

DATED

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**CALL-OFF TERMS AND CONDITIONS FOR THE PROVISION OF  
FOSTERING AGENCY PLACEMENTS**

Lot(s) X

between

[INSERT DETAIL OF CONTRACTING BODY]

and

[INSERT DETAIL OF PROVIDER]



## CONTENTS

1.	DEFINITIONS AND INTERPRETATION .....	3
2.	TERM .....	12
3.	NOT USED .....	13
4.	CONSENTS, PROVIDER'S WARRANTY AND DUE DILIGENCE .....	13
5.	SUPPLY OF SERVICES .....	15
6.	SERVICE LEVELS / KEY PERFORMANCE INDICATORS .....	15
7.	SERVICE STANDARDS .....	16
8.	HEALTH AND SAFETY .....	17
9.	STEP IN RIGHTS .....	18
10.	EXIT MANAGEMENT .....	20
11.	CHARGES AND PAYMENT .....	20
12.	NOT USED .....	25
13.	KEY PERSONNEL .....	25
14.	OTHER PERSONNEL USED TO PROVIDE THE SERVICES .....	27
15.	SAFEGUARDING SERVICE USERS .....	28
16.	NOT USED .....	28
17.	REPORTING AND MEETINGS .....	28
18.	MONITORING .....	29
19.	CHANGE CONTROL .....	29
20.	DISPUTE RESOLUTION .....	29
21.	SUB-CONTRACTING AND ASSIGNMENT .....	30
22.	INDEMNITIES .....	31
23.	LIMITATION OF LIABILITY .....	32
24.	INSURANCE .....	33
25.	FREEDOM OF INFORMATION .....	34
26.	DATA PROTECTION .....	35
28.	AUDIT .....	38
29.	INTELLECTUAL PROPERTY .....	39
30.	TERMINATION ON NOTICE OR FOR BREACH .....	41
31.	TERMINATION ON MANDATORY GROUNDS .....	43
32.	FORCE MAJEURE .....	44
33.	PREVENTION OF BRIBERY .....	44
34.	CONSEQUENCES OF TERMINATION .....	46
35.	NON-SOLICITATION .....	46
36.	WAIVER .....	46
37.	CULMINATION OF REMEDIES .....	47
38.	SEVERABILITY .....	47
39.	PARTNERSHIP OR AGENCY .....	47
40.	THIRDPARTY RIGHTS .....	47
41.	PUBLICITY .....	47
42.	NOTICES .....	48
43.	ENTIRE AGREEMENT .....	48
44.	DISCRIMINATION .....	48
45.	COUNTERPARTS .....	48
46.	GOVERNING LAW AND JURISDICTION .....	49
SCHEDULE 1	SPECIFICATION .....	50
SCHEDULE 2	SERVICE LEVELS / KEY PERFORMANCE INDICATORS .....	99
PART 1	SERVICE LEVELS .....	99
SCHEDULE 3	PROVIDER'S TENDER/OFFER .....	101
SCHEDULE 4	INDIVIDUAL PLACEMENT AGREEMENT .....	102
SCHEDULE 5	RETAINED PLACEMENT AGREEMENT .....	112
SCHEDULE 6	NOT USED .....	115
SCHEDULE 7	CHANGE CONTROL .....	116

**THIS AGREEMENT** is dated [DATE]

## **PARTIES**

- (1) [NAME AND ADDRESS OF CONTRACTING BODY] (**Contracting Body**).
- (2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Provider**).

individually the "party" and together the "parties".

## **BACKGROUND**

- (A) The Contracting Body has been seeking proposals for the provision of fostering agency placements and it has called -off from the Flexible Agreement.
- (B) Following the Provider's Offer or Tender, the Contracting Body has appointed the Provider to Lot \* as a potential provider of the Services in accordance with the Service Contract
- (C) Following the procedure outlined in the Flexible Agreement, the Contracting Body has selected the Provider to provide the Services on the terms set out in these Call-Off Terms and Conditions.

## **AGREED TERMS**

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1 The definitions and rules of interpretation in this clause apply in these Terms and Conditions

**Achieved Service Levels:** in respect of any Service in any measurement period, the standard of performance actually achieved by the Provider in the provision of that Service in the measurement period in question (calculated and expressed in the same way as the Service Level for that Service is calculated and expressed in Schedule 2).

**Action Plan:** means the plan that a Provider must provide to the Contracting Body where they have been given a compliance notice or Inadequate or Requires Improvement Judgement from Ofsted (or equivalent Regulatory Body ), or a plan which the Provider must provide the Contracting Body where a Formal Improvement Notice has been served by the Contracting Body.

**Additional Service(s):** shall mean any Services agreed by the parties to be provided by the Provider in addition to the Minimum Requirements in relation to any IPA.

**Additional Price** shall mean the Price for Additional Services as agreed by the Contracting Body during the Call-Off Process as detailed in the IPA.

**Affected Services:** has the meaning given in clause 9.1(a).

**Agreed Purposes:** the data to be processed as part of the Services.

**Anticipated Services:** means the Services as agreed by the parties to be provided by the Provider as detailed within the IPA.

**Annual Tier Review:** means the review undertaken by the Council on or around the Flexible Agreement Commencement Date to ensure all Providers still meet the Minimum Requirements of the Flexible Agreement as set out in the ITP.

**Application:** means the submission by an Applicant in response to the Find a Tender Notice seeking admission onto the Flexible Agreement.

**Applicable Laws:** means all applicable laws, statutes, regulations and codes from time to time in force.

**Associated Company:** any holding company from time to time of the Provider and any subsidiary from time to time of the Provider, or any subsidiary of any such holding company.

**Authorised Representatives:** the persons respectively designated as such by the Contracting Body and the Provider, as set out in Schedule 5.

**Best Industry Practice:** the standards which fall within the upper quartile in the relevant industry for the provision of comparable services which are substantially similar to the Services or the relevant part of them, having regard to factors such as the nature and size of the parties, the service levels, the term, the pricing structure and any other relevant factors.

**Blackburn, Blackpool, Cumbria and Lancashire (BBCL) Boundary:** means the locations identified within the Invitation to Participate document.

**Blackburn, Blackpool and Lancashire (BBL) Boundary** means the locations identified within the Invitation to Participate document.

**Wider Blackburn, Blackpool, Cumbria and Lancashire (Wider BBCL) Boundary:** means the locations identified within the Invitation to Participate document.

**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.

**Business Continuity Plan:** the plan to be prepared and delivered by the Provider pursuant to Schedule 9.

**Caldicott Principles:** the principles relating to data security and confidentiality arising from the Caldicott review, as updated from time to time.

**Care Plan:** means the document drawn up where a Child/family is receiving Services from a Contracting Body which contains information relating to the Child and their family, and Services to meet the needs of the Child or young person in relation to future plans for them.

**Catastrophic Failure:**

- A. any action by the Provider, whether in relation to the Services and these Terms and Conditions or otherwise, which in the reasonable opinion of the Contracting Body has or may cause significant harm to the reputation of the Contracting Body.
- B. there is a safeguarding issue which cannot be remedied.

**Change:** any change to these Terms and Conditions including to any of the Services.

**Change Control Procedure:** the procedure for changing these Terms and Conditions, as set out in Schedule 7.

**Charges:** the charges which shall become due and payable by the Contracting Body to the Provider in respect of the Services in accordance with the provisions of clause 11 of these Terms and Conditions and as further particularised in the Service Contract.

**Child/Children** means Children and Young People being a CLA;

**Children Looked After or CLA:** means a Child who is looked after by the Council as part of an interim or full care order or voluntarily through Section 20 of the Children Act 1989 as amended by the Children Act 2004.

**Children in Care Council:** means a group or committee within the Council, which provide every Child in care an opportunity to share their views and experiences of the care system directly to those responsible for corporate parenting.

**Commencement Date:** the date set out in the IPA

**Commercially Sensitive Information:** the information listed in Schedule 3 comprising the information of a commercially sensitive nature relating to the Provider, its intellectual property rights or its business or which the Provider has indicated to the Contracting Body that, if disclosed by the Contracting Body, would cause the Provider significant commercial disadvantage or material financial loss.

**Consistent Failure:** shall have the meaning set out in Part 3 of Schedule 2.

**Contracting Authority:** shall mean any contracting authority as defined in Regulation 2 of the Public Contract Regulations 2015.

**Contracting Body:** means the Council and such other bodies as are identified and/or described in the Find a Tender Notice.

**Contract Year:** a period of 12 months, commencing on the Commencement Date.

**Controller, Processor, Data Subject, Joint Controller, Personal Data, Personal Data Breach, Processing and appropriate technical and organisational measures:** as set out in the Data Protection Legislation in force at the time.

**Corporate Parenting Board or CPB:** means the group, made up of representatives from the Contracting Body, Children in Care Council, elected members and other organisations, which meets regularly to talk about issues for Children in care and take action(s) to address matters identified.

**Council:** means Lancashire County Council of PO Box 100, County Hall, Preston, Lancashire PR1 0LD.

**Data Discloser:** a party that discloses Shared Personal Data to the other party.

**Data Protection Legislation:** means all applicable data protection and privacy legislation in force from time to time in the UK including the 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 and all Applicable Law about the processing of personal data and privacy.

**Default Notice:** is defined in clause 5.2.

**Dispute Resolution Procedure:** the procedure set out in clause 20.

**Disputed Services:** means the Services the Provider states they have delivered in addition or less than that of the Anticipated Services as notified by the Provider to the Council by way of the change request form.

**DPA:** means the Data Protection Act 2018 as amended from time to time.

**Education Health and Care Plan or EHC:** means a legal document that describes a Child or young person's special educational, health and social care needs, explains the extra help that will be given to meet those needs and how that help will support the Child or young person to achieve what they want to in their life.

**Enhanced Foster Care Placements:** means the services as described within Schedule 1

**EIRs:** the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

**Exit Management Plan:** the plan to be prepared and delivered by the Provider pursuant to clause 14 of the Flexible Agreement and in accordance with the principles set out in Schedule 4 of the Flexible Agreement.

**Fraud:** means any offence under Laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Service Contract or defrauding or attempting to defraud or conspiring to defraud the Contracting Body.

**FOIA:** the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

**Force Majeure:** any cause affecting the performance by a party of its obligations under these Terms and Conditions arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Provider, the Provider's Personnel or any other failure in the Provider's supply chain.

**Formal Improvement Notice:** sets out actions that must be delivered in a specific timeframe as well as detailing actions that the Contracting Body intends to take if continuing concerns are not addressed in full. This may include a change of Tier position or suspension/ removal from the Flexible Agreement.

**Foster Carer:** means a carer who is registered with an independent fostering agency and Ofsted (or equivalent Regulatory Body) and/or Care Inspectorate.

**Good:** is a judgement given by Ofsted (or equivalent Regulatory Body) following an inspection of a Provider.

**Health Plan:** means a plan which is developed to reflect the Child's health needs and is included as part of the Child's overall Care Plan.

**Home:** means the Foster Carer's residence in which the Services are delivered.

**Inadequate** is a judgement given by Ofsted (or equivalent Regulatory Body) following an inspection of a Provider;

**Individual Education Plan or IEP:** means a planning, teaching and reviewing tool for individual Children with special education needs and/or disability (SEND). Children with an Education Health and Care (EHC) Plans will often have an IEP in place.

**Individual Placement Agreement or IPA:** means an agreement whereby a Contracting Body agrees to purchase, and the Provider agrees to provide the Services for a Child's individual needs, substantially in the form as set out in Schedule 4. Contracting Bodies may use a different template from time to time.

**Information:** has the meaning given under section 84 of FOIA.

**Intellectual Property:** any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trade marks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of the Contracting Body's, marketing methods and procedures and advertising literature, including the "look and feel" of any websites.

**Invitation to Participate or ITP:** means the Council's invitation to Providers to participate in the Flexible Agreement

**Key Personnel:** those personnel who are identified by each party as being key to the success of the implementation and/or operation of the Services as a whole, as modified pursuant to clause 13.

**Management Reports:** the reports to be prepared and presented by the Provider in accordance with clause 17 to include a comparison of Achieved Service Levels with the Service Levels in the measurement period in question and measures to be taken to remedy any deficiency in Achieved Service Levels.

**Material Breach:** means a breach of a material obligation under these Terms and Conditions.

**Minimum Requirements:** means the requirements as set out in Section 8 of the Lot 1 Standard Foster Care Specification in Schedule 1 of these Terms and Conditions.

**Minimum Criteria:** means the requirements which must be met by a Provider to be awarded a Flexible Agreement as set in Invitation to Participate document.

**National Minimum Standards:** means the standards set out in the Department for Education Document Ref: ISBN 978-1-84775-867-5, DfE-00029-2011 available at <https://www.gov.uk/government/publications/fostering-services-national-minimum-standards>

**Necessary Consents:** all approvals, certificates, authorisations, permissions, licences, permits, regulations and consents necessary from time to time for the performance of the Services.

**Notifiable Event/Events:** means any occurrence of significant events as more particularly detailed in Regulation 36 of the Fostering Services (England) Regulations 2011.

**Offer:** means the Offer from the Provider to provide the Services.

**Ofsted:** means the Regulatory Body responsible for registration and inspection of the Provider.

**Pathway Plan:** means a plan detailing the Child's needs and support, in order to support a Child map out their future, articulate their aspirations and identify interim measures which may overlap into other services/provisions provided outside of the Service Contract.

**Personal Education Plan or PEP:** means a record of how professionals around the Child Looked After will support their educational outcomes and achievement;

**Payment Period:** a period of 4 (four) weeks the commencement of which will be defined by the Contracting Body and set out in a schedule to be issued to the Provider, or as instructed from time to time by the Contracting Body.

**Permitted Recipients:** the parties to the Service Contract, the employees of each party including any third parties engaged to perform obligations in connection with the Service Contract.

**Placement:** means the act of accommodating a Child in a registered and appropriately matched Foster Carer's Home for the period of time for which the Services are provided.

**Placement Plan:** means the plan that forms part of the overall Care Plan. This information should be shared at the Placement Planning Meeting before the start of a Placement or very soon thereafter.

**Placement Planning Meeting:** means meeting to ensure the Child's Placement Plan is kept up to date and aligned to broader plans, such as a Care Plan, Personal Education Plan or Pathway Plan as well as a forum to discuss the Child's background, day to day care, medical issues and safe caring both before and during Placement.

**Placement Request:** means a request for Offers from Provider(s) to deliver Placement(s).

**Prohibited Act:** the following constitute Prohibited Acts:

to directly or indirectly offer, promise or give any person working for or engaged by the Contracting Body a financial or other advantage to:

- (i) induce that person to perform improperly a relevant function or activity; or
- (ii) reward that person for improper performance of a relevant function or activity;

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 the Service Contract.

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 the Service Contract or any other contract with the Contracting Body; or
- (iv) defrauding, attempting to defraud or conspiring to defraud the Contracting Body.

**Provider Party:** the Provider's agents and contractors, including each Sub-Contractor.

**Provider's Personnel:** all employees, staff, Foster Carer, other workers, agents and consultants of the Provider and of any Sub-Contractors who are engaged in the provision of the Services from time to time.



**Provider's Tender/Offer:** the tender submitted by the Provider to the Contracting Body in response to the Contracting Body's invitation to Providers for formal offers to supply it with the Services and other associated documentation set out in Schedule 3.

**Referral:** means a request for the Provider to place a Child with a Foster Carer pursuant to the terms of these Terms and Conditions which for the avoidance of doubt is done via a Referral Form, which may also be referred to as a Placement Request.

**Registered Household:** means an approved Foster Carer residence that can provide a Child with a safe and secure Placement.

**Regulated Activity:** in relation to Children shall have the same meaning as set out in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 and in relation to vulnerable adults shall have the same meaning as set out in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.

**Regulatory Bodies** those government departments and regulatory, statutory and other entities, committees, ombudsmen 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 the Terms and Conditions or any other affairs of the Contracting Body and "Regulatory Body" shall be construed accordingly.

**Remediation Notice:** a notice served by the Contracting Body in accordance with clause 30.2(a).

**Replacement Services:** any services that are identical or substantially similar to any of the Services and which the Contracting Body receives in substitution for any of the Services following the termination or expiry of the Service Contract, whether those services are provided by the Contracting Body internally or by any Replacement Provider.

**Replacement Provider:** any third-party Provider of Replacement Services appointed by the Contracting Body from time to time.

**Requires Improvement** is a judgement given by Ofsted (or equivalent Regulatory Body) following an inspection of a Provider;

**Retained Placement Agreement** means an agreement (as set at Schedule 5) whereby the Contracting Body agrees to pay a retainer fee for a limited time period to secure the use of a placement within a Registered Household. This would be entirely at the Provider's discretion to offer and the Contracting Body's discretion to accept.

**Request for Information:** a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations.

**Scheduled Payment:** payment of Charges to the Provider at defined intervals in respect of Services delivered under this Service Contract.

**Service Contract:** the legally binding agreement for the provision of Services made between a Contracting Body and the Provider comprising:

- (i) the Call-Off Terms and Conditions;

- (ii) the IPA;
- (iii) the Tender (where applicable);
- (iiii) the Offer (where applicable)

**Service Failure:** a failure by the Provider to provide the Services in accordance with any individual Service Level.

**Service Levels:** the service levels to which the Services are to be provided, as set out in Schedule 2.

**Services:** the Services to be delivered by or on behalf of the Provider under these Terms and Conditions, as more particularly described in Schedule 1 (Specification).

**Service Model:** means the Provider's submission as set at Schedule 3 of the Flexible Agreement.

**Stability Meeting:** means a meeting held between the Provider, Children's Social Care and any other relevant parties when a placement starts to cause concern and, if issues are not addressed, is at risk of breaking down. The purpose of the meeting is to collectively explore options and agree actions in order to prevent an unnecessary placement breakdown.

**Standard Foster Care Placement:** means the services as described in Schedule 1.

**Sufficiency Duty:** means that each Contracting Body is required to have regard to the benefit of having a number of accommodation providers in their area and a range of accommodation capable of meeting different needs.

**Service User:** means any individual notified by the Contracting Body to the Provider as requiring the Services and is also referred to as Child/Children.

**Shared Personal Data:** the personal data to be shared between the parties under clause 26.1 of the Terms and Conditions. Shared Personal Data shall be confined to the following categories of information relevant to the following categories of data subject:

- a) Data Subjects to include any or all of the following: staff (including volunteers, agents and temporary workers), Service Users, Service Users' family, suppliers or any other such data subjects as detailed in the main body of these Terms and Conditions and any Schedules and Appendices as appended to it.
- b) The categories of data to be processed shall be defined only insofar as they relate to the detail of the main body of the Terms and Conditions and any Schedules and Appendices as appended to it.

**Step Down to Foster Care:** means the services as described in Schedule 1.

**Step-in Actions:** has the meaning given in clause 9.1(d).

**Step-in Event:** means:

- a) the Provider is in material breach of the Service Levels for a consecutive period of 60 days;

- b) the Contracting Body has reasonable grounds for believing that the Provider is unable to deliver the Services, or that those Services will be in material breach of the Service Levels;
- c) a Force Majeure Event occurs that materially prevents or materially delays the performance of the Services or a substantial part of the Services by the Provider for a consecutive period of twenty (20) Working Days;
- d) the Contracting Body is required by a regulatory body that the exercise by the Contracting Body of its rights under clause 9 (Step-in rights) is necessary;
- e) a condition occurs that triggers the Contracting Body's right to terminate the Service Contract under clauses 30 or 31; or
- f) the Contracting Body has reasonable grounds for believing that there is a safeguarding concern.

**Step-in Notice:** has the meaning given in clause 9.1.

**Step-in Party:** has the meaning given in clause 9.1(a)

**Step-in Period:** has the meaning given in clause 9.1(e) and as subsequently extended pursuant to clause 9.8.

**Step-out Plan:** has the meaning given in clause 9.4.

**Sub-Contract:** any contract between the Provider and a third party pursuant to which the Provider agrees to source the provision of any of the Services from that third party.

**Sub-Contractor:** the contractors or Providers that enter into a Sub-Contract with the Provider.

**Tender:** means the documents submitted to the Contracting Body by the Provider in response to a mini-competition held by the Contracting Body for the provision of Services.

**Term:** the period commencing on the Commencement Date and ending on the completion of the Services.

**Termination Date:** the date of expiry or termination of these Terms and Conditions.

**Terms and Conditions:** means these terms and conditions together with all schedules and appendices hereto forming part of the Service Contract.

**Tiering System:** means the documents contained in the invitation to participate document.

**UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

**Working Day:** Monday to Friday, excluding any public holidays in England and Wales.

**Young Inspection:** means an inspection conducted pursuant to paragraph 2.10.3 of the Specification.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these Terms and Conditions.

- 1.3 A **person** includes a natural person, corporate or unincorporated body and partnerships (whether or not having separate legal personality).
- 1.4 The schedules form part of these Terms and Conditions and shall have effect as if set out in full in the body of these Terms and Conditions and any reference to these Terms and Conditions includes the schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Words in the singular shall include the plural and vice versa.
- 1.7 A reference to one gender shall include a reference to the other genders.
- 1.8 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.
- 1.9 A reference to **writing** or **written** includes email but not faxes.
- 1.10 Any obligation in these Terms and Conditions on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.11 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of these Terms and Conditions) at any time.
- 1.12 References to clauses and schedules are to the clauses and schedules of these Terms and Conditions; references to paragraphs are to paragraphs of the relevant schedule.
- 1.13 Where any statement is qualified by the expression **so far as a PARTY is aware** or **to a PARTY'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.
- 1.14 Where there is any conflict or inconsistency between the provisions of the Terms and Conditions and with the Flexible Agreement such conflict or inconsistency shall be resolved according to the following order of priority:
- (a) the clauses of these Terms and Conditions;
  - (b) Schedule 1 to these Terms and Conditions;
  - (c) the remaining schedules to these Terms and Conditions other than Schedule 3.
  - (d) the IPA;
  - (e) Schedule 3 to these Terms and Conditions;
  - (f) the Flexible Agreement and any other document referred to in the Flexible Agreement;

## COMMENCEMENT AND DURATION

### 2. TERM

- 2.1 The Service Contract shall take effect on the Commencement Date and shall continue for the Term unless it is otherwise terminated in accordance with the provisions of these

Terms and Conditions, or otherwise lawfully terminated, or on completion of the Services whichever is sooner.

### **3. NOT USED**

### **4. CONSENTS, PROVIDER'S WARRANTY AND DUE DILIGENCE**

- 4.1 The Provider shall ensure that all Necessary Consents are in place to provide the Services and the Contracting Body shall not (unless otherwise agreed) incur any additional costs associated with obtaining, maintaining or complying with the same.
- 4.2 Where there is any conflict or inconsistency between the provisions of the Terms and Conditions and the requirements of a Necessary Consent, then the latter shall prevail, provided that the Provider has made all reasonable attempts to obtain a Necessary Consent in line with the requirements of the Services.
- 4.3 The Provider acknowledges and confirms that:
- (a) it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Contracting Body 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 these Terms and Conditions;
  - (b) it has received all information requested by it from the Contracting Body pursuant to clause 4.3(a) to enable it to determine whether it is able to provide the Services in accordance with the terms of these Terms and Conditions;
  - (c) 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 Contracting Body pursuant to clause 4.3(b);
  - (d) it has raised all relevant due diligence questions with the Contracting Body before the Commencement Date; and
  - (e) it has entered into these Terms and Conditions in reliance on its own due diligence.
- 4.4 Save as provided in these Terms and Conditions, no representations, warranties or conditions are given or assumed by the Contracting Body in respect of any information which is provided to the Provider by the Contracting Body and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by Law.
- 4.5 The Provider as at the Commencement Date, warrants and represents that:
- (a) all information contained in the Provider's Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Contracting Body prior to entering into the Service Contract;
  - (b) it shall promptly notify the Contracting Body in writing if it becomes aware during the performance of the Service Contract of any inaccuracies in any information provided to it by the Contracting Body during such due diligence which materially and adversely affects its ability to perform the Services or meet any Service Levels;
  - (c) it has full capacity and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Service Contract and that the Service Contract has been entered into by a duly authorised representative of the Provider;

- (d) in entering the Service Contract it has not committed any Fraud;
- (e) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Service Contract;
- (f) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Service Contract;
- (g) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Provider or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Provider's assets or revenue;
- (h) it owns, has obtained or is able to obtain, valid licences for all Intellectual Property that are necessary for the performance of its obligations under the Service Contract;
- (i) in the 3 years prior to the date of the Service Contract:
  - (i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
  - (ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
  - (iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Service Contract.

