to the Service and are issued from time to time by the Regulatory Body

2.0 NOT USED

3.0 POLICIES, PROCEDURES AND GUIDANCE

- 3.1 The Service Provider should have the following policies, procedures and/or guidance in place:
 - 3.1.1 Operational policies and/or guidance including recruitment, retention and training of Service Provider Personnel
 - 3.1.2 Grievance and disciplinary procedures
 - 3.1.3 Health and Safety Policy
 - 3.1.4 Confidentiality record keeping and security policy
 - 3.1.5 Lone/out of hours working policy
 - 3.1.6 Complaints policy
 - 3.1.7 Risk Management procedure
 - 3.1.8 Enter and View policy

- 3.1.9 Decision-making procedure
 - 3.1.10 Holding Board Meetings in Public policy
 - 3.1.11 Other policies relevant to the delivery of the Service.
- 3.2 The Service Provider will ensure that all Service Provider Personnel used to provide the Service have access to copies of the Safeguarding adults: multi-agency policy and procedures for the West Midlands and the Council's Speaking Up About Wrongdoing (Whistleblowing Policy) and understands them.

4.0 STAFFING

Recruitment and Selection

- 4.1 Not Used
- 4.2 The Service Provider shall at all times during the period of this Agreement engage sufficient Service Provider Personnel of sufficient ability skill knowledge training and experience for the proper performance of the Service.
- 4.3 The Service Provider shall be entirely responsible for the employment and conditions of service of its own employees and shall at all times be fully responsible for the payment of all salaries and wages income or other taxes national insurance contributions or levies of any kind relating to or arising out of the employment of any persons employed by the Service Provider and shall fully and promptly indemnify the Council in respect of any liability of the Council in respect thereof.
- 4.4 The Service Provider will ensure that:
 - 4.4.1 There is a clear written job description and employee specification for all Service Provider Personnel.
 - 4.4.2 Job applications are in Writing and describe previous experience, training, full employment history since leaving school and explain the reason for leaving and any gaps in employment.
 - 4.4.3 Not Used.
 - 4.4.4 References are received and checked before employment commences, including the authenticity of the reference.
 - 4.4.5 Job applicants make a written declaration of previous convictions and disqualifying conditions and provide information of any other name by which they have been known.
 - 4.4.6 Recruitment procedures are in accordance with clause 40 of this Agreement (Safeguarding)
 - 4.4.7 The identity of all Service Provider Personnel is verified prior to employment using an official document.
 - 4.4.8 The authenticity of qualifications is checked prior to employment.

- 4.4.9 Service Provider Personnel are provided with information about their conditions of employment.
- 4.4.10 All Service Provider Personnel make a written undertaking in respect of confidentiality.
- 4.4.11 Not Used
- 4.4.12 Where any concerns have been raised about a potential member of Service Provider Personnel by a referee or through the Disclosure and Barring Service check and the person is nevertheless deemed to be suitable for work appropriate and sufficient monitoring is undertaken by the Service Provider in respect of the concerns raised. The Service Provider must be able to demonstrate that such monitoring has been carried out.

Use of cars to deliver the Service

- 4.5 Service Provider Personnel using their cars to deliver the Service must ensure that they comply with all road traffic regulation and have appropriate business class insurance, a copy of the insurance certificate will be kept on the Service Provider Personnel members file and will be available for inspection.

5.0 RISK MANAGEMENT AND HEALTH & SAFETY

- 5.1 The Service Provider shall ensure that:
 - 5.1.1 the Service is provided with proper regard to Health and Safety legislation which shall comprise all statutes codes of practice Regulations British Standards and Guidance Notes relevant to Health and Safety and the performance of this Contract. Further guidance is obtainable from the Health and Safety Executive and the local authority Environmental Health Inspectors
 - 5.1.2 it has a Health and Safety Policy Statement meeting the requirements of the Health and Safety at Work Act 1974 and the Health & Safety at Work Regulations 1992 and any amendments thereof and management must make Service Provider Personnel aware of its contents. Where there are four or less employees the Service Provider will have a statement which will be issued by the Council and subsequently endorsed by the Service Provider agreeing to meet certain health and safety and other requirements when requested to do so by the Council

- 5.2 Records of all Health & Safety training, including refresher training must be kept and held locally.

6.0 QUALITY ASSURANCE

- 6.1 The Service Provider must be able to demonstrate to the Council that it has a commitment to the quality of the Service and must allow officers of the Council access to all records for the purpose of monitoring and complaint investigation at all times. Council Officers will observe appropriate levels of Confidentiality at all times.
- 6.2 The Service Provider must have documented systems which enable it to:
- 6.2.1 check on whether it is delivering the Service in accordance with the terms of this Contract and
 - 6.2.2 check whether it is doing this efficiently and effectively
 - 6.2.3 check on whether Service Provider Personnel are provided safe systems of work

7.0 MONITORING

- 7.1 Officers of the Council may seek to monitor this Contract by:
- 7.1.1 visiting the premises where the Service is provided 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.
 - 7.1.2 carrying out a quality assurance exercise which may involve contacting people who have made contact with the Service Provider on the provision of the Service.

8.0 ADMINISTRATION

- 8.1 The Service Provider will supply information which the Council may request from time to time in order to comply with Central Government Departments' requirements or as required for Performance Indicators.
- 8.2 Data provided to the Council must be accurate and robust and the Service Provider will take all necessary steps to ensure the quality and integrity of data supplied.

9.0 CONFIDENTIAL INFORMATION AND RECORD KEEPING

- 9.1 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.

- 9.2 Not Used
- 9.3 A register of Service Provider Personnel must be maintained which should include the following information
 - 9.3.1 name, address and telephone number
 - 9.3.2 position held (including the date started) and hours worked
 - 9.3.3 next of kin - name, address and telephone number
 - 9.3.4 Not Used
 - 9.3.5 Date of issue of identification and retrieval if appropriate
 - 9.3.6 Recruitment details including references, evidence of Data and Barring Service check and interview
 - 9.3.7 Induction and training records
 - 9.3.8 Copies of identification, training certificates and qualifications
- 9.4 The Service Provider will ensure that each member of Service Provider Personnel is made aware that their files may be inspected by Officers of the Council for the purpose of monitoring
- 9.5 In accordance with Caldicott recommendations and confidentiality requirements the Service Provider will ensure that:
 - 9.5.1 People who make contact with the Service are able to find out how the Service Provider deals with confidential and sensitive information about them and may be directed to the confidentiality policy which is available online which clearly explains what information is kept on them and how they can access this.
 - 9.5.2 People who make contact with the Service and Service Provider Personnel have access to their personal records in private and as quickly as possible if requested and no later than 21 days whilst considering the interest of any third party information which can only be given with the third party's permission.
 - 9.5.3 when the person requesting access has examined the records they are signed and dated by a member of Service Provider Personnel to show they have been examined and by that person when possible.
 - 9.5.4 Service Provider Personnel sign and date an acknowledgement that they have examined records pertaining to them upon the fulfilment of their request
 - 9.5.5 it has a policy document that details Service Provider Personnel Code of Conduct in relation to confidentiality. This document must be shared with

and understood by Service Provider Personnel used to provide the Service and regularly reviewed.

- 9.5.6 Service Provider Personnel induction contains training on confidentiality procedures. Service Provider Personnel files must evidence the date and nature of the induction on confidentiality that was given to new Service Provider Personnel.
- 9.5.7 confidentiality and security training needs are assessed on an ongoing basis taking into account the role of each member of Service Provider Personnel used to provide the Service and this should be done annually.
- 9.5.8 Service Provider Personnel contracts explicitly mention confidentiality and disclosure issues.
- 9.5.9 the flows of information are reviewed.
- 9.5.10 information collections have a named owner (member of Service Provider Personnel) who is responsible for protecting access.
- 9.5.11 confidential information is safeguarded so that unauthorised people do not gain access to it.
- 9.5.12 protocols governing the sharing of information with other organisations is agreed and understood.
- 9.5.13 a named individual is appointed who will have responsibility for data security.
- 9.5.14 it has a programme to review typical risks regarding identifiable information.
- 9.5.15 incidents involving security breaches are anticipated and dealt with appropriately
- 9.5.16 security issues are monitored and reported
- 9.5.17 passwords are used to safeguard information held on computer regarding the Service
- 9.5.18 only authorised persons have access to information and only if they need it to carry out their roles.
- 9.5.19 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 3