4.6 The Provider shall not be entitled to recover any additional costs from the Contracting Body which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Contracting Body by the Provider in accordance with clause 4.5(b) save where such additional costs or adverse effect on performance have been caused by the Provider having been provided with fundamentally misleading information by or on behalf of the Contracting Body and the Provider could not reasonably have known that the information was incorrect or misleading at the time such information was provided. If this exception applies, the Provider shall be entitled to recover such reasonable additional costs from the Contracting Body or shall be relieved from performance of certain obligations as shall be determined by the Change Control Procedure.

4.7 Nothing in this clause 4 shall limit or exclude the liability of the Contracting Body for Fraud or fraudulent misrepresentation.

## THE SERVICES

## **5. SUPPLY OF SERVICES**

- 5.1 The Provider shall provide the Services to the Contracting Body with effect from the date set out in the IPA and for the duration of the IPA in accordance with the provisions of these Terms and Conditions.
- 5.2 In the event that the Provider does not comply with the provisions of clause 5.1 in any way, the Contracting Body may serve the Provider with a notice in writing setting out the details of the Provider's default (a **Default Notice**).
- 5.3 If the Authority serves a Default Notice on the Provider, the Provider shall at its own expense correct or remedy the default or defaults specified in the Default Notice: -
- (a) in accordance with the requirements of the Default Notice; and
  - (b) within such time as may be specified in the Default Notice,
- and shall otherwise perform the Services in accordance with the requirements of these Terms and Conditions and the IPA.

## **6. SERVICE LEVELS / KEY PERFORMANCE INDICATORS**

- 6.1 The Provider shall ensure that any element of the Services which is subject to a specific Service Level or Key Performance Indicator is provided in such a manner as will ensure that the Achieved Service Level in respect of that Service is equal to or higher than such specific Service Level.
- 6.2 The Provider shall provide records of and Management Reports summarising the Achieved Service Levels as provided for in section 7 of the Service Specification.
- 6.3 In the event that any Achieved Service Level falls short of the target Service Level, without prejudice to any other rights the Contracting Body may have, the provisions of clause 30 (Termination) shall apply.

## **7A INSTRUCTION FOR THE SERVICES**

- 7A.1 As and when the Contracting Body requires the Provider to perform Services having complied with the provisions of the Flexible Agreement and in particular Schedule 2 of the Flexible Agreement, the Contracting Body will issue an IPA.
- 7A.2 The needs and requirements of the Service User as detailed within the IPA are subject to change in accordance with the Specification (Section 4) and, in the alternate, upon notice to the Provider and at the sole discretion of the Contracting Body. Notwithstanding any changes to the IPA, the Provider must deliver the Services to the Service User as required by the Contracting Body in line with an amended IPA.
- 7A.3 All IPAs will be sent Via secure Email. The aforementioned systems may change from time to time at the sole discretion of the Contracting Body.
- 7A.4 Following the delivery of an emergency provision any ongoing provision of Services for the Service User will revert to that provision commissioned and to be delivered in line with the IPA.

7A.5 No Services shall commence and the Contracting Body shall not be liable for payment of any Charges in relation thereto unless and until a IPA has been issued in accordance with this clause 7, or, in the alternate, other instruction has been provided by the Contracting Body in line with the terms of these Terms and Conditions.

7A.6 For the avoidance of doubt no Services should be provided against any form of instruction given other than in accordance with clause 7 of these Terms and Conditions.

## **7. SERVICE STANDARDS**

7.1 Without prejudice to clause 6, the Provider warrants that it shall provide the Services, or procure that they are provided:

- a) in accordance with Best Industry Practice;
- b) at all times in compliance with the Contracting Body's requirements set out in these Terms and Conditions;
- c) in all respects in accordance with the Contracting Bodies policies set out in Schedule 1; and
- d) in accordance with all Applicable Laws.

7.2 Without limiting the general obligation set out in clause 7.1, the Provider shall (and shall procure that the Provider's Personnel shall) at all times when supplying the Services do so with all due skill, care and diligence and that the Provider's Personnel / Foster Carers supplying the Services shall possess such qualifications, skills and experience as is necessary for the proper supply of the Services.

7.3 It shall be a condition of the Service Contract that the substance of the Provider's policies and procedures shall comply with all Applicable Laws and legislative requirements.

7.4 The Provider shall at all times comply with the performance management requirements as set out in the Specification at Schedule 1, and where applicable shall maintain accreditation with any relevant authorisation body (including for the avoidance of doubt the Ofsted (Or equivalent Regulatory Body and Care Inspectorate).

7.5 If at any time during the term of the Service Contract, the Provider is inspected by the Ofsted (or equivalent Regulatory Body) and receives an overall rating of "inadequate" or inspected by the Care Inspectorate and received an overall rating of 'Weak' or 'Unsatisfactory' (or equivalent by any successor body or system of evaluation), the Provider shall inform the Contracting Body and the Council immediately and, within a timeframe to be stipulated by the Contracting Body (having consulted the Council), produce a robust Action Plan detailing improvement timescales and clear targets in order to regain a Good or better Ofsted (or equivalent Regulatory Body) rating. The Contracting Body shall discuss the Provider's Action Plan with the Council and if the Council (at its sole discretion) is not satisfied with the Provider's response, this shall amount to a Material Breach and the Council may suspend the award of Service Contracts to the Provider and/or the Contracting Body may terminate these Terms and Conditions pursuant to the provisions of clause 30 of these Terms and Conditions .

7.6 Where the Provider is failing to deliver the Services in accordance with these Terms and Conditions the Contracting Body may consult with the Council and the Council, at its sole discretion, may suspend the Provider and require the Provider to provide an Action Plan



within a timeframe stipulated by the Council. The Action Plan (to be approved by the Council in consultation with the Contracting Body) shall stipulate the Provider's proposals to deal with any failings or concerns of the Council and/or the Contracting Body. If the Council, having consulted with the Contracting Body, is not satisfied with the Provider's response this shall amount to a Material Breach and the Council or the Contracting Body may terminate the Service Contract pursuant to the provisions of clause 30 of these Terms and Conditions.

**7.7 During the period of suspension:**

- a) no further Service Contracts will be awarded to the Provider;
- b) the Provider agrees to implement their Action Plan and meet the objectives contained within the same; and
- c) payments to the Provider for the provision of ongoing services shall not cease.

**7.8** The Provider acknowledges that suspensions may be notified to other authorities, commissioners and providers as the Council or the Contracting Body sees fit. Should the Provider anticipate failure to comply with the terms of the Service Contract between the parties and the service standards, it may, at its discretion, approach the Council and request for a voluntary suspension, to take effect for a limited period to be agreed between the Council and the Provider. This will be reviewed by the Council. The Provider acknowledges that the Council or the Contracting Body is at liberty to record and monitor the reason for the voluntary suspension and acknowledges that the voluntary suspension may be notified to other authorities, commissioners and providers as the Council or the Contracting Body sees fit. Any approval of voluntary suspension will be at the sole discretion of the Council.

**7.9** Further to clause 7.8 above, any voluntary suspension sought by the Provider only has effect in relation to the award of new Service Contracts to the Provider and, for the avoidance of doubt, does not affect the Provider's existing Service Contracts.

**7.10** Timely provision of the Services shall be of the essence in the Service Contract, including in relation to the commencement and ongoing provision of Services within the time (or on a specified date) agreed by the Parties as detailed within the Service Contract.

**7.11** Without prejudice to any other rights and remedies the Contracting Body may have pursuant to these Terms and Conditions or otherwise, the Provider shall reimburse the Contracting Body for all reasonable costs incurred by the Contracting Body which have arisen as a consequence of the Provider's delay or failure in the performance of its obligations under these Terms and Conditions and which delay the Provider has failed to remedy following reasonable notice from the Contracting Body.

**7.12** The Provider shall provide the Services during the Term in accordance with these Terms and Conditions, in consideration of the mutual rights and obligations in these Terms and Conditions. The Contracting Body and or any person authorised by the Contracting Body shall have the power to visit inspect and examine (without notice) the performance of the Services at any time where the Services (or any part of them) are being performed or the Provider's nominated office.

## **8. HEALTH AND SAFETY**

**8.1** The Provider shall promptly notify the Contracting Body of any health and safety hazards, which may arise in connection with the performance of the Service Contract.

- 8.2 The Provider shall notify the Contracting Body immediately in the event of any incident occurring in the performance of the Service Contract where that incident causes any personal injury or damage to property.
- 8.3 The Provider shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to those Service Users at the Premises.
- 8.4 The 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 Contracting Body on request.

## 9. STEP IN RIGHTS

- 9.1 Without prejudice to the Contracting Body's other rights and remedies under these Terms and Conditions and at law, if a Step-in Event occurs, the Contracting Body shall have the right to issue a written step-in notice, which shall include the following information (**Step-in Notice**):
- (a) that the Contracting Body, or a third party appointed by it, or the Contracting Body jointly with that third party (**Step-in Party**) intends to perform or manage the performance of part or all of the Services (**Affected Services**);
  - (b) the details of the Step-in Event that has triggered the exercise of the Step-in Notice;
  - (c) details of the Affected Services;
  - (d) the actions that the Step-in Party intends to take in order to rectify the Affected Services (**Step-in Actions**);
  - (e) the estimated dates on which the Step-in Actions will commence and end (**Step-in Period**);
  - (f) in the Contracting Body's reasonable opinion, the extent that the Contracting Body anticipates the Step-in Actions will have on the Provider's obligation to provide the remaining Services that are not the Affected Services; and
  - (g) any other information that the Contracting Body is reasonably able to provide in relation to how the Step-in Party intends to perform the Step-in Actions.
- 9.2 On receipt of the Step-in Notice, the Provider shall, subject to clause 9.3 and at no additional cost, provide, enable or procure access for the Step-in Party to:
- (a) any of the Premises and facilities that the Contracting Body so requests; and
  - (b) any equipment and software that are used in the administration, management and provision of the Affected Services;
- for the sole purpose of enabling the Step-in Party to perform the Step-in Actions during the Step-in Period only.

- 9.3 The Contracting Body shall use reasonable endeavours to ensure that the Step-in Party's personnel and representatives that have the access as provided for under clause 9.2;
- (a) comply with all relevant health and safety requirements for any of the Provider's Premises, such requirements as notified by the Provider;
  - (b) only use the facilities, equipment or software on the Provider's instructions and exercise reasonable care when using those items so as not to cause damage; and
  - (c) do not disrupt or interfere with the Provider's obligations to deliver the Services that are not the Affected Services.
- 9.4 Within ten (10) Working Days of receipt of the Step-in Notice, the Provider shall submit to the Contracting Body a written plan setting out the measures the Provider intends to take after the Step-in Period in order to restore the Affected Services to satisfy the requirements of the Service Contract (**Step-out Plan**).
- 9.5 The Contracting Body is not liable to pay the charges relating to the Affected Services, and the Charges shall be reduced accordingly so as not to include those relating to the Affected Services.
- 9.6 During the Step-in Period, the Provider shall:
- (a) be relieved of its obligations to provide the Affected Services and shall not be liable for any liability arising out of the Affected Services not meeting the Service Levels if the Supplier can show that the sole cause of that failure is due to the Step-in Party's actions;
  - (b) continue to provide the Services that are not the Affected Services, and shall inform the Contracting Body if the Affected Services will impact on its ability to deliver those other Services;
  - (c) not receive any new Placements for Service Users at any Premises where the Affected Services are performed.
  - (d) fully cooperate and provide all reasonable assistance at no additional charge to the Step-in Party for the sole purpose of enabling the Step-in Party to perform the Step-in Actions; and
  - (e) use best endeavours to ensure that the relevant Provider's Personnel promptly follows the reasonable and lawful instructions of the Step-in Party in pursuance of the Step-in Actions.
- 9.7 The Contracting Body shall keep a written record of the Step-in Actions that the Step-in Party has taken and keep the Provider informed of the progress of the Step-in Actions.
- 9.8 The Contracting Body shall use reasonable endeavours to ensure that the Step-in Actions are completed during the Step-in Period, but if the Contracting Body reasonably deems it necessary to extend the Step-in Period, it shall inform the Provider accordingly no later than ten (10) Working Days before the Step-in Period is due to end.

9.9 If the Contracting Body is satisfied that the circumstances leading to the Step-in Event are no longer present and the Provider has demonstrated in the Step-out Plan that it can resume responsibility for the Affected Services, the Contracting Body will issue a written notice to the Provider that:

- (a) requires the Provider to resume performance of the Affected Services;
- (b) specifies the date on which the Provider shall resume such performance; and
- (c) sets out the Step-in Actions that the Step-in Party actually took during the Step-in Period.

9.10 The Provider shall be liable to the Contracting Body for all direct costs and expenses that are reasonable and necessarily incurred by Step-in Party in taking the Step-in Actions, and the Contracting Body shall use all reasonable endeavours to mitigate any such costs and expenses.

## **10. EXIT MANAGEMENT**

10.1 The Provider shall as required at clause 14 of the Flexible Agreement, within six (6) weeks of the Commencement Date of the Flexible Agreement, prepare and supply a draft Exit Management Plan.

## **11. CHARGES AND PAYMENT**

11.1 In consideration of the performance by the Provider of its obligations under the Terms and Conditions, the Council shall pay the Charges in accordance with this clause 11 and the Contracting Bodies shall pay the Charges in accordance with clause 11.2.

11.2 Other Contracting Bodies payment terms may be different from those of the Council. Notwithstanding this the Contracting Bodies will comply with Regulation 113 of the Public Contracts Regulations 2015 which requires that payment of undisputed invoices will be made within thirty (30) days of the date on which the Contracting Body has ascertained that the invoice is valid and undisputed.

11.3 The Charges are particularised in the IPA and will be in accordance with the Providers Charges submitted as part of their Application (as set out in Schedule 3 of the Flexible Agreement) unless otherwise agreed by the Provider and the Contracting Body as part of the Call-Off Process (Schedule 2 of the Flexible Agreement). The Charges may also include the retainer fee agreed as part of any Retained Placement Agreement.

11.4 The Council shall pay the Charges for which it is liable to pay the Provider on the basis of Scheduled Payments with all payments due being made to the Provider via the Banks Automated Clearing Services System (BACS) fourteen (14) days after the end of the preceding Payment Period. Details of the Provider's accounts will be provided to the Council.

11.5 At the end of the Payment Period the Council will produce a remittance of the Anticipated Services and will be sent to the Provider via email (or subsequent system) to review. The Provider must confirm via email (or subsequent system) that they accept or reject the calculation which must be done within fourteen (14) days of receipt. Changes should be notified by using a change request form. If a Provider does not confirm acceptance or

rejection for two consecutive payment periods, the Council may withhold payments until confirmation is received.

- 11.6 The Provider will not levy additional Charges that have not been agreed in the IPA. Nor will the Provider be entitled to claim payment for any alternative services that have not been agreed in the IPA without the prior written consent of the Council.
- 11.7 Where a Retained Placement Agreement (RPA) exists, Providers are required to send a claim form via email (or subsequent system) for the amount agreed in the RPA, the form will be verified by the Contracting Body and the Contracting Body shall pay the Charges for which it is liable to pay the Provider on the next Scheduled Payment to the Provider.
- 11.8 Where the Provider has delivered more than the Anticipated Services the Council shall not be obliged to make any payment to the Provider beyond the Anticipated Services unless it has given its prior written consent to the Disputed Services.
- 11.9 Where the Council has approved the Charges claimed in relation to Disputed Services the Council shall then update the Anticipated Services that were in dispute. The next Scheduled Payment to the Provider shall take into account any adjustments which have been made in the previous Payment Period and any reconciliation that is applied to the Charges by the Council.
- 11.10 Where the Provider has delivered Services less than the Anticipated Services, the Provider is obliged to notify the Council via email (or subsequent system) as soon as this is discrepancy has been identified. For the avoidance of doubt this may also include the application of the long terms discounts as per the Schedule 3 of the Flexible Agreement. The Council shall update the Anticipated Services accordingly. The next Scheduled Payment to the Provider shall take into account any adjustments which have been accrued in the previous Payment Period and any reconciliation that is applied to the Charges by the Council.
- 11.11 Charges will always be paid in arrears with undisputed Charges being paid by the Council to the Provider fourteen (14) calendar days after the end of the preceding Payment Period.
- 11.12 Upon payment being received by the Provider, the Provider shall be deemed to have represented to the Council the following information:
- (a) that those Service Users in respect of whom payment is being made are in receipt of the Services on the dates specified in the Council's Provider remittance;
  - (b) that it is managing the Care Plan for those Service Users in respect of whom payment is being made in accordance with the requirements of Schedule 1 and the IPA.
- 11.13 Where a party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be determined in accordance with the provisions of clause 20. The Council shall notify the Provider within thirty (30) calendar days of receipt of the relevant change request form giving reasons for the disputed sum and any subsequent dispute shall be resolved in accordance with the provisions of clause 20. Provided that the sum has been disputed in good faith, interest on any sums in dispute (which for the avoidance of doubt will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%) shall not accrue until the earlier of thirty (30) calendar days after resolution of the dispute between the parties. The Council may withhold payment

against any change request form or any item shown on any Anticipated Services Provider Remittance which is not submitted in accordance with the Terms and Conditions or which covers or purports to relate to Services which have not been provided in accordance with the Terms and Conditions, or which it disputes for any other reason. Should the Council withhold payment in accordance with this sub-clause, the Council shall not be deemed to be in breach of the Terms and Conditions.

11.14 The Council shall pay any amount withheld pursuant to clause 11.8 or 11.9, which has subsequently been agreed (or determined in accordance with clause 20 to be payable by the Council) fourteen (14) calendar days after the end of the preceding Payment Period following such agreement being reached or such determination being made.

11.15 The Provider shall advise the Council forthwith of any changes, errors, overpayments, underpayments or other information which may affect the amounts paid or to be paid by the Council for any Services provided under the Terms and Conditions immediately after it is identified.

11.16 The Council will adjust the Charges payable in the next Payment remittance due, to cover any under or over payments, details of which (including such supporting documentation, Care Plans or other information as are required by the Council from time to time) have been provided by the Provider. Where any sum of money shall be recoverable from or payable by the Provider as an overpayment, the same may be deducted by the Council from any sum then due or which at any time thereafter may become due to the Provider under this or any other contract with the Provider.

11.17 The Provider must notify the Council via (in the case of a Service Contract concluded with the Council, the Council's Contracting Management Team (ART) by email or in the case of a Service Contract concluded with another Contracting Body, such arrangements as are agreed between the parties) as soon as possible and in any event no later than the Council's next Working Day, if -

- a) a Service User ceases to receive a Service under these Terms and Conditions for any reason;
- b) the Provider considers that the Service User may no longer be eligible to receive the Services; and
- c) there is any other change in a Service User's circumstances which may affect the Charges.

11.18 Where a Service User is admitted to hospital or dies, or in any other circumstances where there is an unforeseen suspension or cessation of the delivery of Services, the Provider shall notify the Council in accordance with clause 30.7. In such circumstances, the Provider can claim up to the amount of Charges as set out in clause 30.7.

11.19 Where the Services are terminated by the Council in accordance with the terms of these Terms and Conditions and the minimum notice periods have been provided, no additional payment of the Charges shall be made to the Provider.

11.20 Where the Services are terminated by the Council, and the necessary notice periods have not been provided, the Provider can claim payment corresponding with the notice period as more particularly identified at clause 30.7.

- 11.21 All sums due hereunder are exclusive of VAT (details of which will be provided to the Council by the Provider) which will be paid by the Council at the prevailing rate and in the manner for the time being prescribed by law.
- 11.22 Subject to clause 11.21, the Provider shall account to HM Revenue and Customs for all taxes, contributions, liabilities, charges and dues (including PAYE and National Insurance) for which the Provider (including, for the avoidance of doubt, all staff) is liable.
- 11.23 The Provider shall indemnify and keep the Council fully and effectually indemnified against all losses, liabilities, damages, costs, charges, claims and expenses arising from or incurred by reason of any breach of clause 11.22 by the Provider.
- 11.24 For the avoidance of doubt the parties agree and acknowledge that payment of any sums by the Council under these Terms and Conditions shall be without prejudice to any claims or rights which the Council may have against the Provider and shall not constitute any admission or waiver by the Council as to the performance by the Provider of its obligations hereunder.
- 11.25 Unless otherwise stated the Charges are inclusive of all costs and expenses which may be incurred by the Provider in carrying out its obligations hereunder and no additional charges will be payable by the Council unless agreed in advance by the parties.
- 11.26 The Provider shall at all times maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Council pursuant to these Terms and Conditions. Such records shall be retained for inspection by the Council for 7 years from the end of the Contract Year to which the records relate.
- 11.27 Where the Provider enters into a Sub-Contract with a supplier or contractor for the purpose of performing the Service Contract, it shall cause a term to be included in such a Sub-Contract that requires payment to be made of undisputed sums due by the Provider to the Sub-Contractor within a specified period not exceeding thirty (30) calendar days from the date on which the Provider has ascertained (which shall be no more than fourteen(14) days from receipt of the invoice) that the invoice received is valid and undisputed.
- 11.28 Should the Provider choose to appoint a factoring or invoice management agency to manage the payments it receives under these Terms and Conditions, the Council will not liaise or discuss payments with the appointed agency and all communications regarding outstanding payments will remain solely between the Council and the Provider, save for any confirmation received from the appointed agency or the Provider that the arrangement with the agency has ceased.
- 11.29 Late payment of the Charges by the Council does not permit the Provider to delay or suspend provision of the Services.
- 11.30 If applicable, and where there is a consortium of Providers providing the Services, payments will be made to the lead Provider only. The lead Provider is then solely responsible for administering payments to the consortium of Providers.

## **REVIEW OF CHARGES**

- 11.31 The Charges shall remain fixed until the anniversary of the Commencement Date. Thereafter from the first anniversary of the Flexible Agreement the Council shall offer a

maximum annual Charge adjustment in respect of all Services to cover inflation. Any adjustment will not be automatic and will be on application to the Council. If a Provider's application for the adjustment is accepted, it will become effective from 5th May each year for all existing IPAs a Contracting Body has entered into with that Provider under the Flexible Agreement and new IPAs a Contracting Body may enter into with that Provider under the Flexible Agreement.

11.32 Providers may elect to waive, take up in part or take up in full the Charge adjustment. Inflation shall be measured as an average of three months Consumer Price Index (CPI) as published by the Office for National Statistics prior to the date of the Council's offer letter to Providers. The Council reserves the right to amend the way in which it uses the published CPI to calculate the Charge adjustment throughout the term of the Flexible Agreement, any such amendment to the calculation will be limited to the following:

- i. Using an average of the previous 12 months published CPI
- ii. Using an average of the previous 6 months published CPI
- iii. Using the previous month published CPI

11.33 For the avoidance of doubt, acceptance of the full, part, or no inflationary uplift will be binding from the anniversary of the Commencement Date to which the uplift applies. Retrospective inflationary uplifts requests will not be considered.