TUPE AND PENSION CLAUSES

EMPLOYMENT PROVISIONS

Unless otherwise stated the following definitions shall apply:

Data Protection Legislation means: all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party

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 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 service 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 Service 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;

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

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

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

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

Retendering Information: as defined in paragraph 6.10;

Service 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;

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

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

Staffing Information: in relation to all persons identified on the Service Provider's Provisional Personnel List or Service Provider's Final Personnel List, as the case may be, such information as the Council may reasonably request (subject to all applicable provisions of the Data Protection Legislation, but including in an anonymised format:

(a) their ages, dates of commencement of employment or engagement and gender;

(b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;

(c) the identity of the employer or relevant contracting Party;

- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other Employee Liability Information

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

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

Transferring Former Provider Employees: employees of a Former Provider whose contracts of employment transfer with effect from the Effective Date to the Service Provider or Sub-Contractor by virtue of the application of the Employment Regulations. An indicative list of the Transferring Former Provider Employees, as at the date of execution of the 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 contract to whom the Employment Regulations will apply on the Service Transfer Date whose contracts of employment transfer with effect from the Service Transfer Date to the Council or a Replacement Service Provider

2. INTERPRETATION

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

3. TRANSFER OF EMPLOYEES TO THE SERVICE 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 first Relevant Transfer shall occur on the Effective Date

3.2 Not Used

3.3 Not Used

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 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 Contract;
 - (c) the date which is 12 months before the end of the Term; and
 - (d) receipt of a written request of the Council at any time (provided that the Council shall only be entitled to make one such request in any six month period),

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

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

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

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

- 6.4 The Service Provider:

- (a) shall promptly notify the Council forthwith in writing of any material changes to the information provided pursuant to clause 6.1 and clause 6.2 as and when such changes arise; and
- (b) warrants, for the benefit of the Council, any Replacement Provider, and any Replacement Sub-Contractor that all information provided pursuant to clause 6.1 and clause 6.2 shall be true and accurate in all material respects at the time of providing the information.

- 6.5 From the date of the earliest event referred to in clause 6.1(a), clause 6.1(b) and clause 6.1(c), the Service Provider agrees, that it shall not, and agrees to

procure that each Sub-Contractor shall not, assign any person to the provision of the Services who is not listed on the Service Provider's Provisional Personnel List and shall not without the approval of the Council (not to be unreasonably withheld or delayed):

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

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

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

6.7 The Service Provider shall provide, and shall procure that each Sub-Contractor shall provide, all reasonable cooperation and assistance to the Council, any Replacement Provider and/or any Replacement Sub-Contractor to ensure the smooth transfer of the Transferring Service Provider Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Service Provider Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Service Provider shall provide, and shall procure that each Sub-Contractor shall provide, to the Council or, at the direction

of the Council, to any Replacement Provider and/or any Replacement Sub-Contractor (as appropriate), in respect of each person on the Service Provider's Final Personnel List who is a Transferring Service Provider Employee:

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

6.8 The Council regards compliance with this paragraph 6 as fundamental to the 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 Contract or otherwise) resulting in the Services being undertaken by a Replacement Provider and/or a Replacement Sub-Contractor. Such change in the identity of the Service 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 Service 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 Council 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 Council relates to financial obligations arising on or before the Service Transfer Date;

(e) a failure of the Service Provider or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Service Provider Employees in respect of the period up to (and including) the Service Transfer Date);

(f) any claim made by or in respect of any person employed or formerly employed by the Service Provider or any Sub-Contractor other than a Transferring Service Provider Employee for whom it is alleged the Council and/or the Replacement Provider and/or any Replacement Sub-Contractor may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and

(g) any claim made by or in respect of a Transferring Service Provider Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring 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 Service 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 Council 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 Contractor or Replacement Sub-Contractor to the extent that the proceeding, claim or demand by HMRC or other statutory Council 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