11.34 The Council reserves the right to require any Provider to take part in open book accounting or a dialogue with the Council so that the Council may gain an understanding of their Charges before awarding the inflationary adjustment. Where a Provider is required to take part in open book accounting but refuses to or where on review of the Provider's accounts the Council considers, in its reasonable opinion, that incorrect accounting procedures, double charging or other unacceptable practices are being conducted or where they do not represent a true reflection of the actual financial circumstances of the Provider, the Council reserves the right to withhold any inflationary uplift.

11.35 Providers should note and consider that their current price (including any adjustments) will be reviewed at the Annual Tier Review and may affect their Tier position.

11.36 Decreases in Charges will be accepted without application

11.37 Notwithstanding the provisions of clause 11.32, the Provider may request an additional review of Charges once per calendar year. The Council will only consider increasing the Charges payable to the Provider as a result of the following evidenced circumstances only and in any event, only in circumstances where the Provider has incurred an increase of its costs due to factors entirely out of its control, manageability and foreseeability:

- a) Changes to the living wage or inflation resulting in the delivery of Services under the Terms and Conditions being unsustainable for the Provider;
- b) An increase in auto-enrolment pension contributions; and
- c) Any other evidenced circumstances or situation in the Council complete and sole discretion.

11.38 Prior to agreeing to any additional increase in Charges, where appropriate, the Provider must agree to an open book exercise to demonstrate that cost increases are due to factors outside its control, manageability and foreseeability and the same cannot be offset by operational efficiencies. The Contracting Bodies budgetary constraints and any such other considerations that the Council considers are relevant may also be taken into account in



assessing any Charge increase request from the Provider. The Council makes no representation and offers no guarantee that any increase will be applied to the Charges following any review or assessment carried out.

11.39A Provider request for a review of Charges under Clause 11.37 must be made in advance of the relevant Contract Year to which the requested uplift of Charges relates, to take effect from the commencement of that Contract Year. For the avoidance of doubt, where the Council agrees to a Provider's requested uplift of Charges, the effective date on which the revised Charges will apply for the relevant Contract Year will be the later of the commencement date of that Contract Year or, if not requested in advance of that Contract Year, the date in that Contract Year on which the request was submitted to the Council.

## **12. NOT USED**

### **STAFF**

## **13. KEY PERSONNEL**

- 13.1 The Provider acknowledges that the Key Personnel are essential to the proper provision of the Services to the Contracting Body.
- 13.2 The Key Personnel shall not be released from supplying the Services without the agreement of the Contracting Body (which shall not be unreasonably withheld or delayed), except by reason of long-term sickness, maternity leave, paternity leave or termination of employment, resignation by the Key Personnel and other extenuating circumstances.
- 13.3 In the event that the Key Personnel stops providing the Services in accordance with clause 13.2, the Provider shall immediately notify the Contracting Body.
- 13.4 Any replacements to the Key Personnel shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
- 13.5 Replacements to the Key Personnel shall not have a detrimental impact on the provision of the Services. Where the Provider reasonably considers the change in Key Personnel will

have a detrimental impact on the Services, it shall immediately notify the Contracting Body and the parties shall work in good faith to mitigate the risks to delivery of the Services.

- 13.6 Each party shall ensure that the role of each of its Key Personnel is not vacant (in terms of a permanent representative) for more than twenty (20) Working Days (or such other reasonable period as may be agreed between the parties).
- 13.7 The Contracting Body may require the Provider to remove, or procure the removal of, any of its Key Personnel whom it considers, in its reasonable opinion, to be unsatisfactory for any reason which has a material impact on such person's responsibilities.
- 13.8 If the Provider replaces the Key Personnel as a consequence of this clause 13, the cost of effecting such replacement shall be borne by the Provider.

#### **FOSTER CARERS**

- 13.9 The Provider shall ensure that the Foster Carers shall comply with:
- i. The National Minimum Standards;
  - ii. The Caldicott Principles;
  - iii. All Applicable Laws; and
  - iv. Any directions of the Contracting Body from time to time.
- 13.10 The parties have agreed to the appointment of the Foster Carers to host and deliver the Services directly to the Child. The Provider shall not remove the Child from the Foster Carers, place the Child with new Foster Carers or alter the delivery of Care Services without having first obtained the prior written approval of the Contracting Body, save as otherwise provided for in this Contract or in an emergency in which case the Provider shall advise the Contracting Body of the removal or change within 24 hours.
- 13.11 The Provider shall enter into a written Placement Plan with the Foster Carers in accordance with the National Minimum Standards and shall maintain the Placement Plan throughout the Term.
- 13.12 The Provider shall be responsible for the acts and omissions of the Foster Carers as though they were its own.
- 13.13 The Provider acknowledges that the Foster Carers are essential to the proper provision of the Services to the Contracting Body. The Provider shall ensure that Foster Carers shall have suitable qualifications and experience and be fully competent to carry out the Care Services and such other tasks assigned to them from time to time.
- 13.14 The Provider shall ensure that Foster Carers receive, and that others living in the Home are offered, comprehensive and relevant training and development throughout the Term.
- 13.15 Within 24 hours of the Provider becoming aware that the Foster Carer wishes to move to an alternate provider it shall advise the Contracting Body in writing of the Foster Carer's

intention and the proposed provider, together with contact details for the proposed provider.

- 13.16 Where a Foster Carer moves to an alternate provider the Provider shall at all times comply with the Fostering Network's Transfer of Carers Protocol England and Wales 2012, or such other guidance as the Contracting Body may from time to time direct. For avoidance of doubt, the IPA arrangements regarding Price shall, subject to contrary written agreement from the Contracting Body, not be any higher and the Care arrangements will remain the same. Should the Contracting Authority wish to novate this contract to the alternate provider identified in accordance with clause 13.15 the Provider shall take all such actions as the Contracting Authority considers desirable to affect the novation. Such a novation shall not relieve the Provider of any liability in relation to this Contract for acts or omissions prior to the date of the novation, but shall relieve the Provider of future obligations under this Contract as of the effective date of the transfer of the Services as outlined in the deed of novation.
- 13.17 Where the Foster Carers wish to engage with the Contracting Body Staying Put policy, or any equivalent programme for Children who reach the age of 18, the Provider shall encourage and assist the Foster Carers to take part in the policy.

#### **14. OTHER PERSONNEL USED TO PROVIDE THE SERVICES**

- 14.1 At all times, the Provider shall ensure that:
- a) each of the Provider's Personnel is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
  - b) there is an adequate number of Provider's Personnel to provide the Services properly;
  - c) only those people who are authorised by the Provider (having regard to any authorisation procedure agreed in writing between the parties, in the event that such exists) are involved in providing the Services; and
  - d) all of the Provider's Personnel comply with all of the Council's and/or the Contracting Body's policies including those that apply to persons who are allowed access to the applicable Council's or Contracting Body's Premises.
- 14.2 The Contracting Body may refuse to grant access to, and remove, any of the Provider's Personnel who do not comply with any such policies, or if they otherwise present a security threat.
- 14.3 The Provider shall replace any of the Provider's Personnel who the Contracting Body reasonably decides have failed to carry out their duties with reasonable skill and care. Following the removal of any of the Provider's Personnel for any reason, the Provider shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services.
- 14.4 The Provider shall maintain up-to-date personnel records on the Provider's Personnel engaged in the provision of the Services and, on request, provide reasonable information to the Contracting Body on the Provider's Personnel. The Provider shall ensure at all times that it has the right to provide these records in compliance with the applicable Data Protection Legislation.

14.5 The Provider shall use its best endeavours to ensure continuity of personnel and to ensure that the turnover rate of its staff engaged in the provision or management of the Services is at least as good as the prevailing industry norm for similar services, locations and environments.

14.6 The Provider shall immediately notify the Council and the Contracting Body in the event of any significant staffing changes including, but not limited to, an unexpected increase in staff turnover or the increased use of agency staff to deliver commissioned hours.

## **15. SAFEGUARDING SERVICE USERS**

15.1 The Provider shall ensure that all individuals engaged in the provision of the Services are:

- a) 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) the Provider shall monitor the level and validity of the checks under this clause 15.1 for each member of staff.

15.2 The Provider warrants that at all times for the purposes of the Service Contract it has no reason to believe that any person who is or will be employed or engaged by the Provider in the provision of the Services would be 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.

15.3 The Provider shall immediately notify the Contracting Body of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 15 have been met.

15.4 The Provider shall refer information about any person carrying out the Services to the Disclosure and Barring Service where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to any Service Users/Children/vulnerable adults.

15.5 The Provider shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that they would not be suitable to perform the Services or who may otherwise present a risk to Service Users.

## **16. Not used**

## **CONTRACT MANAGEMENT**

## **17. REPORTING AND MEETINGS**

17.1 The Provider shall provide the Management Reports in the form and at the intervals set out in the Schedule 1 Specification.

17.2 The Authorised Representatives and relevant Key Personnel shall meet in accordance with the details set out in Schedule 1 Specification and the Provider shall, at each meeting,

present its previously circulated Management Reports and, if appropriate, financial reports in the format set out in that Schedule.

## **18. MONITORING**

- 18.1 The Contracting Body shall monitor the performance of the Services by the Provider in accordance with Schedule 2.
- 18.2 The Provider shall co-operate, and shall procure that its Sub-Contractors co-operate, with the Contracting Body in carrying out the monitoring referred to in clause 18.1 at no additional charge to the Contracting Body.

## **19. CHANGE CONTROL**

Any requirement for a Change, including the need for any Additional Services shall be subject to the Change Control Procedure.

## **20. DISPUTE RESOLUTION**

- 20.1 Either party may call an extraordinary meeting of the parties by service of not less than 7 days' written notice (or such other period as may be agreed in writing) and each party agrees to procure that its Authorised Representative together with any other member of Key Personnel requested to attend by the other party (if any) shall attend all extraordinary meetings called in accordance with this clause.
- 20.2 The members of the relevant meeting shall use their best endeavours to resolve disputes arising out of the Service Contract. If any dispute referred to a meeting is not resolved at that meeting then either party, by notice in writing to the other, may refer the dispute to the Provider's Managing Director or the Contracting Body's nominated representative (or other senior officers of the parties as may be appropriate and agreed from time to time) who shall co-operate in good faith to resolve the dispute as amicably as possible within 14 days of service of such notice. If the officers referred to in this clause 20.2 fail to resolve the dispute in the allotted time, then the parties shall, within that period, on the written request of either party enter into an alternative Dispute Resolution Procedure with the assistance of a mediator agreed by the parties or, in default of such agreement within seven days of receipt of such request, appointed, at the request of either party, by the Centre for Dispute Resolution or such other similar body as is agreed.
- 20.3 The parties shall then submit to the supervision of the mediation by the Centre for Dispute Resolution for the exchange of relevant information and for setting the date for negotiations to begin.
- 20.4 Recourse to this Dispute Resolution Procedure shall be binding on the parties as to submission to the mediation but not as to its outcome. Accordingly, all negotiations connected with the dispute shall be conducted in strict confidence and without prejudice to the rights of the parties in any future legal proceedings. Except for any party's right to seek interlocutory relief in the courts, no party may commence other legal proceedings under the jurisdiction of the courts or any other form of arbitration until 21 days after the parties have failed to reach a binding settlement by mediation (at which point the Dispute Resolution Procedure shall be deemed to be exhausted).

- 20.5 If, with the assistance of the mediator, the parties reach a settlement, such settlement shall be reduced to writing and, once signed by the duly Authorised Representative of each of the parties, shall remain binding on the parties.
- 20.6 The parties shall bear their own legal costs of this Dispute Resolution Procedure, but the costs and expenses of mediation shall be borne by the parties equally.

## **21. SUB-CONTRACTING AND ASSIGNMENT**

- 21.1 The Provider shall not be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under the Service Contract without the prior written consent of the Contracting Body, neither may the Provider sub-contract the whole or any part of its obligations under the Service Contract except with the prior written consent of the Contracting Body, such consent not to be unreasonably withheld or delayed.
- 21.2 In the event that the Provider enters into any Sub-Contract in connection with the Service Contract it shall:
- a) remain responsible to the Contracting Body for the performance of its obligations under the Service Contract notwithstanding the appointment of any Sub-Contractor and be responsible for the acts, omissions and neglects of its Sub-Contractors;
  - b) impose obligations on its Sub-Contractor in the same terms as those imposed on it pursuant to the Service Contract and shall procure that the Sub-Contractor complies with such terms; and
  - c) provide a copy, at no charge to the Contracting Body, of any such Sub-Contract on receipt of a request for such by the Contracting Body's Authorised Representative.
- 21.3 Subject to clause 21.5, the Contracting Body may assign, novate or otherwise dispose of its rights and obligations under the Service Contract or any part thereof to:
- (a) any Contracting Council; or
  - (b) any other body established by the Contracting Body or under statute in order substantially to perform any of the functions that had previously been performed by the Contracting Body; or
  - (c) any private sector body which substantially performs the functions of the Contracting Body,
- provided that any such assignment, novation or other disposal shall not increase the burden of the Provider's obligations under the Service Contract.
- 21.4 Any change in the legal status of the Contracting Body such that it ceases to be a Contracting Body shall not, subject to clause 21.3, affect the validity of the Service Contract. In such circumstances, the Service Contract shall bind and inure to the benefit of any successor body to the Contracting Body.
- 21.5 If the rights and obligations under the Service Contract are assigned, novated or otherwise disposed of pursuant to a body which is not a Contracting Council or if there is a change in the legal status of the Contracting Body such that it ceases to be a Contracting Council (in the remainder of this clause both such bodies being referred to as the **"Transferee"**):

- (a) the rights of termination of the Contracting Body in clause 30 (Termination On Notice or For Breach) shall be available to the Provider in the event of respectively, the bankruptcy or insolvency, of the Transferee.

21.6 The Contracting Body may disclose to any Transferee any confidential information of the Provider which relates to the performance of the Provider's obligations under the Service Contract. In such circumstances the Contracting Body shall authorise the Transferee to use such confidential information only for purposes relating to the performance of the Provider's obligations under the Service Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such confidential information.

21.7 Each party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other party reasonably requires from time to time for the purpose of giving that other party the full benefit of the provisions of the Service Contract.

## **LIABILITY**

### **22. INDEMNITIES**

22.1 Subject to clause 22.5, the Provider shall indemnify and keep indemnified the Contracting Body against all liabilities, costs, expenses, damages and losses incurred by the Contracting Body arising out of or in connection with:

- (a) the Provider's breach or negligent performance or non-performance of the Service Contract;
- (b) any claim made against the Contracting Body arising out of or in connection with the provision of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Service Contract by the Provider or Provider Personnel;
- (c) the enforcement of these Terms and Conditions.

22.2 Subject to clause 22.5, the Provider shall indemnify the Contracting Body against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and 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 Contracting Body arising out of or in connection with:

- (a) any claim made against the Contracting Body by a third party for death, personal injury or damage to property arising out of or in connection with the provision of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Service Contract by the Provider, its employees, agents or subcontractors.

22.3 Liability under the indemnity at clause 22.2 is conditional on the Contracting Body discharging the following obligations. If any third party makes a claim, or notifies an intention to make a claim, against the Contracting Body which may reasonably be

considered likely to give rise to a liability under this indemnity (Claim), the Contracting Body shall:

- (a) as soon as reasonably practicable, give written notice of the Claim to the Provider specifying the nature of the Claim in reasonable detail;
- (b) not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Provider (such consent not to be unreasonably conditioned, withheld or delayed), provided that the Contracting Body may settle the Claim (after giving prior written notice of the terms of settlement (to the extent legally possible) to the Provider but without obtaining the Provider's consent) if the Contracting Body reasonably believes that failure to settle the Claim would be prejudicial to it in any material respect;
- (c) give the Provider and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the Contracting Body so as to enable the Provider and its professional advisers to examine them and to take copies (at the Provider's expense) for the purpose of assessing the Claim; and
- (d) subject to the Provider providing security to the Contracting Body to the Contracting Body's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as the Provider may reasonably request to avoid, dispute, compromise or defend the Claim.

22.4 If a payment due from the Provider under this clause is subject to tax (whether by way of direct assessment or withholding at its source), the Contracting Body shall be entitled to receive from the Provider such amounts as shall ensure that the net receipt, after tax, to the Contracting Body in respect of the payment is the same as it would have been were the payment not subject to tax.

22.5 The indemnities provided under Clause 22.1 and 22.2 shall apply except insofar as the liabilities, costs, expenses, damages and losses incurred by the Contracting Body are directly caused (or directly arise) from the negligence or breach of the Service Contract by the Contracting Body or its Representatives.

22.6 Nothing in this clause shall restrict or limit the Contracting Body's general obligation at law to mitigate any loss it may suffer or incur as a result of an event that may give rise to a Claim under this clause.

## **23. LIMITATION OF LIABILITY**

23.1 Subject to clauses 23.2 and 23.5, neither party shall be liable to the other party (as far as permitted by law) for indirect special or consequential loss or damage in connection with the Service Contract which shall include, without limitation, any loss of or damage to profit, revenue, contracts, savings (whether anticipated or otherwise), goodwill or business opportunities whether direct or indirect.

23.2 Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to these Terms and Conditions.



- 23.3 Subject to clause 23.5, the Contracting Body's total aggregate liability in relation to each individual Service Contract to which these Terms and Conditions relate:
- a) in respect of all other claims, losses or damages, whether arising from tort (including negligence), breach of contract or otherwise under or in connection with the Service Contract (other than a failure to pay any of the Charges that are properly due and payable and for which the Contracting Body shall remain fully liable), shall in no event 100% of the aggregate Charges paid under or pursuant to the individual Service Contract in the subsequent Contract Year in respect of which the claim arises.
- 23.4 Subject to clause 23.5, the Provider's total aggregate liability in relation to each individual Service Contract to which these Terms and Conditions relate
- a) in respect of the indemnities given by the Provider in clauses 22.1, 22.2 and 29.5 is unlimited;
  - b) in respect of all other claims, losses or damages, whether arising from tort (including negligence), breach of contract or otherwise under or in connection with the Service Contract, shall in no event exceed the greater of £1million or 150% of the aggregate Charges paid (or due to be paid) under or pursuant to the individual Service Contract in the subsequent Contract Year in respect of which the claim arises.
- 23.5 Notwithstanding any other provision of these Terms and Conditions neither party limits or excludes its liability for:
- a) Fraud or fraudulent misrepresentation;
  - b) death or personal injury caused by its negligence;
  - c) breach of Data Protection Legislation;
  - d) breach of any obligation as to title implied by statute; or
  - e) any other act or omission, liability for which may not be limited under any Applicable Law.

## **24 INSURANCE**

- 24.1 The Provider shall at its own cost effect and maintain with a reputable insurance company such policies of insurance as are reasonably required for the delivery of the Services including but not limited to the following: -
- a. public liability insurance with a limit of indemnity of not less than £5,000,000 (FIVE MILLION POUNDS) in relation to any one claim arising out of each and every event without limit on the number of claims in any one year or other period and such insurance shall expressly by its terms confer its benefits on the Contracting Body. Such insurance policy shall not limit or exclude any claims relating to sexual abuse, exploitation, molestation, emergency first aid or incidental treatment;
  - b. employer's liability insurance with a limit of indemnity of not less than £10,000,000 (TEN MILLION POUNDS) in relation to any one claim or series of claims;
  - c. professional indemnity insurance with a limit of indemnity of not less than £2,000,000 (TWO MILLION POUNDS) in relation to any one claim or series of claims without limit on the number of claims in any one year and shall ensure that

all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover;

- d. appropriate compulsory motor insurance where the Services involves the transportation of Service Users,
- e. sexual abuse and molestation public liability cover with a limit of indemnity of not less than £1,000,000 in relation to any one claim for proven bodily harm or mental injury, disease, death or suffering of a Child following sexual abuse or molestation. This cover may be taken out as an extension to a professional indemnity policy.
- f. Buildings and contents insurance in respect of the Registered Household to an adequate level for both accidental and non-accidental damage;

(the "**Required Insurances**") in respect of all risks which may be incurred by the Provider, arising out of the Provider's performance of the Service Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Provider.

- 24.2 The Provider shall give the Contracting Body, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 24.3 If, for whatever reason, the Provider fails to give effect to and maintain the Required Insurances, the Contracting Body may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Provider.
- 24.4 The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities under the Service Contract.
- 24.5 The Provider shall hold and maintain the professional indemnity insurance for a minimum of six years following the expiration or earlier termination of the Service Contract.

## **25 FREEDOM OF INFORMATION**

- 25.1 The Provider acknowledges that the Contracting Body is subject to the requirements of the FOIA and the EIRs and shall assist and co-operate with the Contracting Body (at the Provider's expense) to enable the Contracting Body to comply with these information disclosure requirements.
- 25.2 The Provider shall and shall procure that its Sub-Contractors shall:
  - a) transfer the Request for Information to the Contracting Body as soon as practicable after receipt and in any event within two (2) Working Days of receiving a Request for Information;
  - b) provide the Contracting Body with a copy of all Information in its possession or power in the form that the Contracting Body requires within five (5) Working Days (or such other period as the Contracting Body may specify) of the Contracting Body requesting that Information; and

- c) provide all necessary assistance as reasonably requested by the Contracting Body to enable the Contracting Body to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIRs.

25.3 The Contracting Body shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other Information:

- a) is exempt from disclosure in accordance with the provisions of the FOIA or the EIRs; and/or
- b) is to be disclosed in response to a Request for Information.

25.4 In no event shall the Provider respond directly to a Request for Information unless expressly authorised to do so by the Contracting Body.

25.5 The Provider acknowledges that the Contracting Body may, acting in accordance with the Cabinet Office Freedom of Information Code of Practice (issued under section 45 of the FOIA, July 2018), be obliged under the FOIA or the EIRs to disclose Information:

- a) without consulting with the Provider; or
- b) following consultation with the Provider and having taken its views into account,

provided always that where clause 25.5(b) applies the Contracting Body shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Provider advanced notice, or failing that, to draw the disclosure to the Provider's attention after any such disclosure.

25.6 The Provider shall ensure that all Information produced in the course of the Service Contract or relating to the Service Contract is retained for disclosure and shall permit the Contracting Body to inspect such records as requested from time to time.

25.7 The Provider acknowledges that any lists or Schedules provided by it outlining Confidential Information are of indicative value only and that the Contracting Body may nevertheless be obliged to disclose Confidential Information in accordance with clause 25.5.

## 26 DATA PROTECTION

26.1 **Shared Personal Data.** This clause sets out the framework for the sharing of personal data between the parties as controllers. Each party acknowledges that one party (referred to in this clause as the Data Discloser) will regularly disclose to the other party Shared Personal Data collected by the Data Discloser for the Agreed Purposes.

26.2 **Effect of non-compliance with UK Data Protection Legislation.** Each party shall comply with all the obligations imposed on a controller under the UK Data Protection Legislation under these Terms and Conditions and any material breach of the UK Data Protection Legislation in relation to these Terms and Conditions by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate the Service Contract with immediate effect.

26.3 **Particular obligations relating to data sharing.** Each party shall:

- 26.3.1 ensure that it has all necessary notices and consents in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;
  - 26.3.2 give full information to any data subject whose personal data may be processed under these Terms and Conditions of the nature of such processing. This includes giving notice that, on the termination of the Service Contract personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;
  - 26.3.4 process the Shared Personal Data only for the Agreed Purposes;
  - 26.3.5 not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
  - 26.3.6 ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by these Terms and Conditions:
  - 26.3.7 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data;
  - 26.3.8 not transfer any personal data received from the Data Discloser outside the UK unless the transferor:
  - 26.3.9 complies with the provisions of Articles 26 of the UK GDPR (in the event the third party is a joint controller); and
  - 26.3.10 ensures that (i) the transfer is to a country approved by the Information Commissioner as providing adequate protection pursuant to Article 45 of the UK GDPR; or (ii) there are appropriate safeguards in place pursuant to Article 46 UK GDPR; or (iii) Binding corporate rules are in place or (iv) one of the derogations for specific situations in Article 49 of the UK GDPR applies to the transfer.
- 26.4 **Mutual assistance.** Each party shall assist the other in complying with all applicable requirements of the UK Data Protection Legislation in relation to these Terms and Conditions. In particular, each party shall:
- 26.4.1 consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;
  - 26.4.2 promptly inform the other party about the receipt of any data subject access request. Data subjects have a right of access and a right of correction in respect of their personal data which the Provider holds about them, in accordance with Data Protection Legislation and the Provider shall be the contact point for data subjects wishing to exercise their rights in respect of personal data held about them in connection with the delivery of the Services;
  - 26.4.3 provide the other party with reasonable assistance in complying with any data subject access request;

- 26.4.4 not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party wherever reasonable;
- 26.4.5 assist the other party in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, personal data breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;
- 26.4.6 notify the other party without undue delay on becoming aware of any breach of the UK Data Protection Legislation;
- 26.4.7 at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of the Service Contract unless required by law to store the personal data;
- 26.4.8 use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;
- 26.4.9 maintain complete and accurate records and information in relation the Service Contract to demonstrate its compliance with this clause and allow for audits by the other party or the other party's designated auditor; and
- 26.4.10 provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Data Protection Legislation.
- 26.5 Each party shall be liable for all liabilities, damages, direct losses, fines, all interest, penalties, reasonable legal costs and expenses incurred by the other party arising from, or in connection with, any breach for which the relevant party is entitled to bring a claim against the other party under this clause 26. Neither party shall be liable to the other party except insofar as the liabilities, damages, direct losses, fines, interest, penalties, reasonable legal costs and expenses are directly caused (or directly arise) from the negligence or breach of clause 26 by that party.

## **27 CONFIDENTIALITY**

- 27.1 Subject to clause 27.2, the parties shall keep confidential all matters relating to the Service Contract and shall use all reasonable endeavours to prevent their Representatives from making any disclosure to any person of any matters relating hereto.
- 27.2 Clause 27.1 shall not apply to any disclosure of information:
- a) required by any Applicable Law, provided that clause 25 shall apply to any disclosures required under the FOIA or the Environment Information Regulations;
  - b) that is reasonably required by persons engaged by a party in the performance of such party's obligations under these Terms and Conditions;
  - c) 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 27.1;

- d) by the Contracting Body of any document to which it is a party and which the parties to the Service Contract have agreed contains no commercially sensitive information;
- e) to enable a determination to be made under clause 20;
- f) which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
- g) by the Contracting Body to any other department, office or agency of the Government; and
- h) by the Contracting Body relating to the Service Contract and in respect of which the Provider has given its prior written consent to disclosure.

27.3 On or before the Termination Date of the IPA the Provider shall ensure that all documents and/or computer records in its possession, custody or control which relate to Personal Data of the Authorities' employees, rate-payers or Service Users, are delivered up to the Contracting Body or securely destroyed.

## **28 AUDIT**

28.1 During the Term and for a period of 7 years after the Termination Date, the Contracting Body may conduct or be subject to an audit for the following purposes:

- a) to verify the accuracy of Charges (and proposed or actual variations to them in accordance with the Service Contract) and/or the costs of all Providers (including Sub-Contractors) of the Services at the level of detail agreed in clause 11 (Charges and Payment);
- b) to review the integrity, confidentiality and security of any data relating to the Contracting Body or any Service Users;
- c) to review the Provider's compliance with the DPA, the FOIA, in accordance with clause 26 (Data Protection) and clause 25 (Freedom of Information) and any other legislation applicable to the Services;
- d) to review any records created during the provision of the Services;
- e) to review any books of account kept by the Provider in connection with the provision of the Services;
- f) to carry out the audit and certification of the Contracting Body's accounts;
- g) to carry out an examination pursuant to sections 7ZA of the National Audit Act 1983 (as amended) of the economy, efficiency and effectiveness with which the Contracting Body has used its resources;
- h) to verify the accuracy and completeness of the Management Reports delivered or required by the Service Contract.

28.2 Except where an audit is imposed on the Contracting Body by a Regulatory Body, the Contracting Body may not conduct an audit under this clause 28 more than twice in any calendar year.

28.3 The Contracting Body shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Provider or delay the provision of the Services.

28.4 Subject to the Contracting Body's obligations of confidentiality, the Provider shall on demand provide the Contracting Body and any relevant regulatory body (and/or their

agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:

- a) all information requested by the above persons within the permitted scope of the audit;
- b) reasonable access to any sites controlled by the Provider and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services; and
- c) access to the Provider's Personnel.

28.5 The Contracting Body shall endeavour to (but is not obliged to) provide at least 15 days' notice of its or, where possible, a Regulatory Body's, intention to conduct an audit.

28.6 The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause, unless the audit identifies a material failure to perform its obligations under the Service Contract in any material manner by the Provider in which case the Provider shall reimburse the Contracting Body for all the Contracting Body's reasonable costs incurred in the course of the audit.

28.7 If an audit identifies that:

- a) the Provider has failed to perform its obligations under the Service Contract in any material manner, the parties shall agree and implement a remedial plan. If the Provider's failure relates to a failure to provide any information to the Contracting Body about the Charges, proposed Charges or the Provider's costs, then the remedial plan shall include a requirement for the provision of all such information;
- b) the Contracting Body has overpaid any Charges, the Provider shall pay to the Contracting Body the amount overpaid within 20 days. The Contracting Body may deduct the relevant amount from the Charges if the Provider fails to make this payment; and
- c) the Contracting Body has underpaid any Charges, the Contracting Body shall pay to the Provider the amount of the under-payment less the cost of audit incurred by the Contracting Body if this was due to a default by the Provider in relation to invoicing within 20 days.

## **29 INTELLECTUAL PROPERTY**

29.1. All Intellectual Property in any guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material (the "**IP Materials**"):

- (a) furnished to or made available to the Provider by or on behalf of the Contracting Body shall remain the property of the Contracting Body; and
- (b) prepared by or for the Provider on behalf of the Contracting Body for use, or intended use, in relation to the performance by the Provider of its obligations under the Service Contract shall belong to the Contracting Body;

and the Provider shall not, and shall ensure that the Provider's Personnel shall not, (except when necessary for the performance of the Service Contract) without prior written approval of the Contracting Body, use or disclose any Intellectual Property in the IP Materials.

29.2 The Provider hereby assigns to the Contracting Body, with full title guarantee, all Intellectual Property which may subsist in the IP Materials prepared in accordance with

clause 29.1 (b). The Provider shall execute all documentation necessary to execute this assignment.

- 29.3 The Provider shall waive or procure a waiver of any moral rights subsisting in copyright produced by the Service Contract or the performance of the Service Contract.
- 29.4 The Provider shall ensure that the third party owner of any Intellectual Property that are or which may be used to perform the Service Contract grants to the Contracting Body a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Contracting Body an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty free and irrevocable and shall include the right for the Contracting Body to sub-licence, transfer, novate or assign to other Contracting Authorities, the replacement Provider or to any other third party supplying services to the Contracting Body.
- 29.5 The Provider shall not infringe any Intellectual Property of any third party in supplying the Services and shall, during and after the Service Contract, indemnify and keep indemnified and hold the Contracting Body harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Contracting Body or the Contracting Body may suffer or incur as a result of or in connection with any breach of this clause, except where any such claim arises from:
- (a) items or materials based upon designs supplied by the Contracting Body; or
  - (b) the use of data supplied by the Contracting Body which is not required to be verified by the Provider under any provision of the Service Contract.
- 29.6 The Contracting Body shall notify the Provider in writing of any claim or demand brought against the Contracting Body for infringement or alleged infringement of any Intellectual Property in materials supplied or licensed by the Provider.
- 29.7 The Provider shall at its own expense conduct all negotiations and any litigation arising in connection with any claim for breach of Intellectual Property in materials supplied or licensed by the Provider, provided always that it:
- (a) shall consult the Contracting Body on all substantive issues which arise during the conduct of such litigation and negotiations;
  - (b) shall take due and proper account of the interests of the Contracting Body; and
  - (c) shall not settle or compromise any claim without the prior written approval of the Contracting Body (not to be unreasonably withheld or delayed).
- 29.8 The Contracting Body shall at the request of the Provider afford to the Provider all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the Contracting Body or by a third party for infringement or alleged infringement of any third party Intellectual Property in connection with the performance of the Provider's obligations under the Service Contract and the Provider shall indemnify the Contracting Body for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Provider shall not, however, be required to indemnify the Contracting Body in relation to any costs and expenses incurred in relation to or arising out of a claim, demand or action which relates to the matters in clause 29.5(a) or (b).
- 29.9 The Contracting Body shall not make any admissions which may be prejudicial to the defence or settlement of any claim, demand or action for infringement or alleged



infringement of any Intellectual Property by the Contracting Body or the Provider in connection with the performance of its obligations under the Service Contract.

29.10 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property is made in connection with the Service Contract or in the reasonable opinion of the Provider is likely to be made, the Provider shall notify the Contracting Body and, at its own expense and subject to the consent of the Contracting Body (not to be unreasonably withheld or delayed), use its best endeavours to:

(a) modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative Services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that the provisions herein shall apply mutatis mutandis to such modified Services or to the substitute Services; or

(b) procure a licence to use and supply the Services, which are the subject of the alleged infringement, on terms which are acceptable to the Contracting Body,

and in the event that the Provider is unable to comply with clauses 29.7(a) or (b) within twenty (20) Working Days of receipt of the Provider's notification the Contracting Body may terminate the Service Contract with immediate effect by notice in writing.

29.11 The Provider grants to the Contracting Body a royalty-free, irrevocable and non-exclusive licence (with a right to sub-licence) to use any Intellectual Property that the Provider owned or developed prior to the Commencement Date and which the Contracting Body reasonably requires in order exercise its rights and take the benefit of the Service Contract including the Services provided.

## TERMINATION

### 30 TERMINATION ON NOTICE OR FOR BREACH

30.1 The Contracting Body may terminate the Service Contract in whole or part with immediate effect by the service of written notice on the Provider in the following circumstances:

- a) if the Provider is in breach of any material obligation under these Terms and Conditions provided that if the breach is capable of remedy, the Contracting Body may only terminate the Service Contract under this clause 30.1 if the Provider has failed to remedy such breach within 14 days (or such other longer period if stipulated by the Contracting Body in writing) of receipt of notice from the Contracting Body (a **Remediation Notice**) to do so;
- b) if a Consistent Failure has occurred;
- c) if a Catastrophic Failure has occurred;
- d) if a resolution is passed or an order is made for the winding up of the Provider (otherwise than for the purpose of solvent amalgamation or reconstruction) or the Provider becomes subject to an administration order or a receiver or administrative receiver is appointed over or an encumbrancer takes possession of any of the Provider's property or equipment;
- e) if the Provider ceases or threatens to cease to carry on business in the United Kingdom;
- f) if there is a change of control (as defined in section 1124 of the Corporation Tax Act 2010) of the Provider to which the Contracting Body reasonably objects.

30.2 The Contracting Body may terminate the Service Contract in accordance with the provisions of this clause 30 and clauses 31-33.

30.3 If the Service Contract is terminated by the Contracting Body for cause such termination shall be at no loss or cost to the Contracting Body and the Provider hereby indemnifies the Contracting Body against any such losses or costs which the Contracting Body may suffer as a result of any such termination for cause.

## **TERMINATION OF AN INDIVIDUAL PLACEMENT AGREEMENT**

30.4 The Parties shall act at all times in relation to the IPA in good faith in order to meet the needs of the Children subject to Placements. Where either Party terminates the IPA each party shall take such steps as are reasonable to achieve a smooth transition of the care arrangements for each affected Child. For the avoidance of doubt, where an IPA is terminated, the Service Contract is also terminated.

30.5 An IPA may end by the expiry of the period specified in the IPA or by termination on the following periods of notice in writing by either party:

- i. One day if the Child has been in the Placement for seven days or less;
- ii. Seven days if the Child has been in the Placement for more than seven days and less than twelve Weeks; and
- iii. Twenty-eight days if the Child has been in the Placement for more than twelve weeks.

30.6 The Contracting Body may terminate the IPA by the giving of seven days' notice to the Provider, in the following circumstances:

- i. Absence for a continuous period for twenty-eight days due to hospitalisation, unless the Provider and Contracting Body agree otherwise;
- ii. Absence for a continuous period of seven days due to any other reason, unless the Provider and Contracting Body agree otherwise.
- iii. On termination of the Flexible Agreement.
- iv. Changes to the Child's Care Plan including those resulting from court orders.
- v. The Provider receiving an inspection rating below that required of the Service Contract.
- vi. Where Notifiable Event/Events have occurred and it is not in the best interest of the Child to remain within the placement.
- vii. following death of the Child.

30.7 The IPA shall terminate automatically and immediately:

- i. If a Court decides that the Child should be placed in secure accommodation, a secure hospital, or other place of lawful detention for more than 72 hours, or discharges the care or interim care order.
- ii. The Contracting Body acting reasonably decides that the Child's needs, safety or welfare can no longer be met by the Placement and/or Placement arrangements have irretrievably broken down.
- iii. Where the Child being aged 16 years and above discharges himself from the Placement.
- iv. Where a decision is made to place the Child for adoption by the Contracting Body.

### **31 TERMINATION ON MANDATORY GROUNDS**

31.1 The Contracting Body is required by virtue of Regulation 73 of the Public Contracts Regulations 2015 to ensure that all contracts which it awards contain provisions enabling the Contracting Body to terminate those contracts under certain circumstances. Thus, the Contracting Body will terminate the whole of the Service Contract with immediate effect by the service of a written notice on the Provider in the following circumstances:

31.1.1 where the Service Contract has been subject to a substantial modification which will include any change in the Service Contract irrespective of the monetary value and which meets one or more of the following conditions:

- i) materially alters the character of the Service Contract; or
- ii) would have allowed other potential Providers to participate in the procurement procedure other than those initially selected or allowed for the acceptance of a tender other than that originally accepted; or
- iii) attracted additional Providers in the procurement procedure; or
- iv) the modification changes the economic balance of the Service Contract in favour of the Provider in a manner which was not provided for in the original Service Contract; or
- v) the modification extends the scope of the Service Contract considerably; or
- vi) a new Provider replaces the Provider other than where the change arises from a clear and precise unequivocal review clause or the exercising of an option which outlines the scope and nature of the possible modification as well as the conditions under which the option can be exercised and that the option exercised does not alter the overall nature of the Service Contract or following a universal or partial succession into the position of the Provider following corporate restructuring such as a takeover, merger, acquisition or insolvency and provided that this does not entail other substantial modifications and where the purpose of the modification is not aimed at circumventing procurement law.

31.1.2 where post-award of the Service Contract it is discovered that the Provider should have been excluded from the procurement procedure on certain mandatory exclusion grounds for a breach of Regulation 57 of the Public Contracts

Regulations 2015. These exclusion grounds are where the Provider has been convicted of any of the offences that are detailed in Regulation 57.

## **32 FORCE MAJEURE**

- 32.1 Subject to the remaining provisions of this clause 32, neither party to the Service Contract shall be liable to the other for any delay or non-performance of its obligations under the Service Contract to the extent that such non-performance is due to a Force Majeure Event.
- 32.2 In the event that either party is delayed or prevented from performing its obligations under the Service Contract by a Force Majeure Event, such party shall:
- a) give notice in writing of such delay or prevention to the other party as soon as reasonably possible, stating the commencement date and extent of such delay or prevention, the cause thereof and its estimated duration;
  - b) use all reasonable endeavours to mitigate the effects of such delay or prevention on the performance of its obligations under the Service Contract; and
  - c) resume performance of its obligations as soon as reasonably possible after the removal of the cause of the delay or prevention.
- 32.3 A party cannot claim relief if the Force Majeure Event is attributable to that party's wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event.
- 32.4 The Provider cannot claim relief if the Force Majeure Event is one where a reasonable Provider should have foreseen and provided for the cause in question.
- 32.5 As soon as practicable following the affected party's notification, the parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of the Service Contract. Where the Provider is the affected party, it shall take and/or procure the taking of all steps to overcome or minimise the consequences of the Force Majeure Event in accordance with Best Industry Practice.
- 32.6 The affected party shall notify the other party as soon as practicable after the Force Majeure Event ceases or no longer causes the affected party to be unable to comply with its obligations under the Service Contract. Following such notification, this shall continue to be performed on the terms existing immediately before the Service Contract occurrence of the Force Majeure Event unless agreed otherwise by the parties.
- 32.7 The Contracting Body may, during the continuance of any Force Majeure Event, terminate the Service Contract by written notice to the Provider if a Force Majeure Event occurs that affects all or a substantial part of the Services and which continues for more than thirty (30) Working Days.

## **33 PREVENTION OF BRIBERY**

- 33.1 The Provider:
- shall not, and shall procure that any Provider Party and all Provider Personnel shall not, in connection with the Service Contract commit a Prohibited Act;

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 Contracting Body, or that an agreement has been reached to that effect, in connection with the entering into of the Service Contract, excluding any arrangement of which full details have been disclosed in writing to the Contracting Body before entering into this Service Contract.

33.2 The Provider shall:

- a) if requested, provide the Contracting Body with any reasonable assistance, at the Contracting Body's reasonable cost, to enable the Contracting Body 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) within ten (10) Working Days of the Commencement Date, and annually thereafter, certify to the Contracting Body in writing (such certification to be signed by an officer of the Provider) compliance with this clause 33 by the Provider and all persons associated with it or other persons who are supplying goods or services in connection with these Terms and Conditions. The Provider shall provide such supporting evidence of compliance as the Contracting Body may reasonably request.

33.3 The Provider shall have an anti-bribery policy (which shall be disclosed to the Contracting Body) to prevent any Provider Party or Provider Personnel from committing a Prohibited Act and shall enforce it where appropriate.

33.4 If any breach of clause 33.1 is suspected or known, the Provider must notify the Contracting Body immediately.

33.5 If the Provider notifies the Contracting Body that it suspects or knows that there may be a breach of clause 33.1, the Provider must respond promptly to the Contracting Body's enquiries, co-operate with any investigation, and allow the Contracting Body to audit books, records and any other relevant documentation. This obligation shall continue for seven (7) years following the expiry or termination of the Service Contract.

33.6 The Contracting Body may terminate the Service Contract by written notice with immediate effect if the Provider, Provider Party or Provider Personnel (in all cases whether or not acting with the Provider's knowledge) breaches clause 33.1. In determining whether to exercise the right of termination under this clause 33.6, the Contracting Body shall give all due consideration, where appropriate, to action other than termination of the Service Contract unless the Prohibited Act is committed by the Provider or a senior officer of the Provider or by an employee, Sub-Contractor or supplier not acting independently of the Provider. The expression "not acting independently of" (when used in relation to the Provider or a Sub-Contractor) means and shall be construed as acting:

- a) with the Contracting Body; or,
- b) with the actual knowledge;

of any one or more of the directors of the Provider or the Sub-Contractor (as the case may be); or

- c) in circumstances where any one or more of the directors of the Provider ought reasonably to have had knowledge.

33.7 Any notice of termination under clause 33.6 must specify:

- a) the nature of the Prohibited Act;

- b) the identity of the party whom the Contracting Body believes has committed the Prohibited Act; and
- c) the date on which the Service Contract will terminate.

33.8 Notwithstanding the provisions of clause 20 (Dispute Resolution), any dispute relating to:

- a) the interpretation of clause 33; or
- b) the amount or value of any gift, consideration or commission,

shall be determined by the Contracting Body and its decision shall be final and conclusive.

33.9 Any termination under clause 33.6 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Contracting Body.

#### **34 CONSEQUENCES OF TERMINATION**

34.1 On the expiry of the Term or if the Service Contract is terminated in whole or in part for any reason the provisions of the Exit Management Plan shall come into effect and the Provider shall co-operate fully with the Contracting Body to ensure an orderly migration of the Services to the Contracting Body or, at the Contracting Body's request, a Replacement Provider.

34.2 On termination of the Service Contract and on satisfactory completion of the Exit Management Plan (or where reasonably so required by the Contracting Body before such completion) the Provider shall procure that all data and other material belonging to the Contracting Body (and all media of any nature containing information and data belonging to the Contracting Body or relating to the Services), shall be delivered to the Contracting Body forthwith and the Provider's Authorised Representative or Chief Executive Officer shall certify full compliance with this clause.

34.3 The provisions of clause 6.2 (Management Reports), clause 22 (Indemnities), clause 24 (Insurance), clause 25 (Freedom of Information), clause 26 (Data Protection), clause 28 (Audit), clause 30 (Termination on Notice or For Breach) and this clause 34 (Consequences of Termination) shall survive termination or expiry of the Service Contract.

#### **GENERAL PROVISIONS**

##### **35 NON-SOLICITATION**

35.1 Neither party shall (except with the prior written consent of the other) during the Term of the Service Contract, and for a period of one year thereafter, solicit the services of any senior staff of the other party who have been engaged in the provision of the Services or the management of the Service Contract or any significant part thereof either as principal, agent, employee, independent contractor or in any other form of employment or engagement other than by means of an open national advertising campaign and not specifically targeted at such staff of the other party.

##### **36 WAIVER**

36.1 No forbearance or delay by either party in enforcing its respective rights will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

In particular, but without limitation to the generality of the foregoing, any prior acceptance or approval communicated by the Contracting Body to the Provider in respect of the Services or any omission on the part of the Contracting Body to communicate such prior acceptance or approval shall not relieve the Provider of its obligations to deliver the Services in accordance with the provisions of these Terms and Conditions.

### **37 CULMINATION OF REMEDIES**

37.1 Subject to the specific limitations set out in these Terms and Conditions, no remedy conferred by any provision of these Terms and Conditions is intended to be exclusive of any other remedy except as expressly provided for in these Terms and Conditions and each and every remedy shall be cumulative and shall be in addition to every other remedy given thereunder or existing at law or in equity by statute or otherwise.

### **38 SEVERABILITY**

38.1 If any of the provisions of these Terms and Conditions is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced.

### **39 PARTNERSHIP OR AGENCY**

39.1 At all times during for the duration of the Service Contract the Provider shall be an independent contractor and nothing in these Terms and Conditions shall create a contract of employment, a relationship of agency or partnership or a joint venture between the parties and accordingly neither party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other party save as expressly permitted by the terms of these Terms and Conditions.

### **40 THIRD PARTY RIGHTS**

40.1 A person who is not a party to the Service Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both parties. This clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999.

### **41 PUBLICITY**

41.1 The Provider shall not:

- a) make any press announcements or publicise the Service Contract or its contents in any way; or
- b) use the Contracting Body's name or brand in any promotion or marketing or announcement of orders,

without the prior written consent of the Contracting Body.

41.2 The Provider shall take reasonable steps to ensure that their servants, employees, agents, Sub-Contractors, providers, professional advisors and consultants comply with clause 41.1.