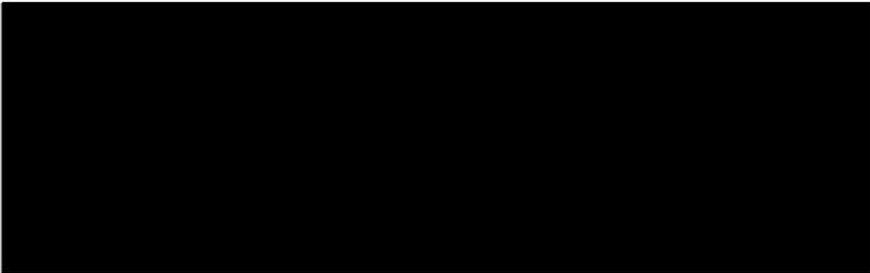
Annex C. Transferring Former Provider Employees - [To be Confirmed]

Annex D. List of Notified Sub-Contractors [TBC]

Appendix 1

Tender

[to be inserted]



Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
Shropshire SY2 6ND

Date: 23rd December 2022
My Ref: PMCV 022
Your Ref: PMCV 022
Ref:

Dear Bidder

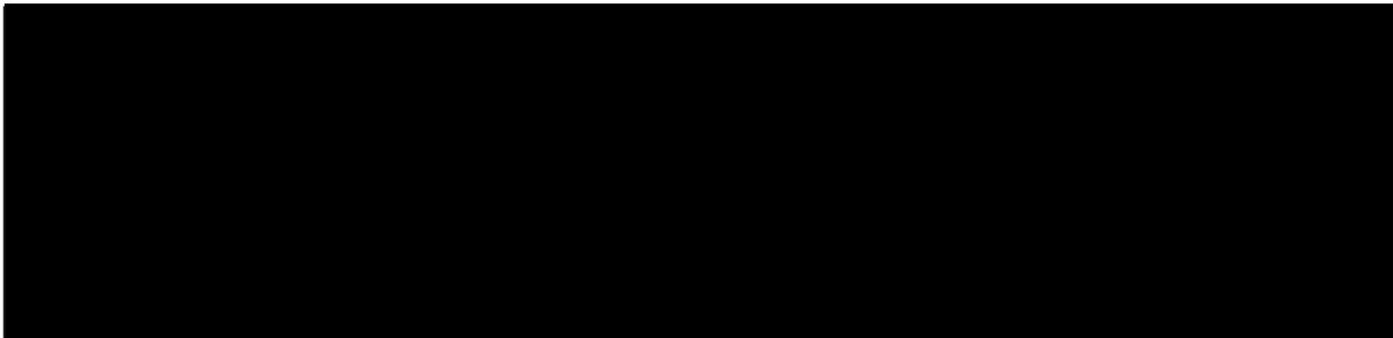
**PMCV 022 - SHROPSHIRE HEALTHWATCH AND INDEPENDENT NHS COMPLAINTS
ADVOCACY
SHROPSHIRE COUNCIL**

SUBJECT TO CONTRACT

This is an Award Decision Notice.

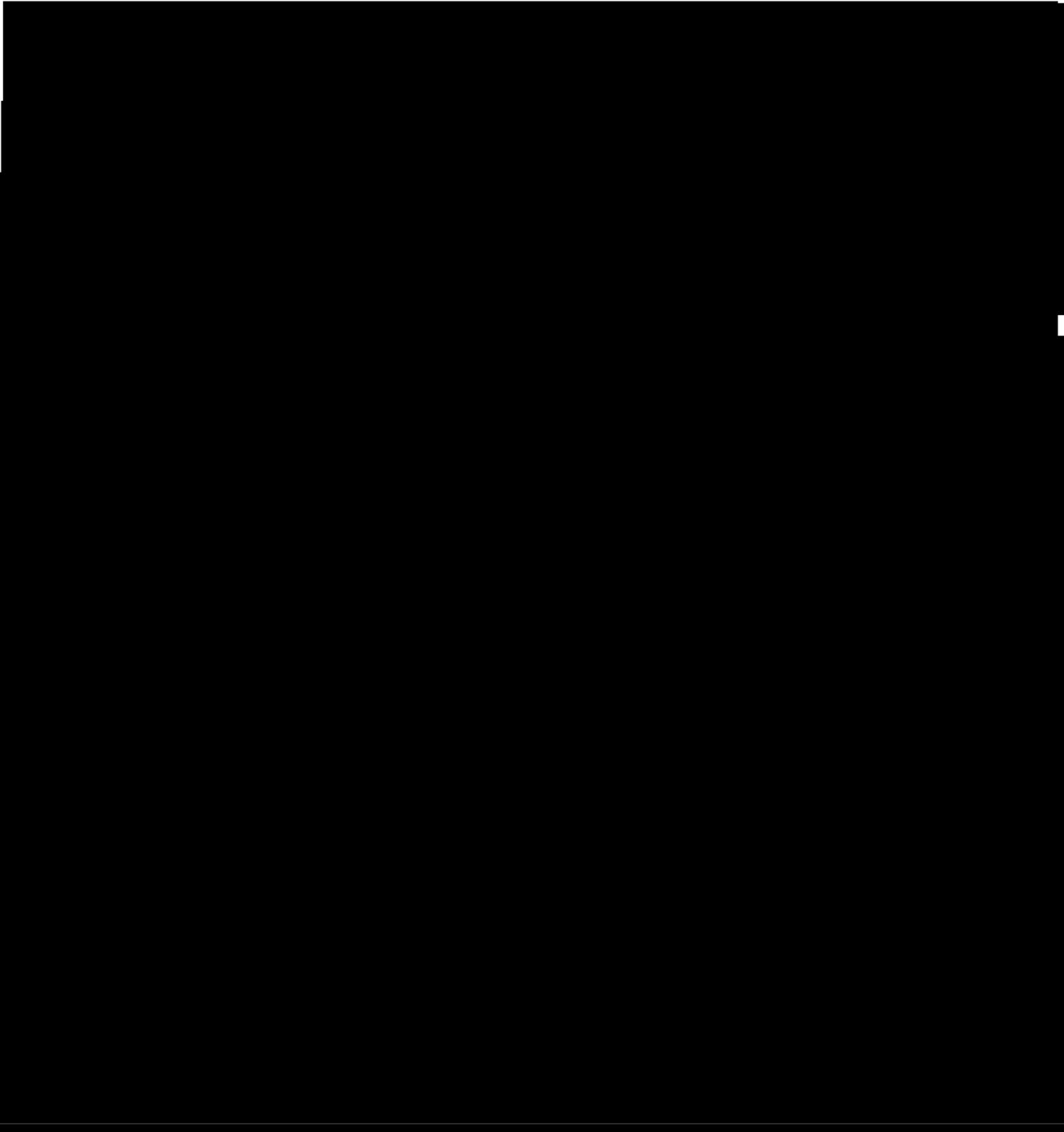
We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer in relation to the above Contracts.