## **42 NOTICES**

- 42.1 Except as otherwise expressly provided within these Terms and Conditions, no notice or other communication from one party to the other shall have any validity under the Service Contract unless made in writing by or on behalf of the party concerned.
- 42.2 Any notice or other communication which is to be given by either party to the other shall be given by letter (sent by hand, first or second class post, recorded delivery or special delivery), or electronic mail (confirmed by letter). Such letters shall be addressed to the other party in the manner referred to in clause 42.3. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two ( 2) Working Days after the day on which the letter was posted (save with the exception of post delivered by second class, in which case service shall be deemed to have occurred on the third Working Day after posting), or 4 hours, in the case of electronic mail or sooner where the other party acknowledges receipt of such letters, or item of electronic mail.
- 42.3 For the purposes of clause 42.2, the address of each party shall be those set out in the Service Contract.
- 42.4 Either party on the giving of a minimum of ten (10) Working Days' notice may change its address for service by serving a notice in accordance with this clause.

## **43 ENTIRE AGREEMENT**

- 43.1 These Terms and Conditions, the schedules and the documents annexed to it or otherwise referred to in it contain the whole agreement and understanding between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter, except that this clause shall not exclude liability in respect of any Fraud or fraudulent misrepresentation.

## **44 DISCRIMINATION**

- 44.1 The Provider shall not unlawfully discriminate either directly or indirectly within the meaning and scope of any Applicable Law. Furthermore the Provider will ensure that it provides equality of treatment for anyone who shares a protected characteristic (whether it is on such grounds as maternity, gender, transgender, marital status, ethnicity, disability, age, religion and belief and sexual orientation or otherwise in the provision of the Services and in the employment of the Provider's Personnel) including but not limited to the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.
- 44.2 The Provider shall take all reasonable steps to secure the observance of clause 44.1 by all Provider Personnel.

## **45 COUNTERPARTS**

- 45.1 The IPA may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.



45.2 Transmission of an executed counterpart of the IPA (but for the avoidance of doubt not just a signature page) or the executed signature page of a counterpart of the IPA by email (in PDF, JPEG or other agreed format) shall take effect as the transmission of an executed "wet-ink" counterpart of the IPA.

45.3 No counterpart shall be effective until each party has provided to the other at least one executed counterpart.

#### **46 GOVERNING LAW AND JURISDICTION**

46.1 The Service Contract and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the parties submit.

# **Fostering Agency Placement Flexible Agreement**

## **Service Specification**

### **Standard Foster Care (Lot 1)**

#### **1. Purpose**

##### **1.1. Purpose of the Flexible Agreement**

- 1.1.1. The purpose of this Flexible Agreement is to support the Contracting Bodies in fulfilling their Sufficiency Duties in relation to accommodation for Children Looked After and to improve the overall outcomes for these Children. The Agreement will assist the Contracting Bodies to improve the availability of suitable Placements at the right time and right location, delivering the right support, ensuring that the Contracting Body's Children Looked After:
- i. Receive the best care possible to meet their needs
  - ii. Are effectively supported to improve their individual outcomes
  - iii. Welfare is promoted and they are effectively safeguarded.
- 1.1.2. The Contracting Body's policies on the provision of finding and securing suitable Placements includes:
- i. The supply of Placements and Services using in-house Foster Carers
  - ii. The purchase of Placements and Services from Independent Fostering Agencies (IFAs).
- 1.1.3. Flexible Agreement 'Call Offs' will be made as and when required by a Contracting Body in order to secure Placements that meet the needs of individual Children. 'Call Offs' will be immediate or, in relation to planned or specialist Services, developed within the Flexible Agreement over an arranged period.
- 1.1.3.1. The majority of 'Call Offs' will be made through Lot 1: Standard Foster Care. Lot 1: Standard Foster Care will apply to Children who are in need of a Standard Fostering Placement, including those who require a solo Placement or those that require a Parent and Child Placement.
  - 1.1.3.2. For those Children who have additional Placement needs, as identified by the Contracting Body, over and above those covered through Lot 1, a Contracting Body may make 'Call Offs' through Lot 2: Enhanced Care. Lot 2 Enhanced Care has been specifically designed to meet the needs of a smaller cohort of Children whose needs are not currently routinely met by Lot 1. Although the needs of the Children placed within Lot 2 Enhanced Care may change over time, it is possible the level of support may remain the same throughout the Placement.
  - 1.1.3.3. For those Children who are either currently residing in residential care, or, as identified by the Contracting Body, on a trajectory towards residing in residential care and with a higher level of need than that routinely met by Lot 1, a Contracting Body may make 'Call Offs' through Lot 3 Step Down. Lot 3 Step Down has been specifically designed to meet the needs of a smaller cohort of

Children who need greater support and care at the beginning of the Placement but will often see the level of support and care needed reduce over time.

- 1.1.3.4. The Contracting Bodies are seeking to work closer with Fostering Providers through the Flexible Agreement, particularly with Providers who are also keen to work closer with the Contracting Bodies. A tiering structure will be used for each of the Lots to support and promote greater collaborative working to achieve the objective of improved sufficiency.

1.1.4. Lot 2 of the Flexible Agreement will apply to Enhanced Foster Care (EFC) Placements only.

- 1.1.4.1. The Services and requirements delivered under Lot 2: Enhanced Foster Care will be inclusive of those outlined in all other sections and schedules of the Flexible Agreement, unless otherwise stipulated.
- 1.1.4.2. The Services and requirements delivered under Lot 2: Enhanced Foster Care will not apply to Lot 3: Step Down.

1.1.5. Lot 3 of the Flexible Agreement will apply to Step Down (SD) Placements only.

- 1.1.5.1. The Services and requirements delivered under Lot 3: Step Down will be inclusive of those outlined in all other sections and schedules of the Flexible Agreement, unless otherwise stipulated.
- 1.1.5.2. The Services and requirements delivered under Lot 3: Step Down will not apply to Lot 2: Enhanced Foster Care.

1.1.6. For the avoidance of doubt the specification for Lot 1 Services apply to all Placements as identified in the Flexible Agreement.

1.1.7. The Flexible Agreement does not provide any guarantee of business to Providers from any of the Contracting Bodies.

## **1.2. Legislation, regulations and guidance**

1.2.1. In addition to the areas set out in the Agreement and Service Contract the following specific legislation, regulations and guidance is relevant to this Flexible Agreement. The list is indicative and for guidance only, is not exhaustive, and is subject to change. It is the responsibility of the Provider to keep up to date with any such developments both nationally and locally.

- i. Childrens Act 1989, 2004 and 2008
- ii. Children Act 1989 Guidance and Regulations Volume 4: Fostering Services
- iii. Childrens and Families Act 2014
- iv. Children and Social Work Act 2017
- v. Care Standards Act 2000 and 2010
- vi. Care Planning, Placement and Case Review (England) Regulations 2010, 2013 and 2015 (Miscellaneous Amendments)
- vii. Care Leavers (England) Regulations 2010
- viii. Fostering Services (England) Regulations 2011
- ix. Fostering Services: National Minimum Standards 2011
- x. Health and Social Care Act 2001, 2008 and 2012

- xi. Independent Review of Determinations (Adoption and Fostering) Regulations 2009
- xii. Lancashire Children's Social Care Procedures  
<http://www.proceduresonline.com/lancashirecsc/>
- xiii. Cumbria Children's Social Care Procedures  
<https://Cumbriacs.proceduresonline.com/chapter/contents>
- xiv. Blackpool Children's Social Care Procedures  
<https://blackpoolChildcare.proceduresonline.com/contents>
- xv. Blackburn with Darwen Children's Social Care Procedures  
<https://blackburndarwenChildcare.proceduresonline.com/contents.html>
- xvi. The Council's Children Looked After Sufficiency and Commissioning Effective Placements Strategy
- xvii. The Council's Children Looked After Strategy
- xviii. NICE Guidance PH28: Looked-after Children  
<https://www.nice.org.uk/guidance/ph28>
- xix. Pan Lancashire Safeguarding Children Procedures  
<http://panlancashirescb.proceduresonline.com/index.htm>
- xx. Cumbria Safeguarding Children Procedures  
<https://www.cumbriasafeguardingChildren.co.uk/default.asp>
- xxi. Promoting the Health and Well-Being of Looked-After Children 2015
- xxii. Public Services (Social Value) Act 2012
- xxiii. Social care common inspection framework (SCCIF) 2017: Independent Fostering Agencies
- xxiv. Statutory Guidance on Children Who Run Away or go Missing From Home or Care
- xxv. Sufficiency Statutory Guidance 2010
- xxvi. Working Together to Safeguard Children 2018
- xxvii. Training, Support and Development Standards for Foster Carers Guidance 2012
- xxviii. Liberty Protection Safeguards 2019
- xxix. The national protocol on reducing unnecessary criminalisation of looked after Children and care leavers 2018

1.2.2. Under the Sufficiency Duty each Contracting Body is required to have regard to the benefit of having a number of accommodation Providers in their area and a range of accommodation capable of meeting different needs. When deciding the most appropriate Placement, the Contracting Body must take into consideration:

- i. Allowing the Child to live near his/ her home
- ii. Not disrupting the Child's education or training
- iii. Enabling the Child and a looked after sibling to live together
- iv. Meeting the particular needs of Children with disabilities
- v. Providing accommodation within the local Contracting Body's area, unless that is not reasonably practicable.

1.2.3. The Counter Terrorism and Security Act 2015 places a duty on specified authorities including local authorities, schools, Higher Education and Further Education colleges, health, probation and the police to have “due regard to the need to prevent people from being drawn into terrorism”.

1.2.4. Prevent aims to stop people becoming terrorists or supporting terrorism. It is considered to be “the only long-term solution” to the threat from terrorism.

- 1.2.5. In providing Services to the Contracting Body, the Provider will ensure that all staff have awareness of the Prevent Duty and follow the procedures for concerns as outlined by the Children's Safeguarding Assurance Partnership (CSAP).
- 1.2.6. The Provider will ensure that all their policies and procedures take account of the need to safeguard and promote the welfare of Children and vulnerable adults. This must include:
- i. A robust safeguarding policy in line with the CSAP guidance
  - ii. Working to the Contracting Bodies Children Missing Policy and procedures should a Child be missing from home
  - iii. Arrangements in place to reduce the risk of Child Sexual Exploitation and Radicalisation.
- 1.2.7. The Provider will have staff that have appropriate safeguarding and safe practice training (as detailed in 3.2 Staffing Requirements) consistent with their role and function and adhere to safeguarding guidance and policy, both the Provider and any additional requirements associated with working as part of the Services.
- 1.2.8. The Provider will ensure that information is shared efficiently and effectively with the Contracting Body in respect of issues that may affect the safety and welfare of Children and vulnerable adults. This must include:
- i. Records relating to Children stored securely and safely
  - ii. Secure emails and appropriate encryption for sharing sensitive information.
- 1.2.9. The Provider will comply with policy and guidance relating to confidentiality and information sharing – recognising that they are working as part of an integrated Service to meet the needs of the Children and adults within the family.
- 1.2.10. The Provider will be familiar with and deliver Services that comply with the safeguarding policies and practice procedures of the Contracting Body, including but not exclusively:
- 1.2.10.1. <https://blackpoolChildcare.proceduresonline.com/contents.html>
  - 1.2.10.2. <http://www.lancshiresafeguarding.org.uk/resources/key-guidance-policy-documents.aspx>
  - 1.2.10.3. <https://www.proceduresonline.com/lancashirecsc/contents.html>
  - 1.2.10.4. <https://www.cumbriasafeguardingChildren.co.uk/default.asp>
  - 1.2.10.5. <https://cumbriacs.proceduresonline.com/chapters/contents>
  - 1.2.10.6. <https://blackburndarwenChildcare.proceduresonline.com/contents.html>
- 1.2.11. The Provider will have in place a Whistle Blowing Policy which is made known to all staff and volunteers. It should contain a clear duty to report to an appropriate Contracting Body any circumstances or occurrence which is considered likely to significantly harm the safety, rights or welfare of a Child/ren or family.
- 1.2.12. The Provider must be familiar with and deliver Services that comply with current and future Coronavirus (COVID-19), or related, legislation and guidance, including but not exclusively all requirements relating to safe working practices, home visits and face-to-face interventions. Legislation, regulations and national and local guidance relating to Coronavirus, or related, must be regularly reviewed and appropriate changes applied to Service delivery immediately and in agreement with the Contracting Body.

1.2.13. As part of the Equality Act 2010, the Contracting Body is committed to providing services that are fair and accessible for everyone. As the Public Sector Equality Duty is non-delegable, the Contracting Body also has a responsibility to ensure that its partners, companies and organisations that are commissioned to provide services on its behalf take the same positive approach to equality and pay due regard to equality as set out below.

1.2.14. In line with the Equality Act's (specific duties) Regulations 2011, the Contracting Body aims to:

- i. Eliminate unlawful discrimination, harassment and victimisation
- ii. Advance equality between everybody
- iii. Foster good relations between communities, tackling prejudice and promoting understanding
- iv. Removing or minimising disadvantages suffered by people due to their protected characteristics
- v. Taking steps to meet the needs of people from protected groups where these are different from the needs of other people
- vi. Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low

1.2.15. The Provider must deliver Services in line with the above equality objectives.

1.2.16. The Provider must consider the cultural, ethnic, religious, linguistic, and gender needs of families and Children. Access to interpreters may be required for families and Children whose first language is not English or have a sensory impairment. The Provider shall take into account a range of needs and support for families and Children to integrate as fully as possible into local community networks, facilities and services as appropriate.

1.2.17. The Provider must keep and maintain equality monitoring for all Service Users against all the protected characteristics.

1.2.18. The Provider will work with the Contracting Bodies to ensure compliance with the legislation, regulations and guidance, ensuring monitoring of standards and continuous improvement.

### **1.3. Objectives and Outcomes**

1.3.1. The overarching objectives of the Flexible Agreement are to ensure that suitable and safe Placements can be made within appropriate timescales and to ensure the Child's welfare, safety and needs are at the centre of the fostering process.

1.3.2. In delivering Services under the Flexible Agreement, the Provider will achieve the following overall outcomes in relation to Children placed with their carers:

- i. Children's welfare is safeguarded and promoted
- ii. Individual Children's outcomes are improved
- iii. Children's basic need for good parenting is met.

1.3.3. The Provider will work with the Contracting Body to achieve positive outcomes for individual Children and will meet the objectives of the Placement, which will be discussed and agreed in the Placement Plan and Care Plan. The Provider will ensure that the outcomes specified are achieved for the individual Children placed.

## 1.4. Service Principles

1.4.1. The Service is underpinned by the values outlined in the Fostering Services National Minimum Standards (NMS)<sup>1</sup>. These include:

- i. The Child's welfare, safety and needs are at the centre of their care
- ii. Children have an enjoyable Childhood, benefiting from excellent parenting and education, enjoying a range of opportunities to develop talents and skills leading to a successful adult life
- iii. Children are entitled to grow up in a loving environment that meets their developmental needs
- iv. Every Child should have their wishes and feelings listened to and taken into account
- v. Each Child should be valued as an individual and given personalised support in order to develop their identity, self-confidence and self-worth
- vi. The particular needs of Children with disabilities and Children with complex needs fully recognised and taken into account
- vii. Contact for looked after Children, and of maintaining relationships with birth parents and the wider family, including siblings, half-siblings and grandparents, is recognised, as is the Foster Carer's role
- viii. Children in foster care deserve to be treated as a good parent would treat their own Children and have the opportunity for as full an experience of family life and Childhood as possible, without unnecessary restrictions
- ix. The importance of the Child's relationship with their Foster Carer should be acknowledged and Foster Carers should be recognised as core members of the team working with the Child.
- x. Foster Carers have a right to full information about the Child
- xi. Foster Carers receive relevant support services and development opportunities in order to provide the best care for Children.

1.4.2. The Contracting Bodies recognise that the 'working relationship' between the Foster Carer, professionals working for the Provider and the Contracting Body is crucial in finding and making Placements work for Children. The Contracting Bodies commit to working in a way which shows the features of a good relationship and will promote:

- i. **Mutual respect**
- ii. **Trust**
- iii. **Honesty**
- iv. **Compromise**
- v. **Individuality** - *Organisations should be able to have their own identity and the strengths of different approaches valued and recognised*
- vi. **Good communication**
- vii. **'Resolution'** – *If things go wrong, parties work openly, honestly and with mutual respect to resolve them*
- viii. **Problem solving**
- ix. **Understanding**

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<sup>1</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/192705/NMS\\_Fostering\\_Services.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192705/NMS_Fostering_Services.pdf)

- x. **Self-confidence** - *When services working in partnership have confidence in their models of delivery, it can help their relationships with others*
- xi. **Being a role model** - *By embodying what respect means, partners can inspire each other and wider partners, to also behave in a way that builds trust and partnership working.*

## 1.5. Service Development

- 1.5.1. Providers will be required to attend regular Provider Forums. It is anticipated forums will be held at a minimum of six-monthly intervals per annum to support the development of a partnership approach between the Contracting Bodies and Providers to meeting the current and future needs of Children looked after. Where necessary, such as to discuss Enhanced or Step Down Fostering Placements, specialist forums (such as 'exchange events') will be held on a more regular basis and will be arranged by the Contracting Body as required.
- 1.5.2. At the Provider Forums, Providers will be required to join the Contracting Body in; sharing good practice, raising issues of concerns, sharing information relating to the needs of the Contracting Bodies Children Looked After (CLA) population and developing the market so any identified unmet needs can be addressed.
- 1.5.3. The remit of the forums may include the development of specific Service areas to meet the needs of the Contracting Body's Children looked after, for example:
  - i. Complex behavioural, emotional and social needs
  - ii. Children with disabilities
  - iii. Short term Placements including rehabilitation with birth family
  - iv. Other categories as the Authorities CLA population requires.
- 1.5.4. The identification and development of other Service areas may result in the procurement of supplementary Services under the Flexible Agreement. In these circumstances a mini competition will be undertaken in accordance with the Call-Off Procedure at Schedule 2 of the Agreement.
- 1.5.5. Through the Provider Forum, Providers will be required to work in conjunction with the Contracting Body and their Children in Care Councils to develop and improve care for Children Looked After.
- 1.5.6 The Contracting Bodies will work collaboratively with all Providers, across Lot 1, Lot 2 and Lot 3 and more specifically with Tier 1 Providers. The closer collaborative working will include:
  - 1.5.6.1 Notifying when vacancies are becoming available within the combined Contracting Body areas and working closely together to increase the chances of securing these vacancies for suitable Children, including the consideration of utilising the retainer/reservation fee to secure Placements prior to a suitable Child being identified
  - 1.5.6.2 Identifying and addressing issues which may impact on Placement stability, in order to prevent unnecessary Placement breakdowns
  - 1.5.6.3 Identifying when an alternative to the current Placement is required. This will include working in partnership to enable a planned move to a suitable alternative solution



- 1.5.6.4 Identifying and implementing improved ways of working to increase sufficiency and to enable more of our Children to be placed in local Registered Households
- 1.5.6.5 Regularly sharing analysis of Placements requested/ made and meeting regularly to discuss demand and explore how gaps in provision could be addressed. The Contracting Bodies will seek to work closely with Providers who wish to recruit more Foster Carers to meet identified gaps in provision
- 1.5.6.6 Support in the greater retention of local Foster Carers, specifically those supporting Children who have complex social emotional and behavioural needs who can significantly benefit from individual Foster Carer(s) skills and targeted interventions
- 1.5.6.7 Greater review, consideration, and feedback for those Children with no match identified such as any perceived barriers as well as considerations towards identifying closest best match.

## 2. Scope

### 2.1. Service Description

- 2.1.1. The overall requirement of this Flexible Agreement is that Children will be placed with families who have been assessed and approved to provide a secure, warm, safe and supportive environment in which they can develop in all aspects of their lives.
- 2.1.2. The Provider will be a registered Independent Fostering Agency (IFA) and as such will be governed by the NMS or equivalent, together with regulations on the Placement of Children in foster care, such as the Fostering Services (England) Regulations 2011 or any other relevant and subsequent regulations, which form the basis of the regulatory framework for the conduct of fostering services (the "Regulations").
- 2.1.3. In operating the Service, the Provider will meet and seek to exceed, through innovative practices, the National Minimum Standards (NMS) or equivalent.
- 2.1.4. Arrangements for the Placement of Children and the recruitment, approval, supervision and review of Foster Carers supplied by the Provider will conform to the Regulations and any other legislation that is applicable.
- 2.1.5. The Provider will act in accordance with the guidance contained in Working Together to Safeguard Children (2018)<sup>2</sup> and any subsequent guidance and adhere to the relevant Policies and Procedures for Safeguarding Children for the placing Contracting Body (and the Contracting Body where the Placement is located if different).
- 2.1.6. Where any deficiencies are identified, either by the Provider themselves or following an inspection by Ofsted or Care Inspectorate, the Provider will notify the Contracting Body immediately and take measures to rectify these without delay.
- 2.1.7. The Provider and the Contracting Body will work together in order to achieve positive outcomes for the Child in line with their assessed needs. Both parties have a shared responsibility for ensuring that the wishes and feelings of the Child are taken into account in reaching any decision about that Child.

<sup>2</sup> <https://www.gov.uk/government/publications/working-together-to-safeguard-Children--2>

- 2.1.8. A genuine partnership between all those involved in fostering is essential for the NMS to deliver the best outcomes for Children; this includes the Government, local government, other statutory agencies, fostering Providers and Foster Carers.
- 2.1.9. Upon request, Providers appointed to the Flexible Agreement will offer all suitable Placements for the Child being referred.
- 2.1.10. Providers will supply the requirements as set out in the Minimum Requirements as outlined in section 8, and any other stipulated Additional Services, to satisfy the needs of each Child.
- 2.1.10.1. Where a Provider on the Flexible Agreement subcontracts an IPA with a Foster Carer who is registered to another Provider but from the same organisation who is not part of the Flexible Agreement, the sub-contract will include all the terms and conditions of the Flexible agreement including Price.
- 2.1.11. The Child's individual needs will be met under the provisions set out in this Agreement. However, there may be circumstances whereby the Provider may need to supply Additional Services above those specified in this Agreement. These Additional Services must be justified to and agreed by the Contracting Body before commencement and will be included separately in the relevant IPA. For Additional Services where prices are out of scope of this Agreement, the Contracting Body will ask the Provider to provide a competitive price as part of the Call-Off Procedure, considering prices available from Providers supplying similar Additional Services. Additional Services will be reviewed on a regular basis, at least every 3 months, by both the Contracting Body and Provider.
- 2.1.12. Statutory responsibility for the Child and for monitoring their individual progress ultimately rests with the Contracting Body making the Placement and will be exercised through the Child's social worker, educational psychologist where applicable, and statutory review procedures. The Provider will be responsible for delivery of the Service and day to day monitoring of the Child's wellbeing and progress as defined in the Child's Care Plan, and where appropriate Individual Education Plan (IEP) and/ or Personal Educational Plan (PEP) and/or Education, Health and Care (EHC) Plan.
- 2.1.13. Where an emergency or short-term Placement is made, the Provider will work collaboratively with the Contracting Body to meet the outcomes identified in the Child's Care Plan, such as supporting the Child to return home or supporting a move to a more permanent Placement.
- 2.1.14. Providers will deliver all aspects of Services in a manner commensurate with the principle that the welfare of the Child is of paramount importance. This is the foremost principle and supersedes all others as a foundation for care planning and Service delivery. The Child's experience must be that their individual best interests are the primary concern of all parties.
- 2.1.15. The Provider will:
- i. Safeguard the Child's welfare by the application of clearly stated operational principles and established standards of practice and provision
  - ii. Ensure that there are appropriate arrangements for consulting with and facilitating participation in decision making by the Child and where appropriate their parent(s) or carers

- iii. Ensure that all Children are treated as individuals at all times, being attentive to individual needs and rights in relation to age, gender, race, sexual orientation, gender reassignment, disability, and religion or belief, and meet specific cultural needs
- iv. Work in partnership with all agencies, organisations and individual professionals with a responsibility to the Child so that Children will see that everyone involved in their life is working in co-operation, co-ordination and in their best interest
- v. Ensure Children themselves are given accurate and timely information with regard to the length of their Placement and why they are being placed, and generally ensure that Children are given clear explanations in a manner that is meaningful to them of the logic of decision-making processes and how decisions demonstrate the other principles.