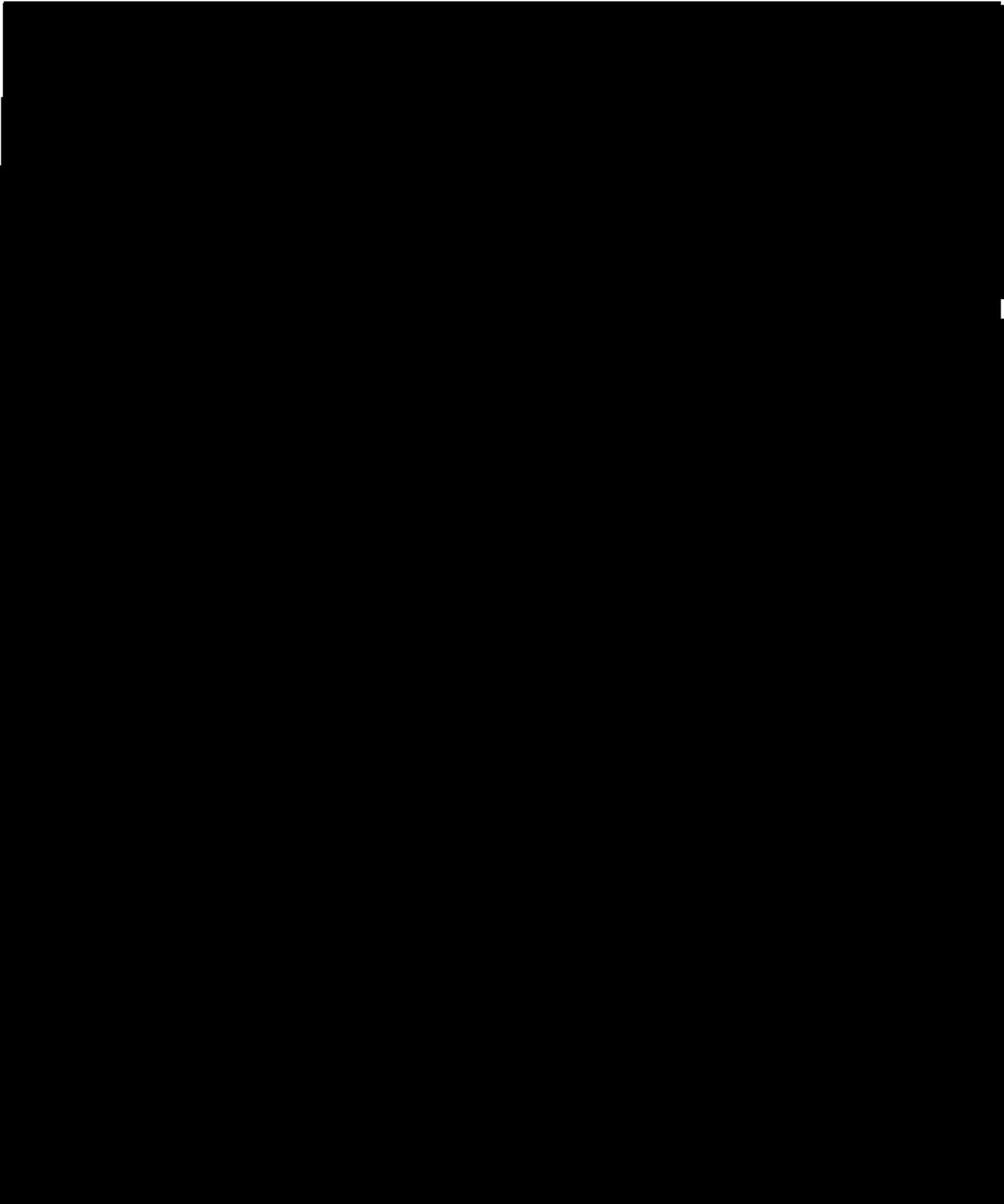
A mandatory standstill period is now in force pursuant to the Regulations; this period will end at midnight on 3rd January 2023. Shropshire Council will not enter the proposed contract before this date.

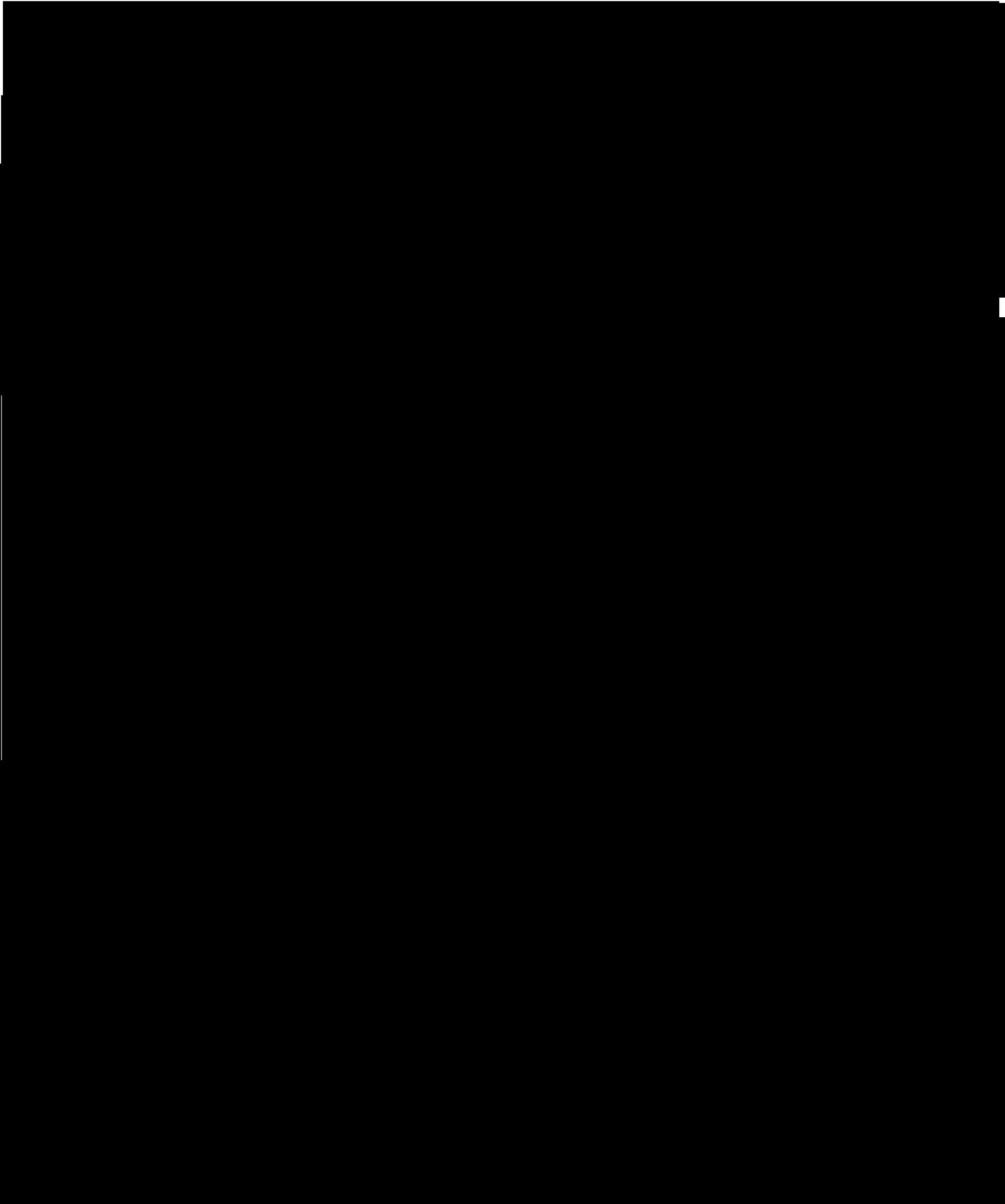


The award criteria for this contract were set out in full in Invitation to Tender with Quality accounting for 90% of the total marks and Social Value accounting for 10% of the total marks.