2.1.16. The Provider will inform the Contracting Body immediately if there are any changes to their registration with any relevant regulatory body and/or their finances that may impact on their ability to provide the Services.

2.1.17. In the event of Foster Carer(s) deciding to move registration to another IFA or Contracting Body, the Fostering Networks Transfer of Carers Protocol will come into effect. For avoidance of doubt, the IPA arrangements regarding Price shall, subject to contrary written agreement from the Contracting Body, not be any higher and the Care arrangements will remain the same.

## **2.2. Information**

2.2.1. The Contracting Body will supply the Provider with the information relating to any Placement as detailed at the Placement Planning Meeting.

2.2.2. The Contracting Body will keep the Provider and its Foster Carers informed of developments in the case management of any Child placed by the Provider, particularly changes in family circumstances and the progress of any legal proceedings.

2.2.3. The Child's Care Plan will be amended as part of the statutory review process. The Provider / Foster Carer will be involved in this process. The Contracting Body will not make or alter Care Plans for any Child without notifying the Provider.

2.2.4. The Provider will keep the Contracting Body informed of all Children's progress in their respective Placement(s) and will notify the Contracting Body immediately of any significant or notifiable events as outlined in Schedule 7, Regulation 36 of the Regulations. The Provider will ensure the registered manager is able to demonstrate and evidence that appropriate follow up action is taken.

2.2.5. The Provider will notify the Contracting Body of any significant changes in the Foster Carers' circumstances and of any recommendations or requirements arising from the Foster Carers' annual review. The Provider will ensure that the Contracting Body is offered the opportunity to contribute to the Foster Carers' annual review.

2.2.6. The Provider will ensure that the Foster Carer maintains a record of the Child's progress in the Placement and any significant events. This information will be made available to the Contracting Body's social worker and to the statutory Child care review upon request.

- 2.2.7. The Provider will supply information about the performance of the Service it provides as outlined in Section 7: Performance Management.
- 2.2.8. The Provider will ensure that its social workers and Foster Carers understand and implement the Safeguarding Children's Partnership protocols and procedures, have a good understanding of what might cause a Child to go missing, to be at risk of sexual exploitation and/or radicalisation and take action to minimise all the associated risks.
- 2.2.9. The Provider will ensure that incidences of Children going missing, being at risk of sexual exploitation and/or at risk of radicalisation is monitored rigorously.
- 2.2.10. The Provider will make available other information about its Service which the Contracting Body may from time to time require, provided that the information requested is relevant to the operation of the Agreement and Service Contract and not excessive.
- 2.2.11. The Provider must ensure that the information related to the Service will be designed and presented in a format that is accessible to Children, having consulted with Children in respect of the same to the extent that is reasonably practicable, and produced, where required, in a variety of ways to ensure the needs of Children with specialist needs are met e.g. Braille, audio tapes, different languages, pictures and symbols.

### **2.3. Contact with Family, Friends and Other People who are significant to the Child**

- 2.3.1. The Provider must deliver the Services in a manner that promotes contact with family, friends and other people who are significant to the Child, unless that is not consistent with their wellbeing.
- 2.3.2. The Provider will ensure that all its Foster Carers understand the importance of contact for Children, that they participate in contact plans and support the Child to achieve a positive outcome from contact with family, friends and other people who are significant to the Child. This will include consideration for the facilitation of contact within the Foster Carer's home, where appropriate.
- 2.3.3. The Provider will promote the development of positive friendships and connections to the local community for all Children while having regard to the safeguarding requirements of the regulations and any procedures or policies of the Contracting Body.

### **2.4. Day to day living and the achievement of Key Outcomes for the Child**

- 2.4.1. The Provider will ensure that its Foster Carers provide care for all Children in line with good and reasonable parenting, treat them fairly and consistently and afford them opportunities for personal growth that are appropriate for their age and level of development.
- 2.4.2. The Provider is responsible for ensuring that the Child has access to health services including general practice, dental care and optical care; that they receive a balanced diet and take part in regular exercise; and that as they grow older they have access to health information that enables them to make informed lifestyle choices.
- 2.4.3. The Provider must advise the Contracting Body of any difficulty in accessing health services on behalf of a Child without delay.

- 2.4.4. The Provider and the Contracting Body must endeavour to ensure that the Child is safe and free from all forms of abuse, bullying, harassment and discrimination. This must include effective policies and procedures which address the risks of:
- 2.4.4.1. Internet use, such as through social media
  - 2.4.4.2. Child sexual exploitation
  - 2.4.4.3. Child criminal exploitation including the risk of involvement in County Lines
  - 2.4.4.4. Missing from home
  - 2.4.4.5. Radicalisation
- 2.4.5. The Contracting Body and the Provider will identify risks associated with the Placement of any Child and agree a risk management strategy to be followed by the Foster Carers.
- 2.4.6. The Provider will assist the Contracting Body in identifying and accessing psychiatric, psychological or other therapeutic services as detailed in the Child's Care Plan.
- 2.4.7. Where agreed by the Contracting Body, the Provider will ensure that medication for a Child is administered by Foster Carers in accordance with details described in their prescription(s) and in accordance with appropriate medicine recording, handling, safekeeping, administration and disposal procedures including as appropriate Children safely administering their own medication.
- 2.4.8. The Provider will ensure that its Foster Carers support the Child's education, offering advice and encouragement and attending school activities when required. This will include support in the development, implementation and review of the Child's Personal Educational Plan (PEP).
- 2.4.9. Where particular issues arise which impede the Child's progress at school, the Provider will take measures to resolve these. If they are unable to do so the Provider must advise the Contracting Body of this without delay. In the event of a Child being excluded from school the Provider must notify the Contracting Body immediately in order to jointly consider what action is needed to maintain the Child's access to education.
- 2.4.10. The Provider and its Foster Carers will take steps to help the Child to develop their social and sporting skills, to enjoy positive and cultural activities and engagement in their local community.
- 2.4.11. The Contracting Body and the Provider must work together to ensure that the Child is given opportunities appropriate to their age, understanding and stage of development to express their views and feelings and that these are taken into account when making any decision affecting the Child.
- 2.4.12. The Provider will ensure its Foster Carers contribute to the development of 'Life Story' work with the Child and support the Child to, where appropriate, reflect on and understand their Placement history and keep memorabilia and photographs of the time spent in their care.
- 2.4.13. As Children grow older the Provider must ensure that they receive support and advice that helps them to prepare for adult life. This will include ensuring that they have access to advice on further education, employment and independent living options; and that they have been helped to develop independent living skills.

2.4.14. Where Children have complex needs or disabilities, the Provider will work with the Contracting Body and other key professionals, including adult services and third sector organisations in order to ensure that the Child's needs are being met as effectively as possible, both as a Child and as they approach adulthood.

2.4.15. The Provider will ensure that it involves Children in discussions, groups and strategies to raise awareness of risk and to help them stay safe.

## **2.5. Transport**

2.5.1. The Provider will ensure that all Children placed are transported to all activities as stipulated in the Minimum Requirements. All travel costs will be included within the Provider's Price. In exceptional circumstances and at the sole discretion of the Contracting Body, additional payment may be agreed to fund excess mileage requirements. Where these additional payments are agreed, the payment will not be above the published HMRC Rates and allowances (travel - mileage and fuel allowances) relevant at the time.

2.5.2. The Provider must ensure that, where required, anyone working on their behalf holds a full driving licence and that all vehicles used to transport Children are appropriately insured, roadworthy and otherwise comply with current relevant legislation. For the avoidance of doubt this provision does apply to Foster Carers.

2.5.3. The Provider must carry out a full risk assessment on any staff member or Foster Carer who receives penalty points for a motoring offence or is involved in an accident.

## **2.6. Equality and Diversity**

2.6.1. The Provider will demonstrate equality in all aspects of its practice and have clear procedures in place.

2.6.2. The Provider will ensure that its staff and Foster Carers positively embrace the concept of diversity in society and encourage all Children placed with them to understand and respect different cultures and lifestyles.

2.6.3. The Provider will ensure that Foster Carers have the capacity and resources to help the Child to develop a positive sense of their identity and to deal with hate-based abuse or attacks.

2.6.4. The Provider will ensure that the Child's religion or beliefs are acknowledged and respected in the Placement and that they are supported to follow their faith.

2.6.5. The Provider will have a clear policy and procedure on Children's Rights, including appropriate information relating to any Additional Services provided by the Contracting Body.

2.6.6. Those Placements relating to an Unaccompanied Asylum Seeking Child (UASC) will be supported and encouraged by the Provider and Foster Carer(s) to; settle and acclimatise in their new environment, adjust to living in a different cultural setting, make connections and be supported in their connections to local ethnic and religious groups and be aware of the young persons' rights as a UASC and to promote and support those rights.

## **2.7. Children with Disabilities**

- 2.7.1. When considering a Placement for a Child with disabilities, the Provider and the Contracting Body will jointly assess whether there is a need for specific additional support, equipment or adaptations and will agree arrangements for the provision and ongoing maintenance of those items. Additional fees associated to the Child's specific needs must be agreed with the Contracting Body before Placement start and separated from the Minimum Requirements Price as part of the IPA.
- 2.7.2. The Provider will use all reasonable endeavours to offer a match for a Child with disabilities to Foster Carer(s) with the necessary knowledge, skills and ability to care for the Child. Wherever reasonably possible, the Foster Carer should have the necessary adaptations to their home and vehicles, as required to cater for the Child's specific needs.
- 2.7.3. The Provider will ensure that all carers who apply for Disability Living Allowance or other benefits on behalf of Children in their care comply with the Contracting Body's Children's Social Care Procedures and consult with the Child's social worker regarding the application and outcome.
- 2.7.4. Where a Child is in receipt of state benefits as a result of their disability, the Provider and the Contracting Body will agree and actively monitor the use of this money so that it is used directly for the benefit of the Child and does not replace the responsibility of either party to fund the care of the Child.
- 2.7.5. The Provider will ensure a record is kept by the Foster Carers of how the Disability Living Allowance paid to the Foster Carer in relation to each Child is spent and this record should be shared with the Child's social worker and other members of the Contracting Body's staff on request.
- 2.7.6. Any savings which are accrued from benefit payments should be placed within an account which is clearly separate to that of the Foster Carers and in the Child's name.
- 2.7.7. Any items and equipment purchased using Disability Living Allowance are the Child's property and must move with them at the conclusion of any Placement.

## **2.8. Therapeutic Services**

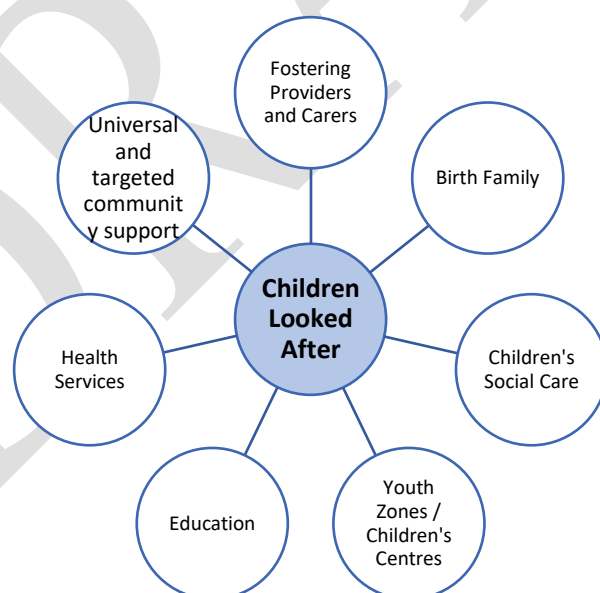
- 2.8.1. Therapeutic Services, as agreed by the Contracting Body, may also be provided but only if the Provider is registered with the appropriate statutory body to provide this type of support package. Practitioners must be properly trained, qualified and registered. They must comply with the conditions of registration in the Providers Statement of Purpose and comply with relevant legislation and clinical governance.
- 2.8.2. Where additional therapeutic Services are supplied:
- i. The Provider must be able to deliver, or procure evidence based therapeutic input from suitably qualified and supervised practitioners (management and clinical supervision)
  - ii. For the purposes of this Agreement and Service Contract, delivery of therapeutic Services by a third party shall be considered subcontracting
  - iii. The Provider must maintain an up-to-date list of therapeutic practitioners identifying their qualifications

- iv. Therapeutic practitioners must be suitably accredited or ready for accreditation within their profession
- v. A detailed plan of direct and formal therapeutic work will be agreed between Provider and the Contracting Body with evidence of a defined methodology and will be part of the Child's Care Plan
- vi. Therapeutic or other clinical input offered by the Provider must be in addition to the universal or specialist services offered by the NHS and Contracting Body funded services already available to Children, which are free at point of the delivery.

2.8.3. When therapeutic Services are required and are not supplied as part of the Service Model, this will be known as Additional Services and the Contracting Body may ask the Provider to provide a competitive price, considering prices available from Providers supplying similar Additional Services. Additional Services will be reviewed on a regular basis, at least every 3 months, by both the Contracting Body and Provider.

## 2.9. Whole System Relationships

- 2.9.1. The Services provided should be to the benefit of Children with a remit of ensuring that they achieve positive outcomes. There should be recognition that the Service forms part of a broader network of support. All Providers have a responsibility to ensure that Children are involved in the development of Services and their individual packages of care. Providers will work within this whole system of provision.
- 2.9.2. The Provider will support the Contracting Body's Children's Social Care Service. Foster Carers are an integral part of the support network for Children looked after and have a key role to play in terms of encouraging and supporting the Child to engage with other support, as shown in the diagram below.



## 2.10. Monitoring and Performance

- 2.10.1. The Service Contract and Flexible Agreement will be monitored:



- 2.10.1.1. For Lancashire, by the Contracting Body's Policy, Commissioning and Children's Health Service, including the Access to Resources Team (ART), and Children's Social Care.
  - 2.10.1.2. For Blackburn with Darwen, by the Contracting Body's Children's Social Care Fostering Team
  - 2.10.1.3. For Blackpool, by the Contracting Body's Commissioning Team
  - 2.10.1.4. For Cumbria, by the Contracting Body's Commissioning Team and Children's Social Care.
- 2.10.2. Performance in relation to Children looked after is monitored on a regular basis. The Provider may be required to report to the relevant Corporate Parenting Boards, the Contracting Body's Senior Management Team, and the Contracting Body's Children in Care Councils and/or Children's Social Care Senior Management Teams.
- 2.10.3. Where a Provider has a Child placed with one of their Foster Carers, they will be required, where available and when requested, to participate in a Young Inspection. This will be carried out by trained young people. The format and content of the Young Inspection has been developed by the relevant Children in Care Council.
- 2.10.4. The findings and recommendations from the Young Inspection will be shared with the relevant Corporate Parenting Board (led by the Contracting Body) and will be used by the Contracting Body and Provider to identify any areas for development. The Provider will be required to develop and implement any plan reasonably proposed as a result of a Young Inspection to address these areas and the plan will be monitored in subsequent performance management meetings. The Young Inspectors will revisit the Provider six months after the initial visit to monitor how well their recommendations have been implemented.

### **3. Delivery**

#### **3.1. Service Delivery**

- 3.1.1. The Provider must ensure all work with Children and families:
- i. Is designed and delivered using methods that are supported by credible evidence of positive results
  - ii. Builds upon strengths and assets and will enable Children to develop social connections in their community.
- 3.1.2. The Provider will adopt a flexible working approach to delivery to ensure that the Service is Child-led, is in the interests of Children accessing the Service and delivered to meet the needs of the individual Children and families.

#### **3.2. Staffing Requirements**

- 3.2.1. The Provider must ensure that its staff and Foster Carers have the necessary professional qualifications, skill and experience to deliver the Service and that regular and effective supervision and appraisal takes place, in accordance with the NMS<sup>3</sup> or equivalent.

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<sup>3</sup> <https://www.gov.uk/government/publications/fostering-services-national-minimum-standards>

- 3.2.2. The Provider will recruit, prepare, assess, approve, train, supervise and review Foster Carers in order to ensure they are capable of meeting the needs of Children.
- 3.2.3. The Provider must ensure that its Foster Carers have the understanding, skill and resilience required to meet the needs of Children who are looked after by the Contracting Body.
- 3.2.4. The Provider must ensure that Foster Carers have a clear understanding and effective practice in relation to the potential impact of abuse and neglect on a Child's development and behaviour, and in relation to disclosures of abuse.
- 3.2.5. The Provider will take measures to recruit Foster Carers from diverse backgrounds in order to meet the needs of Children requiring Placements.
- 3.2.6. The Provider must ensure that it has a fostering panel that is constituted in accordance with the Regulations and carries out all the functions required of it.
- 3.2.7. The Provider will ensure it operates a safe Service with safe families. The Provider will promote safe care, make annual unannounced visits to Foster Carers and ensure that Children are seen without their Foster Carers.

### **3.3. Training and Development of Staff and Foster Carers**

- 3.3.1. The Provider will ensure there is an ongoing programme of training for Foster Carers that meets, as a minimum, the NMS or equivalent and the requirements of the Training, Support and Development Standards for Foster Carers Guidance <sup>4</sup>(and subsequent guidance), and monitors take up and impact.
- 3.3.2. The Provider shall provide Foster Carers with such training, advice, information and support, including support outside office hours, as appears necessary in the interests of Children placed with them.
- 3.3.3. The Provider must take all reasonable steps to ensure that its Foster Carers are familiar with, and act in accordance with the Provider's policies and procedures in relation to Child protection and safeguarding, radicalisation, managing behaviour and Children who go missing.
- 3.3.4. The Provider must ensure that, in relation to any Child placed or to be placed with a Foster Carer; the Foster Carer is given such information, which is kept up to date, as to enable the provision of appropriate care for the Child, and in particular that each Foster Carer is provided with a copy of the most recent version of the Child's Care Plan provided to the Provider.
- 3.3.5. The Provider will ensure that there is a programme of ongoing training for staff and Foster Carers to develop new skills and competencies, and participation is monitored through regular and effective supervision and appraisal.

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/287954/foster\\_care\\_tsd\\_standards\\_guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/287954/foster_care_tsd_standards_guidance.pdf)

- 3.3.6. Providers who offer Parent and Child Placements will ensure that all Foster Carers offering a Parent and Child Placement have undergone specific training, in accordance with the Regulations, covering safe sleeping practices and are clear in their role in promoting safe sleeping practices.
- 3.3.7. The Provider will ensure that all Foster Carers receive regular, quality supervision and are effectively supported to meet the needs of the Child/ Children placed with them. The Provider will also consider the training and support needs of others living in the foster home, including the sons and daughters of Foster Carers.

## **4. Placement Planning**

### **4.1. Care Planning and Review**

- 4.1.1. The Contracting Body and the Provider will work together to ensure delivery of agreed outcomes for the Child, which will be specified at the Placement Planning Meeting.
- 4.1.2. The Provider and the Foster Carer will participate in the Child's statutory reviews and will supply written information about the Child's progress in the Placement prior to such statutory review meetings. The Contracting Body and the Provider will also agree the frequency of other meetings to review the Placement as may be required.
- 4.1.3. The Contracting Body and Provider will take all reasonable measures to ensure the Child is aware of plans for the future in a way which is appropriate to their age and development with an opportunity to ask questions about their Care Plan.
- 4.1.4. Where the Care Plan is for the Child to return to their family or move on to a permanent Placement, the Contracting Body and Provider will work together in order to achieve this goal.

### **4.2. Placement Stability and Placement Endings**

- 4.2.1. The Contracting Body has a duty to minimise the number of moves a Child experiences and the disruption this causes. Therefore, to avoid further movement and instability for a Child the Contracting Body seeks to secure the right Placement, the first time, in line with the Child's Care Plan.
- 4.2.2. The Provider and the Contracting Body will work together to ensure that Children are able to remain in their Placement as agreed within their Care Plan; until they return to their families, are able to move to a Placement that is more suitable for their needs, achieve permanency or leave care after age 18.
- 4.2.3. The Provider may not discharge or give notice of its intention to discharge a Child from a Placement unless it has first discussed with the Contracting Body ways in which difficulties in the Placement might be addressed. Prior to giving notice, the Contracting Body and Provider will hold a Placement Stability Meeting at the earliest possible opportunity.
- 4.2.4. In order to maintain Placement stability, if agreed by the Contracting Body, in situations where the needs of a Child are not being met in their existing Placement and would be better met through either the provision of Additional Services or Services provided through Lot 2 Enhanced Care or Lot 3 Step Down Foster Care and the Provider is in Lot 2 or Lot

3, the Parties may agree to change the Placement or agree to the provision of Additional Services. In such circumstances the Service requirements set out in relevant Lot Specification(s) will apply.

- 4.2.5. The Provider may not move a Child to another Foster Carer within its own group of Foster Carers without the prior written agreement of the Contracting Body and a new Placement Planning Meeting taking place to agree individual outcomes for the affected Child.
- 4.2.5 Where Placements end as a result of the Provider giving notice, the Contracting Body may require the Provider and its Foster Carer to attend a meeting to review the case and look at the reasons for and implications of the Placement disruption. Consideration should always be given to convening a Placement Disruption Meeting in relation to Children whose Placement has ended abruptly or on an unplanned basis.
- 4.2.6. The Provider shall not discharge a Child from their care without sufficient notice to plan alternative care and, wherever practicable, with the agreement of the Contracting Body. In exceptional circumstances when it is agreed between the Contracting Body and the Provider that the current Placement is no longer in the best interests of the Child, the Contracting Body shall make other suitable arrangements for the Child, as quickly as possible, taking account of the urgency of the situation. Termination of Placements shall be made in accordance with the timescales detailed within the Flexible Agreement.
- 4.2.7. Where the Provider wishes to bring a Placement to an end and following the requirements above, the Provider must provide a minimum notice, as described in clause 20 of the Call-Off Terms and Conditions, in writing to the Contracting Body, unless otherwise agreed in writing by the Contracting Body. Written notice should be issued to the case holding social worker as well as to the relevant team or service, as identified under section 2.10.
- 4.2.8. For all Placements lasting over 12 months, the Provider and the Contracting Body will work together to agree permanence arrangements for the Child where this is appropriate for the Child. If considered appropriate under the circumstances, this may include the payment of a fee by the Contracting Body for the transfer of a Foster Carer to the Contracting Body's managed services or for the successful application of an adoption, Child arrangement or special guardianship order.
- 4.2.9. The Provider must ensure that all Foster Carers are aware of the options for permanence, the suitability of these for the individual Child, and discuss with the Child's social worker any potential for the Child to leave care through adoption, residence order or special guardianship order applied for by the Foster Carer.
- 4.2.10. Where a Child remains in a foster home beyond the age of 16 the Provider will work with the Contracting Body to ensure that they are prepared and supported to move on from the Placement.
- 4.2.11. The Provider must ensure that all Foster Carers are aware of the Contracting Body's current 'Staying Put' policy and participate in discussions with the Child and Child's social worker regarding the suitability of this for the individual Child and potential for them to remain in the Placement after leaving care, as part of care and pathway planning.
- 4.2.12. At the end of all Placements, the Provider is required to submit an End of Placement Report to the Contracting Body within 10 working days of the conclusion of the Placement. This

information, alongside the monitoring returns, will be used by the Contracting Body to monitor the effectiveness and quality of the Services provided.