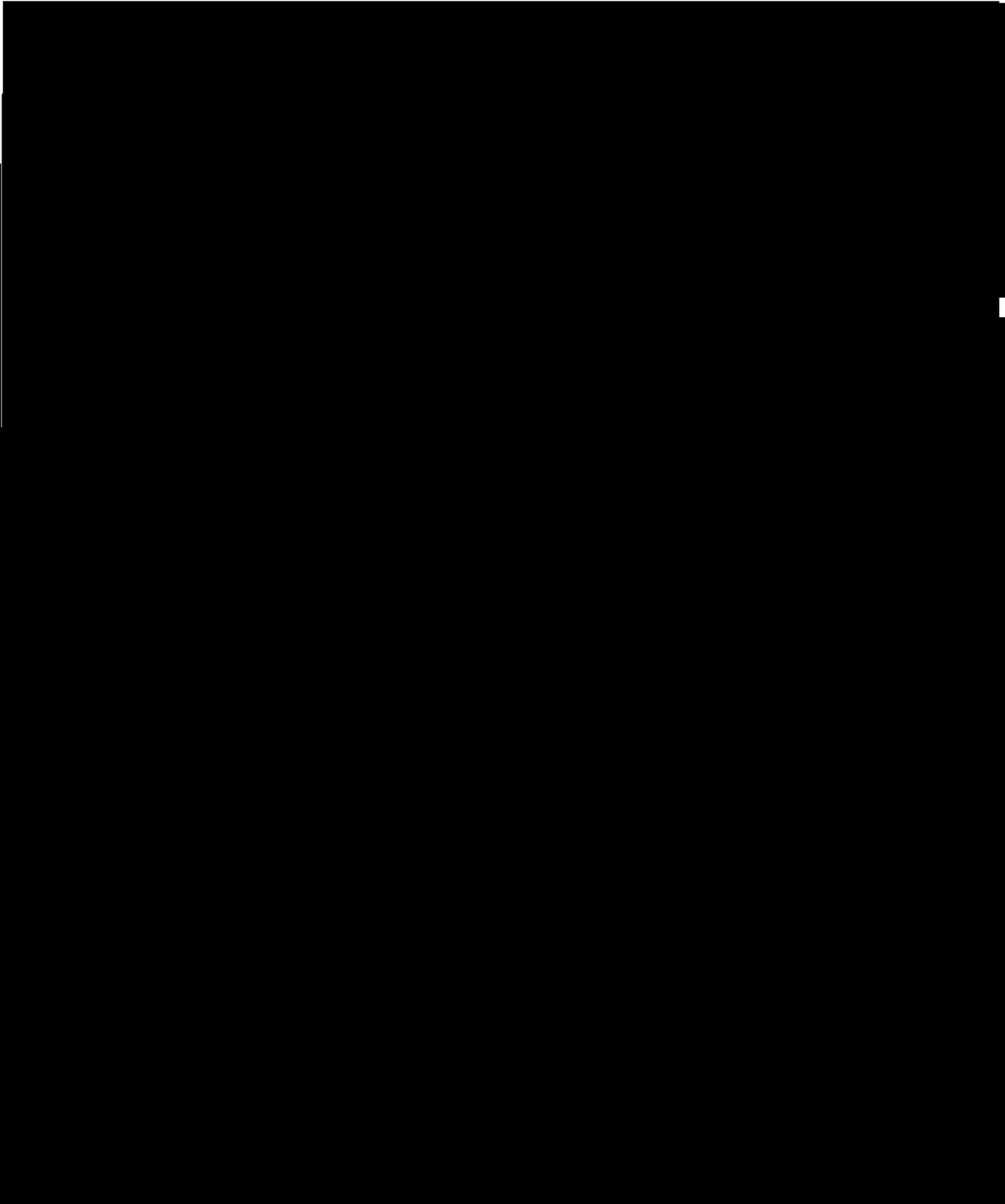
We can confirm that your tender received the following scores and ranking:-











GB-Shrewsbury: PMCV 022 - Shropshire Healthwatch and Independent NHS Complaints Advocacy

Competitive Contract Award Notice

Associated Parent Notice

CompetitiveContractNotice - GB-Shrewsbury: PMCV 022 - Shropshire Healthwatch and Independent NHS Complaints Advocacy

1. Title: GB-Shrewsbury: PMCV 022 - Shropshire Healthwatch and Independent NHS Complaints Advocacy

2. Awarding Authority:

Shropshire Council

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

Contact: Procurement, Attn: Procurement

3. Contract Type: Services

Sub Type: Health and social services.

4. Description: Health and social work services. This is an award notice for a local Healthwatch and a local Independent NHS Complaints Advocacy Service (IHCAS). The duration of the contract will be for 3 years commencing on 1st April 2023 with an option to extend for a further 2 years.

5. CPV Codes:

85000000 - Health and social work services.

6. NUTS Codes :

UKG22 - Shropshire CC

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

8. Reference Attributed by the Awarding Authority: PMCV 022

9. Awarded to:

Is Awardee likely to subcontract?: No Awarded to SME?: No

10. Date of Contract Award: 04/01/2023

11. Number of Tenders Received: 2

12. Other Information:

Other Information: To view this notice, please click here:

<https://www.delta-esourcing.com/delta/viewNotice.html?noticeId=747541744>

Suitable for VCO: Yes

Procedure Type:OPEN

Period of Work Start date: 01/04/2023

Period of Work End date: 31/03/2028