#### **4.3. Staying Put**

- 4.3.1. The Services will automatically end on the Child's 18<sup>th</sup> birthday. Payment under this Agreement will automatically cease at this point.
- 4.3.2. Arrangements for Staying Put Placements will be made in reference to the placing Contracting Body's Staying Put process.

#### **4.4. Respite**

- 4.4.1. Where respite is part of the plan to meet the Child's needs the Provider will discuss this with the Contracting Body and agree reasonable steps to reduce any negative impact on the Child. The Provider will be responsible for arranging respite to meet the needs of the Child and will ensure that the Child and Foster Carer are appropriately supported.
- 4.4.2. Foster Carers of Children in emergency, specialist, short or medium term Placements may be provided with up to 14 days per annum respite care pro rata to the length of the Placement, to support them and to benefit the Child. This provision will be arranged internally by the Provider and will be included in the Minimum Requirements.
- 4.4.3. Foster Carers who care for a Child in a permanent / long term Placement will not usually access respite as the Child's secure attachment in the family must be promoted and maintained. This must not be provided without prior consent from the Contracting Body.
- 4.4.4. The Contracting Body will not pay the Provider for any night spent away from the Provider's care. In such instances the Contracting Body will reduce the weekly Placement fee to reflect the non-provision of the 14 days respite per annum within the Minimum Requirements.
- 4.4.5. Planned respite Placements will be arranged directly with the Child's Social Worker. The Provider will send the Social Worker the approved Respite Carer's profiles and/or Form F before any planned respite take place.
- 4.4.6. For unplanned respite, or if the Child needs to be moved in an emergency situation to an alternative carer within the Provider's organisation, the Contracting Body must agree and have sight of the carer's profile and/or Form F in advance, and a notification is required from the Provider to the Contracting Body.
- 4.4.7. The Contracting Body will not be responsible for any additional expenses incurred through arranging respite.
- 4.4.8. The Provider will ensure that the Child does not experience any disruption to their routines and education as a result of any respite Placements and wherever possible respite carers are known to the young person.

#### **4.5. Foster Carer Retention**

- 4.5.1. The retention of Foster Carers, for a time limited period, will support the Contracting Body in securing local Placements for local Children. It will specifically support those Children

with a higher level of needs who can significantly benefit from Foster Carers with enhanced skills and targeted interventions as well as assisting the Contracting Bodies in meeting current unmet demand in underserved areas.

- 4.5.2. A retainer may be used by the Contracting Body and Provider either to support extended Placement planning discussions for an already matched Child or to reserve a vacant Placement within a Registered Household whilst matching processes continue.
- 4.5.3. A retainer should allow the Contracting Body to secure the use of a Placement within a Registered Household and therefore fees should cover carer allowances only.
- 4.5.4. A Provider may choose to offer the opportunity to the Contracting Body to pay a retainer for a vacant Placement within a Registered Household whilst matching processes continue. If agreed by the Contracting Body, the Provider will, on signing a Retained Placement Agreement, exclusively reserve the vacant Placement for the Contracting Body, up to the maximum of 28 days.
- 4.5.5. In the event no planned match is identified for a reserved Placement within 28 days, the Contracting Body will inform the Provider, in writing, that the identified Registered Household will no longer be required.
- 4.5.6. In this instance, the Retained Placement Agreement and retainer payments for the identified vacant Placement within a Registered Household will cease.
- 4.5.7. If either party approaches the other with a proposal to release a reserved Registered Household earlier than 28 days, the other party shall respond with a decision within two (2) working days.
- 4.5.8. The Contracting Body will determine which Children they wish to be considered for a reserved vacant Placement. The decision to place a Child into a reserved Placement will remain at the full discretion of the Provider.
- 4.5.9. If either party have significant concerns relating to a reserved Placement, they must raise it with the relevant party immediately. In such circumstances, the Contracting Body reserves the right to immediately end the Retained Placement Agreement and release the reserved Registered Household and cease any further retainer payments relating to the Registered Household Placement.
- 4.5.10. The Contracting Body cannot guarantee the level of application of retainers throughout the period of the Flexible Agreement. The agreement of paying a retainer to reserve a Placement within a Registered Household should not replace the Call-Off Procedure outlined in the Flexible Agreement.
- 4.5.11. Retainers, for a matched Child, should be used to exclusively reserve a Placement to assist in more prolonged Placement planning and not as part of standard planning discussions. In such instances, if agreed by the Contracting Body, the Provider will, on signing an IPA reserve the Placement for the Contracting Body for the matched Child.

#### **4.6. North West Local Authorities Information Sharing Protocol**

- 4.6.1. The North West Local Authorities operates an Information Sharing Protocol. The Protocol aims to facilitate the timely sharing of information about Providers between Children's

Services Authorities where there are events or concerns that may be relevant to their contractual relationship. Such information sharing is considered good practice, as it will help the Contracting Body to monitor the quality of Providers and protect the welfare of Children in care.

- 4.6.2. The Protocol aims to offer a straightforward and consistent approach to information sharing. The approach is intended to be open and understandable. Providers will be informed of any notifications about them under the Protocol.
- 4.6.3. Each recipient Contracting Body is responsible for deciding what action it takes as a result of information received under the Protocol. A Formal Improvement Notice may be issued as a result of information shared and/or a suspension of Placement Referrals.

## 5. Social Value and Corporate Parenting Responsibilities

### 5.1 Social Value

- 5.1.1 Social Value is the additional economic, social and environmental benefits that can be created when a public service purchases a service from an outside organisation, above and beyond the value of the service itself. Social Value within the Service should support the Contracting Body 's priorities:
  - i. **Promote training and employment opportunities**– tackle unemployment and facilitate the development of skills.
  - ii. **Raise the living standards of local residents** – working towards living wage, maximise employee access to entitlements such as Childcare and encourage suppliers to source labour from within the Contracting Body.
  - iii. **Build the capacity and sustainability of the voluntary and community sector**– practical support for local voluntary and community groups.
  - iv. **Promote equity and fairness** – target effort towards those in the greatest need or facing the greatest disadvantage and tackle deprivation across the Contracting Body.
  - v. **Promote environmental sustainability** – reduce wastage, limit energy consumption and procure materials from sustainable sources.

<https://www.lancashire.gov.uk/media/898255/approved-social-value-policy-and-framework.pdf>

### 5.2 Corporate Parenting Responsibilities

- 5.2.1 Corporate parenting relates to the collective responsibility of the Contracting Body, elected members, employees, and partner agencies, for providing the best possible care and safeguarding for the Children who are looked after by the Contracting Body. A whole system approach to corporate parenting is required whereby the Contracting Body works alongside its partners in order to safeguard but also improve the life chances and opportunities for Children who are looked after and care leavers. The Services will promote and support the seven Corporate Parenting Principles:
  - i. To act in the best interests, and promote the physical and mental health and well-being, of those Children
  - ii. To encourage those Children to express their views, wishes and feelings
  - iii. To take into account the views, wishes and feelings of those Children

- iv. To help those Children gain access to, and make the best use of, services provided by the Contracting Body and its relevant partners
- v. To promote high aspirations, and seek to secure the best outcomes, for those Children
- vi. For those Children to be safe, and for stability in their home lives, relationships and education or work
- vii. To prepare those Children for adulthood and independent living.

## **6. Participation of Service Users**

- 6.1.1 The Contracting Body is committed to Children being empowered; participating in the Services they receive and the communities in which they live.
- 6.1.2 The Provider will treat Children and families as partners, not simply recipients of Services. They should be actively involved in the planning, delivery and evaluation of support. The Provider must demonstrate:
  - i. How it actively involves Children and families in the evaluation and design of the Service and organisation
  - ii. How it actively involves Children and families in assessments, planning and review of progress
  - iii. That Service Users, in particular Children, report a consistently high satisfaction level of the Services they receive.
- 6.1.3 The Provider will encourage and facilitate through reasonable and appropriate means Children's attendance and participation at local consultation, engagement, participation and advocacy forums.

## **7. Performance Management**

### **7.1 Monitoring of Service Level Outcomes**

- 7.1.1 The Provider will ensure the current Fostering Services Minimum Standards and the Social Care Common Inspection Framework – measured by Ofsted judgement, or other regulatory inspections (requirements and notices) are met at all times.
- 7.1.2 The Provider is required to inform the Contracting Body of any changes to its Ofsted or equivalent regulator rating during the lifetime of the Flexible Agreement. In the event of a Provider receiving an Ofsted rating of Requires Improvement or Inadequate or Care Inspectorate rating of Weak or Unsatisfactory (or equivalent rating from an equivalent regulator), the Provider is required to produce a robust Action Plan detailing improvement timescales and clear targets in order to regain a Good (or equivalent) or better rating. The Council reserves the right to vary the Provider's position on the Flexible Agreement Tiers or suspend or remove a Provider as a result of any changes to its Ofsted and / or Care Inspectorate rating. See Flexible Agreement Schedule 5 Tiering System.
- 7.1.3 In addition to regulatory requirements, Providers will complete, at a minimum, quarterly reports, annual reports and end of Placement reports which will include KPI reporting. For Lot 2 and Lot 3, Providers will complete, at a minimum, individual Placement progress reports every quarter, for all active Placements.



- 7.1.4 Any concerns relating to information supplied in the monitoring reports, annual reports, individual Placement reports, end of Placement reports or Young Inspectors report or complaints will be discussed with the Provider and placing Contracting Body and appropriate action will be agreed. Failure to address concerns identified to the satisfaction of the Council or Contracting Body will result in the issue of a Formal Improvement Notice by the Council. This will set out actions that must be delivered in a specific timeframe. It will also detail actions that the Council intends to take account of if continuing concerns are not addressed in full. This is likely to include the suspension of Placement Referrals until the matter is resolved. If the issue persists then the Council reserves the right to demote the Provider from their current tier allocation or remove the Provider from the Flexible Agreement. (See Flexible Agreement Schedule 5 Tiering System).
- 7.1.5 The Council or Contracting Body reserves the right to suspend Referrals immediately to Provider in the event of significant safeguarding concerns.
- 7.1.6 The Contracting Bodies are requiring closer working relationships with Providers who have been selected to be part of Tier 1. This closer relationship includes the setting of specific individual performance targets for individual Providers based on the Provider's specific circumstances. Where these targets are not met, the Council reserve the right to take appropriate action, including the right to demote the Provider from Tier 1. See Key Performance Indicators (KPIs) below in paragraph 7.2.7 and Tiering System document Schedule 5 of the Flexible Agreement.

## **7.2 Monitoring Requirements**

- 7.2.1 The Provider will identify a named senior contract manager who will be the main point of contact in relation to delivery and performance management of the Service.
- 7.2.2 The Contracting Body reserves the right to request that monitoring meetings are held at the Provider's premises and to request evidence of reported outputs and outcomes, including seeing supervision, training files and concerns or complaints logs specific to Foster Carers and meeting with Foster Carers and staff delivering the Service.
- 7.2.3 Tier 1 Providers will be required to attend a higher frequency of monitoring meetings and Lot 2 and 3 Providers will be required to attend specialist Provider forums, Exchange Events, in order to share learning, develop the market, inform Service design and improve individual outcomes.
- 7.2.4 The Council reserves the right to review, amend and develop performance and outcome monitoring during the lifetime of the Flexible Agreement and will consult with the Provider Forum in doing so.
- 7.2.5 Providers will be required to use the Contracting Body's preferred electronic system for the purposes of Placement Referrals, tracking and monitoring. The preferred system may be adapted and improved over time following feedback from Providers and key stakeholders. Any changes will be discussed and agreed prior to implementation.

7.2.6 Failure to provide agreed monitoring information (including quarterly reports, annual report, individual Placement reports and end of Placement reports) and/or other required documentation relating to the Flexible Agreement (i.e. IPAs) within the specified timescales may result in a Formal Improvement Notice, if the Provider fails to address the concerns the Council may suspend Placement Referrals until the information is provided. If the issue persists then the Council reserves the right to downgrade the position or remove the Provider from the Flexible Agreement. See Flexible Agreement Schedule 5 Tiering System.

7.2.7 The Council intends to carry out an Annual Tier Review, this will include:

7.2.7.1 Checks to ensure that Providers still meet the required Flexible Agreement Minimum Criteria and Essential Criteria for each Tier.

7.2.7.2 Review of Providers Price

7.2.7.3 Performance review against KPI's.

See Flexible Agreement Schedule 5 Tiering System for more detail. The Council may move a Provider to a different Tier if they no longer meet the required criteria.

7.2.8 The Key Performance Indicators (KPIs) for the Service includes the following which will be provided to the Contracting Body quarterly:

KPI	Key Performance Indicator	Target	
		Tier 1	Tier 2 and Tier 3 (Lot 1 only)
KPI 1	Number of approved Blackburn with Darwen, Blackpool, Cumbria and Lancashire (BBCL) Registered Households against BBCL active Placements, by Contracting Body, including number of vacancies.	To be individually monitored and increase agreed.	Report for information only
KPI 2	Increase in number of potential Lot 2: Enhanced Foster Care (EFC) and Lot 3: Step Down(SD) Registered Households within each Contracting Body BBCL Boundaries.	To be individually monitored and increase agreed.	Report for information only
KPI 3	Number of new Foster Care Households, potential EFC and SD Registered Households, recruited within quarter, including locality and number and type of approved Placements.	To be individually monitored and target agreed.	Report for information only
KPI 4	Increase in number of Placements made by each Contracting Body of BBCL within quarter (by type Lot 1: Standard, Lot 2 Enhanced Foster Care and Lot 3 Step Down Foster Care).	To be individually monitored and increase agreed.	Report for information only

KPI 5	Increase in number of suitable Placement offers made.	To be individually monitored and increase agreed.	Report for information only
KPI 6	Complaints responded to, actioned and reported to the Contracting Body	100%	100%
KPI 7	Safeguarding concerns are actioned/reported.	100%	100%
KPI 8	Attendance at exchange events or similar.	85% or above	No reporting needed
KPI 9	Attendance at monitoring and Service development meetings.	100%	100%
KPI 10	Number of Placements made with Additional Services commissioned.	Report for information only	Report for information only
KPI 11	Outcomes progressed as an impact of Additional Services.	Report for information only	Report for information only

7.2.9 Providers are required to provide the Contracting Body with the quantitative data for KPI 1,2,3,4 and 5 within the first 3 months of Commencement Date. This information will provide the Contracting Body with a baseline of performance data and will inform the setting of individual KPI's (for Tier 1 only). As a minimum, the Provider will maintain or increase performance against performance targets.

7.2.10 Individual KPI's more specifically for Tier 1 and Tier 1 'reserve' Providers will be monitored at least quarterly and reviewed at least annually.

7.2.11 The Council may review the performance targets. Any changes to performance targets will be reviewed in engagement with Providers and will be set at no more than 10% above or below the previously agreed performance target.

7.2.12 In addition to the above KPI information, the Contracting Bodies will, where available, collect number of:

- 7.2.12.1 Referral, offers, match data.
- 7.2.12.2 Children moving positively transitioning from Additional Services to Minimum Requirements (by type).
- 7.2.12.3 Children transitioning through SD stages, including progress against identified outcomes, timeframe and level of individual need.
- 7.2.12.4 Children transitioning from EFC or SD to Standard Placement.
- 7.2.12.5 Children subject of unplanned Placement ending.
- 7.2.12.6 Children Placement ended as a result of permanency.
- 7.2.12.7 Service developments as a result of engagement with the Contracting Bodies. (Plans for growth and future intentions i.e. new provision, change of use of Service, closures or deregistration as applicable).

7.2.13 Any concerns relating to performance against the above KPIs or Fostering Services Minimum Standards and the SCCIF, will be discussed with the Provider and appropriate action will be agreed, in accordance with the Flexible Agreement requirements. Failure to address concerns identified to the satisfaction of the Contracting Body may result in the

issuing of an Formal Improvement Notice via the Flexible Agreement terms and conditions, demotion from the relevant Tier(s), suspension from the relevant Lot(s) or removal from the Flexible Agreement. See Flexible Agreement Schedule 5 Tiering System.

- 7.2.14 The relevant Providers will be required to report on a number of areas throughout the term of the Agreement and any Service Contract, which will include but not limited to the following:

*Please note these may change and the Council will inform Providers of any changes to the reporting requirements.*

<b>Report / Information to be provided</b>	<b>Providers</b>	<b>Frequency</b>	<b>Information to be sent to</b>
Changes which may impact the Service delivery	All	Immediately	Changes such as registration with the regulatory body or financial stability to be sent to the Council
Changes in Ofsted (or equivalent) rating and an Action Plan if required	All	Immediately	The Council
Submission of the selection criteria information if there have been any changes since Application	All	Annually	The Council
Safeguarding alerts	All	Immediately	The Provider must inform the Child's social worker and the Contracting Body of any Safeguarding concerns.
Complaints	All	Immediately	The Provider must inform the Child's social worker and the Contracting Body of any Safeguarding concerns.
Personal data breaches	All	Immediately	Contracting Bodies
Information required for the KPI 1-11	All	Quarterly (or upon request)	Contracting Bodies or as agreed and notified to the Provider.

- 7.2.15 The relevant Providers will be required to attend meetings throughout the term of the Agreement and any Service Contract which will include but not limited to the following:

*Please note these may change and the Council will inform Providers of any changes to the meeting requirements.*

<b>Meeting</b>	<b>Providers</b>	<b>Frequency</b>	<b>Description</b>
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Monitoring meetings	Tier 1  All other Providers	At least quarterly / As required  As required / at least annually	Review demand, performance, discuss issues and explore improved ways of working. Concerns will be discussed, and appropriate actions and timescales will be agreed.
Provider Forums, including Exchange Events	All Providers	Six-monthly / or more frequent	Discuss trends, concerns, current and forthcoming Referral needs, share information,
Statutory Placement meetings /	All Providers	As required	To plan, review and discuss a Child's Placement.

## 8. Minimum Requirements

8.1.1 In addition to the more general provisions set out in this Specification, the Provider will ensure, and will ensure that their Foster Carers provide, the following Minimum Requirements (set out in table 1, below) in relation to each Child.

8.1.2 The Provider agrees to provide the following Minimum Requirements and activities within their 'Price':

**Table 1**

<b>1.</b>	<b>24 hour care and accommodation</b>
	<ul style="list-style-type: none"> <li>• Good quality, safe and suitable accommodation, food, personalised care and parenting that meets the Child/young person's needs</li> <li>• Assist in the development, implementation and review of the Care Plan/Pathway Plan, Placement Plan, Health Plan, Personal Educational Plan (PEP) and Education, Health and Care Plan</li> <li>• Pre-Placement provision of information regarding the Placement, engagement in pre-Placement meeting and visit by Child to foster home.</li> </ul>
<b>2.</b>	<b>Basic clothing &amp; school uniforms for Children (Summer &amp; Winter)</b>
	<ul style="list-style-type: none"> <li>• Provide sufficient clothing</li> <li>• Provide replacement clothing, school uniform, general sports activity clothing and other clothing.</li> <li>• Any replacement clothing requirements, e.g. unusual sizes or for Children with disabilities.</li> </ul> <p>Exceptional expenses e.g. change of school requiring new school uniform will be negotiated between Contracting Body and Provider where the Child arrives with little or no clothing.</p>
<b>3.</b>	<b>Equipment and resources</b>

	<ul style="list-style-type: none"> <li>• Individual sports, hobby or learning equipment, within reason, including tuition/ entry fees, books, educational equipment and age appropriate toys</li> <li>• Children/Young people of school age shall have access to a computer in the home that is principally for education and homework. It shall be connected to the internet and be appropriately safeguarded.</li> <li>• Resources relating to religious needs.</li> <li>• Resources and equipment, within reason, including tuition/ entry fees to support the Child/young person develop their talents.</li> <li>• Car seats appropriate to Child's age / development.</li> </ul>
<b>4.</b>	<b>Glasses and contact lenses</b>
	<ul style="list-style-type: none"> <li>• Provision of glasses and contact lenses if required, including replacement in the event of accidental damage or loss.</li> </ul>
<b>5.</b>	<b>Holidays for Children</b>
	<ul style="list-style-type: none"> <li>• Reasonable holiday expenses within any twelve-month period for the Children in care will be included within the Standard price.</li> <li>• Any family outings will be included within the Standard price</li> <li>• In most cases Children will accompany their Foster Carers on family holidays. Where this is not possible, the Provider must consider alternative short-term break arrangements to Placements with another carer. These activities should include adventure holidays, and other types of club activities that would provide entertainment, education, fun and adventure.</li> </ul> <p>Where additional holidays, such as school activity holidays, are requested for the Child, a written application can be made to the Contracting Body. The Contracting Body will consider making additional funding available to fund such trips but each application will be dealt with on an individual basis.</p>
<b>6.</b>	<b>Initial &amp; on-going assessment of need</b>
	<ul style="list-style-type: none"> <li>• Assessment of the Child's needs at the beginning of the Placement.</li> <li>• Written progress reports and assessments by the Foster Carer and/or Provider on individual Children for planning, Child protection and review meetings.</li> <li>• The Foster Carer or representative from the Provider should attend the Child's review meetings including Children Looked After Reviews.</li> <li>• Participation in strengths and difficulties questionnaires</li> <li>• Written reports on individual Children by the Provider for any unplanned ending of a Placement or Placement disruption.</li> <li>• Involvement and attendance at any meetings following a Placement disruption</li> </ul>
<b>7.</b>	<b>Contact</b>
	<ul style="list-style-type: none"> <li>• Foster Carer supports and facilitates 'contact', including contact taking place in the Foster Carers home with siblings, birth parents and relatives as specified in the Child/young person's and significant others contact arrangements, following a risk assessment and agreement from the Contracting Body.</li> <li>• The Provider or their carer will fund and organise transport to agreed 'contact' appointments.</li> </ul>
<b>8.</b>	<b>Pocket money, birthday &amp; festival gifts to Children</b>
	<ul style="list-style-type: none"> <li>• All such payments are to be included and agreed to at the time of Placement or at subsequent IPA review meetings. All such payments shall not be less than the Contracting Body's recommended amounts.</li> </ul>

<b>9.</b>	<b>Schooling</b>
	<ul style="list-style-type: none"> <li>• Cares are to ensure that the Child/ young person regularly attends school/ college</li> <li>• Education and learning support at home for the Child/young person including any costs associated with homework assignments and extra curricular activities.</li> <li>• The Foster Carer or a representative from the Provider should act as an education liaison for the Child/young person with their school/ college when required and should support the Child's PEP.</li> <li>• Foster Carer will attend parents' meetings with teachers as required, advocate on behalf of the Child to overcome any problems.</li> <li>• The Provider or their carer will fund and organise home to school/ college transport for the Children placed with them.</li> </ul>
<b>10.</b>	<b>Health Care</b>
	<ul style="list-style-type: none"> <li>• Foster Carer will register the Child/ young person with a dentist and ensure the Child/ young person has two check ups per year.</li> <li>• Foster Carer to support Child/young person in attending health, dental and optical care appointments and statutory medical examinations.</li> <li>• Foster Carer should support the emotional and mental as well as physical 'well-being' of the Child/young person placed and receive assistance from the Provider when responding to difficult situations.</li> <li>• Foster Carer to support a healthy lifestyle for Child as appropriate for their age by encouraging and teaching about healthy eating, hygiene, physical exercise and the avoidance of risky behaviours, alcohol and substances.</li> <li>• The Provider or their carer will fund and organise transport to these appointments for the Children placed with them.</li> </ul>
<b>11.</b>	<b>Telephone calls</b>
	<ul style="list-style-type: none"> <li>• Calls to family members, significant others (agreed with the Contracting Body) and/or the Contracting Body are to be included. Similarly, a small allowance for telephone calls to other friends is to be included in the cost of care. This should include the ability to make private calls.</li> </ul> <p>The cost of owning and operating a mobile phone are excluded and can be funded from any pocket money allowance, if the Care Plan states this to be appropriate.</p>
<b>12.</b>	<b>Toiletries and Cosmetics</b>
	<ul style="list-style-type: none"> <li>• All toiletries, including reasonably priced skin, dental and hair care products which are culturally appropriate.</li> <li>• The cost of a regular hair cut.</li> <li>• Non-prescription medicine as required</li> </ul>
<b>13.</b>	<b>Transport</b>
	<ul style="list-style-type: none"> <li>• The Provider or their carers will fund the day-to-day transport needs for the Children/young people. this includes transport required to enable the Child to have contact with family and their local community.</li> </ul>
<b>14.</b>	<b>Preparation for independence</b>

- Provide support to the young person to develop skills for and prepare for independent living, in accordance with their Care/ Pathway Plan, working alongside other organisations to support the personal development of the Young Person. Activities should include:
  - a.) Teaching and supporting the development of practical life skills and ability; including shopping, buying, cooking and keeping food, washing clothes, personal self-care, and understanding and taking responsibility for personal healthcare.
  - b.) Supporting Children to develop positive self-esteem and emotional resilience
  - c.) assisting Children to develop financial capability, knowledge and skills
  - d.) Providing assistance in looking and preparing for higher education, training courses, apprenticeships, work experience and/or work;
  - e.) Providing assistance in looking for suitable jobs, further training and education;
  - f.) Supporting the young person to find suitable accommodation when leaving care, working with the Contracting Body to do so.
  - g.) Supporting the Child to understand entitlements to financial and other support after leaving care, including benefits and support from social care services.

#### **15. Savings for a Child/young person**

- The Provider or their Foster Carer(s) will agree with the social worker and Child a regular savings allowance. This agreement will be made at the point of Placement and reviewed as the Placement progresses during any review relating to the Child either by the Contracting Body or the Provider.
- The Provider will be responsible for ensuring that all savings made during the Placement that are held by either the Foster Carer or the Provider will be made available to the Contracting Body when the Placement ends so that they can move with the Child
- The Foster Carer will support the Child in opening a bank account (where appropriate) and will encourage the Child to make savings.

#### **16. Foster Carer Support**

- Up to 14 days short term break per year for the Foster Carer – this should be calculated pro rata dependent on the length of the Placement and will have prior agreement from the Contracting Body. Foster Carers who care for a Child in a permanent / long term Placement will not usually access respite/ approved support care as the Child's secure attachment in the family must be promoted and maintained. The Contracting Body will not be responsible for any additional expenses incurred through arranging respite/ approved support Placements. Where the Contracting Body arranges respite/ approved support, the Contracting Body reserves the right to reduce the payment made to the Provider for all costs involved.
- Foster Carers to receive on-going training in order to continue their professional development
- Foster Carer to receive a weekly care allowance.
- At least monthly supervision for Foster Carer, regular social work support visits and 24 hour telephone support for the Foster Carer.
- Foster Carers receive necessary specialist support in relation to complex needs and challenging behaviour
- Foster Carers who provide Parent and Child Placements will receive training in promoting Safe Sleeping practice
- Paid membership for each Foster Carer to either the Fostering Network or Foster Talk.
- Foster Carers to maintain records relating to the Child as required by NMS and the Child's Care Plan.



<b>17. Parent and Child Placements (additional requirements where a Parent and Child Placement has been agreed)</b>
<ul style="list-style-type: none"> <li>• A separate cot or suitable bed for the Parent's Child/ Children</li> <li>• Baby equipment including but not exclusively sterilisers, bottles, changing facilities</li> <li>• Provision of nappies, access to pushchair and other necessities.</li> <li>• Funding of all aspects of Minimum Requirements unless agreed otherwise through the Care Planning process following the Young Person being in receipt of benefits or maternity grant</li> <li>• The Foster Carer will keep accurate records of observations, interventions and support offered to the parent, and where required write an accurate report to support any court proceedings</li> <li>• Support any parenting assessment being undertaken</li> <li>• Written progress reports and assessments by the Foster Care and/ or Provider on individual young people for planning, Child protection and review meetings.</li> <li>• The Foster Carer or representative from the Provider should attend the young person's care review meetings</li> </ul>
<b>18. Other Service Costs</b>
<ul style="list-style-type: none"> <li>• Deliver against the Specification</li> <li>• All administrative and management work, including monitoring requirements.</li> <li>• Recruitment, selection, preparation, approval and review of Foster Carers.</li> <li>• Annual inspection of foster homes, without appointment and seeing of Children without their Foster Carers present to ensure that foster homes continue to meet the needs of Children.</li> <li>• Engagement of Foster Carers and Children in developing the Services</li> <li>• Support for Foster Carers to maintain links with Children moving on, consistent with their Care Plan</li> </ul>
<b>19. Social Engagement</b>
<ul style="list-style-type: none"> <li>• The Foster Carer supports the Child to engage in age appropriate positive activities within their local community</li> <li>• The Foster Carer supports the Child to develop and maintain positive friendships with peers, including reciprocal home visits if appropriate and in accordance with the Child's care plan</li> <li>• Provide reasonable access to internet to facilitate contact via appropriate email and social media in line with Child's care plan</li> <li>• The Foster Carer monitors and ensures safe use of social media, including implementation of parental control software within the household.</li> </ul>

9. The Placement type definitions and application details for this Service are as follows:

Placement Type	Description	Application Details
<b>Standard Foster Care Price</b>	The default weekly Price for any Placement made with a Flexible Agreement Provider.	Every Placement made that does not qualify for one of the discount categories, nor does it require additional support will be made at 'Standard Foster Care Price'.
<b>Sibling Group Price</b>	A Placement Price reduction for instances when the Contracting Body place siblings with the same Foster Carer.	<ul style="list-style-type: none"> <li>All siblings placed with the same Foster Carer will be placed at 'Sibling Group Price' for their appropriate age band.</li> <li>The Sibling Price arrangements apply even if the placing Contracting Body have not placed the siblings with the same Foster Carer at the same time.</li> </ul>
<b>Parent and Child Price</b>	This is for parent and Child Placements with the same Foster Carer. The parent may be looked after, the Child or Children may be looked after or all may be looked after.	<ul style="list-style-type: none"> <li>This will be an inclusive Price for both the parent and the Child.</li> <li>The Foster Carer must keep accurate records of observations, interventions and support offered to the parent, and where required write an accurate report to support any court proceedings.</li> <li>Should the parent leave the Placement, the cost of the Placement for the Child will revert to the 'Standard Foster Care Price' or 'Sibling Price', if there is more than one Child in the Placement.</li> </ul>
<b>Solo Placement Price</b>	This is where the Child requires constant supervision and support on a one-to-one basis meaning that they can be the only looked after Child in the Household.	<ul style="list-style-type: none"> <li>Should the Foster Carer only be approved for one Placement, then the Placement will be made at 'Standard Price' unless Additional Services are required.</li> <li>Should the Carer be approved for more than one Placement, the 'Solo Placement Price' will be paid to compensate the Foster Carer for loss of earnings as a result of taking on a solo Placement.</li> <li>If following a risk assessment, the Contracting Body agrees that it is appropriate to place another looked after Child in the Placement then the Price will revert to 'Standard Price'.</li> </ul>
<b>Additional Service Placement Price</b>	The weekly Price where additional specialist support is required that is above the Services specified in the Agreement.	Where additional specialist support is required, beyond the scope of the Minimum Requirements. The Services and Price must be agreed by the Contracting Body and will be subject to regular review.

<b>Retainer Reservation Price</b>	/	Weekly Price to reserve or retain a Placement with a named Registered Household	<p>The ability for the named Contracting Body to exclusively reserve a Placement(s) within a named Registered Household(s) as per the Retainer Agreement to either:</p> <ul style="list-style-type: none"> <li>• Allow a previously matched Child to transition into the home, or</li> <li>• Maximise the opportunity for the Contracting Body to use the Placement for a local Child. Where no Child has been identified this will be for a maximum of up to 28 days.</li> <li>• Retainers will be calculated on a pro rata basis for periods up to full weeks</li> </ul>
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### **9.1 Long term discounts**

9.1.1. Long term discounts will form part of the Flexible Agreement.

9.1.2. Long term placement discounts will be applied to each Lot 1 Standard Foster Care Placement and does not apply to Lot 2 and Lot 3 Placements. The following discounts will be applied to the agreed Lot 1 Price:

- i. 5% discount on agreed prices for Placements lasting 12 months to 24 months
- ii. 7.5% discount on agreed prices for Placements lasting more than 24 months.

# Fostering Agency Placement Flexible Agreement

## Service Specification

### Enhanced Foster Care (Lot 2)

#### 10. Supplementary Specification in relation to Lot 2: Enhanced Foster Care Placements

**Note this paragraph 10 applies to Lot 2 Services only.**

##### General Description

- 10.1.1 The requirements of the Lot 2 Service in relation to Referrals made under Lot 2: Enhanced Foster Care are in addition to those outlined in preceding provisions of this Specification.
- 10.1.2 The Contracting Body will identify Children who need Enhanced Foster Care to achieve a sustainable Placement.
- 10.1.3 The Provider will need to adopt a flexible working approach to delivery to ensure the Services are child-led, is in the interests of Children accessing the Services and delivered to meet the needs of the individual Children.
- 10.1.4 Providers will be required to join the Contracting Body in sharing related information on need, impact, and positive practice to inform and promote delivery, consistency and a shared vision of care.
- 10.1.5 The Provider must have a clear approach to Enhanced Foster Care Placements and how they will manage support, including the training and supervision of Foster Carers, the enhanced support to the fostering households and the direct support to Children. The approach should be flexible enough to reflect the breadth of the need expressed by this group of Children.
- 10.1.6 Through the provision of Enhanced Foster Care Placements, Providers should:
  - 10.1.6.1. Prepare Foster Carers to communicate with Children who have suffered trauma and attachment issues.
  - 10.1.6.2. Provide Placements with a structure that supports the Child into Placements and is responsive to their needs. Where a therapeutic model is utilised, this should be clearly evidenced by research.
  - 10.1.6.3. Communicate to Children the process of Placement and beyond.
  - 10.1.6.4. Review placement plans in light of the output of consultation.
  - 10.1.6.5. Have a lead contact for Enhanced Placements to engage with the Contracting Bodies.
  - 10.1.6.6. Have a clearly described process for responding to Enhanced Foster Care Placement referrals. This will include:
    - 10.1.6.6.1 A specialist lead who will review Enhanced Placement Referrals.

- 10.1.6.6.2 A process for which Enhanced Placements will be given additional scrutiny.
- 10.1.6.6.3 A process for assuring the progress of Child in Placement and for preventive actions as required.
- 10.1.6.6.4 A process for identifying forthcoming vacancies that could offer an Enhanced Care Placement.
- 10.1.6.6.5 Providing a tariff of Additional Services that can be purchased in order to tailor the model of enhanced care for the specific needs of Children.
- 10.1.6.6.6 Regular contact with the Contracting Body on Children referred and not yet placed in the local area and wider, as appropriate.
- 10.1.6.6.7 A solution focussed approach to meeting the needs of Children who need Enhanced packages of support, including the willingness to create bespoke packages of care when necessary.
- 10.1.6.7 Adapt recruitment activity to include a focus on recruiting to meet the needs of our Children who need Enhanced packages of support.
- 10.1.6.8 Work with the Contracting Bodies to review and amend processes in order to improve performance and increase stable Placements.

10.1.7 Providers will work more closely with the Contracting Body. This will include:

- 10.1.7.1. Attending Exchange Events
- 10.1.7.2. Responding to Placement requests in a timely manner with a solution focused approach
- 10.1.7.3. Identifying potential Foster Carers who could offer Enhanced Foster Care Placements
- 10.1.7.4. Identifying and informing the Contracting Body of potential Foster Carers with vacancies. In cases where the Contracting Body wishes to reserve the carer to allow time to identify potential Children who might be a suitable match, no other Child would be placed with the Carer.
- 10.1.7.5. Working closely with the Contracting Body to creatively find Placement solutions for Children
- 10.1.7.6. Working closely with the Contracting Body to develop bespoke and comprehensive Placement plans that meet the needs of the Child
- 10.1.7.7. Working closely with the Contracting Body to maintain Placement stability.
- 10.1.7.8. Being flexible and creative in approach where there are challenges to a placement
- 10.1.7.9. Working closely with the Contracting Body where there are concerns, including safeguarding concerns.
- 10.1.7.10. Working closely with the Contracting Body to identify areas of practice that could be improved.
- 10.1.7.11. Working closely with the Contracting Body to identify areas of best practice that could be shared/ replicated
- 10.1.7.12. Working closely with the Contracting Body on specific targeted individual KPIs
- 10.1.7.13. Working together with Contracting Body in any way that develops local placement resources and promotes BBCL access to those resources.

10.1.8 The Contracting Body will each have a named contact for the Providers. This officer will have oversight of Enhanced Fostering Referrals and be the individual

to whom Providers can speak to about forthcoming vacancies with carers who can offer Enhanced Foster Care.

- 10.1.9 Tier 1 Providers must attend Exchange Events (or equivalents) to discuss current and forthcoming Placement/Referral needs, explore Enhanced Foster Care Placements/Referrals and share learning.
- 10.1.10 Performance data will be shared by the Contracting Body to inform Service development and good practice.
- 10.1.11 The Contracting Body will regularly meet with Providers, more specifically with Tier 1 Providers, to facilitate and support a culture of open and ongoing dialogue.
- 10.1.12 The Contracting Body will, so far as resources allow, support Tier 1 Foster Provider's in Service developments that improve Services offered to Children.
- 10.1.13 Providers will promote Enhanced Foster Care Placements and work with their Foster Carers to find as many good, well matched, local Placements for the identified Children as possible. This will be an outcome of the closer working and longer planning afforded to Providers.
- 10.1.14 Lot 2 Providers, specifically those in Tier 1, will provide a greater level of feedback to the Contracting Body if a suitable match cannot be found. Feedback will be used to inform future searches and further development of these Placement types. Feedback will be within 5 days from date of request.
- 10.1.13 In order to meet the enhanced requirements of this cohort of Children, regular and ongoing reviews, adaptability and flexibility will be key features of the Service Model made by Providers.
- 10.1.14 Providers know their Foster Carers, their Foster Carers' capabilities and how best to support them. The Specification does not seek to describe the kind of carers that are 'appropriate' and a defined model of support but instead relies on Providers to interpret local need and provide a defined approach around which other services might be offered.
- 10.1.15 Over time the relationship and communication between Contracting Bodies and Providers within Tier 1 will build up a body of local experience and expertise that will inform the Service development, influence Contracting Body practice and improve the matching process.

## **10.2 Lot 2 Service Access Criteria**

- 10.2.1. The assessment procedure carried out by the Contracting Body prior to Placement Referral will identify the suitability that this type of Placement can meet the individual Child's needs. Only Children who have been assessed as being likely to benefit from an Enhanced Placement will be eligible for the Services.
- 10.2.2. The Contracting Body will identify Children who require a Placement and will be specifically for the following groups

- i. Children where needs (such as significant levels of verbal aggression) have been identified as requiring a higher level of supervision from the Foster Carer to prevent carer exhaustion and Placement end.
- ii. Children with Special Educational Needs/ Social Emotional and Mental Health needs and with challenging behaviour, requiring additional activities and structure within the Placement to meet need.
- iii. Children with higher level emotional support needs, with frequent placement disruptions, referred following disengagement from carers.

### **10.3 Lot 2 Service Requirements**

- 10.3.1 The Contracting Body recognises the need for Placements which provide a high level of care and support for Children whose needs are not met by Lot 1 or Lot 3. These Placements will offer targeted Services with highly skilled and resourced Foster Carers who are provided with additional support, training and resources.
- 10.3.2 Providers will need to embrace delivering care from a strengths and resilience perspective, which allows for new and creative ways to work with Children that value their interests, skills, competencies, and talents.
- 10.3.3 The Provider will deliver these Lot 2 Services in a targeted, achievable manner that will evidence the input, output, outcomes and achievements of both the Child and the Provider.
- 10.3.4 The Contracting Body will work with the Provider to agree a comprehensive Placement Plan to meet the Child's individual needs.
- 10.3.5 Providers will need to offer greater solutions to Children whose previous Placements have been unsuccessful. Services provided as part of Lot 2 must be sufficient to meet the needs of the identified cohort of Children.
- 10.3.6 Children referred through Lot 2 may have different characteristics and additional needs. Services provided as part of this Lot must be responsive to changes in need.
- 10.3.7 Children referred through Lot 2 may have specific additional needs that are not met by the Services offered as standard as part of Lot 2. In these instances the Contracting Body would welcome creative care solutions that involve a mixture of the standard Services offered as part of Lot 2 and Additional Services, incurring additional Price, that can be agreed separately to ensure that these additional needs are met.
- 10.3.8 Once placed, support requirements, and progress/impact for Children within Enhanced Foster Care Placements will be reviewed every three months, including the need for Additional Services where these are provided. Reviews will ensure the Services are being provided as described and that the Services are still required to meet the needs of the Child.

- 10.3.9 Where it is agreed a Child's needs no longer require Additional Services these, and the relevant additional Price will cease.
- 10.3.10 Where it is agreed that a Child no longer requires an Enhanced Foster Care Placement, the Placement would transfer onto Lot 1 Standard Foster Care at the appropriate Lot 1 Price.
- 10.3.11 The Contracting Body will nominate a designated individual to work with the Provider to ensure a tailored package of care and support is available for the Child that is linked to their needs and risk assessment.
- 10.3.12 The Contracting Body, where possible and if appropriate, will support the Provider to work with risk more positively to identify and streamline interventions that both work and reduce crises where possible.
- 10.3.13 The Contracting Body will support, where appropriate, the Provider to meet Ofsted/Care Inspectorate requirements by providing feedback and supporting evidence to inspectors in a timely manner.
- 10.3.14 The Contracting Body will promote a multi-agency approach to the delivery of these Lot 2 Services to achieve consistency and a shared vision for the delivery of care. This aim is to improve outcomes by meeting the health and wellbeing needs of the Child.
- 10.3.15 Where appropriate and possible, the Contracting Body will signpost the Provider to shared resources run by the Contracting Body. This may include, but is not limited to: training, in house therapy services, additional social work support, additional training, education and development resources.
- 10.3.16 Where appropriate and possible, the Provider will work collaboratively with the local Child and Adolescent Mental Health Service (CAMHS) and Virtual School to identify and access suitable resources to support the Placement.
- 10.3.17 Strengths and Difficulties Questionnaires (SDQ) will be used as an indicator to track the levels of difficulties Children are experiencing and any improvements that are made.
- 10.3.18 The Provider must be able to evidence intervention and outcomes in a written report provided to the Contracting Body every three months which is reflective of individual development and shows how progress and resilience are developing.
- 10.3.19 Any therapeutic interventions must be agreed by the Contracting Body in advance of delivery and must enhance rather than duplicate the Services offered by the Contracting Body or NHS.
- 10.3.20 Providers must support Foster Carers with regular, needs led clinical supervision from a UK Council for Psychotherapy (UKCP) or British Association for Psychotherapy (BACP) registered practitioner. Supervision to Foster Carers must be designed to offer them greater understanding of presenting behaviours with



strategies to support their management of these behaviours.

- 10.3.21 During the process of matching, the Provider will work with the Contracting Body and the Child to explore potential matches. This may include child-led face to face engagement .
- 10.3.22 When necessary, the Provider will make additional resources available to both the Foster Carers and the Child in Placement.
- 10.3.23 In order to maintain Placement stability, if agreed by the Contracting Body, that the needs of a Child who is currently placed in a Standard Foster Care Placement would be better met through the Services provided through Lot 2 Enhanced Care and the Provider is a Lot 2 Enhanced Care Provider, the Parties may agree to change the Placement into a Lot 2 Enhanced Foster Care Placement. In such circumstances the Service requirements set out in Lot 2 will apply.

#### **10.4 Foster Carers**

- 10.4.1 Foster Carers will need to be highly resourced, skilled and involved from the point of referral, with significant relevant experience for this type of Placement.
- 10.4.2 Foster Carers will need to be able to deal with often challenging behaviour, engaging with Children in structured based care including activities.
- 10.4.3 Foster Carers will need to be resilient, offer a higher level of emotional support and understand that Children within this Lot 2 Services may at times show behaviours that challenge the family environment. These behaviours should not trigger a notice to terminate the Placement.
- 10.4.4 The Foster Carers will need to provide a higher level of supervision than required by Standard Foster Carers.
- 10.4.5 Foster Carers will be provided with such training, advice, information and support that is necessary to enable a successful Placement.
- 10.4.6 Depending on the Placement Plan, the Foster Carers may need to work with the Child to help them understand that the Placement with themselves may not be permanent, and help prepare the Child's move to a subsequent permanent Placement.
- 10.4.7 Foster Carers will need to be willing to continue ongoing contact with the Child after the Placement has ended if it is appropriate to do so.
- 10.4.8 If required, the Foster Carers will need to work with the subsequent Foster Carers to ensure a smooth transition.

#### **10.5 Structure of the Placement**

- 10.5.1 The higher level of planned intervention will be needs led as agreed with the Contracting Body, to ensure there is a consistent approach. The Placement will be reviewed every three months.
- 10.5.2 Wherever possible, Placements will be planned, with a planning and introduction period whereby the Child and Foster Carer can familiarise themselves, complete overnight stays and activities, and identify local resources such as schools and activities. During this phase, a detailed and comprehensive Placement Plan will be developed and agreed to ensure that all of the needs of the Child can be met from when the Child is placed. This period can be supported by the payment of a Retainer Price.
- 10.5.3 Once placed, the Placement will include intensive support with regular reviews to assess effectiveness. It is envisaged that at the beginning the Placement plan should include:
- 10.5.3.1 Specific involvement from named people to support the Child to develop their coping mechanisms and to provide the Child with a trusted adult.
  - 10.5.3.2 Building on the Child's identified strengths, working towards meeting their needs and learning from their life experiences.
  - 10.5.3.3 Recognising and developing strategies with the Foster Carer, Child and all professionals involved to manage often complex and challenging episodes of behaviour which do not result in the Placement ending prematurely to identify what is working and what may need further resources.
  - 10.5.3.4 Building on successes to develop the Child's confidence and self-esteem.
  - 10.5.3.5 Recognising the Child's needs and behaviours.
  - 10.5.3.6 Establishing continued solutions.
  - 10.5.3.7 Promoting resilience and solutions to give the Child the skills and capacity to function.
- 10.5.4 Contracting Bodies will not presume that the requirement for support will decline over time but will wish to regularly review the need for these Services and the continuation of the Enhanced Foster Care Placement, in line with the Care Planning structures.
- 10.5.5 If Additional Services are required and agreed by the Contracting Body these will be separated in the IPA and will be subject to regular review, at minimum, every three months.
- 10.5.6 If a longer planning period is needed to allow for the preparation of Carers or the Child or where introductions might take longer than is usual, the Contracting Body will agree with the Provider if the payment of a Retainer Price is required.
- 10.5.7 Where a Provider has a Carer vacancy, and that vacancy has characteristics that convince the Contracting Body of its potential use as an Enhanced Foster

Care Placement then the Contracting Body may reserve that Placement, as specified under Section 4.5 Foster Carer Retention.

- 10.5.8 The Contracting Body will not request a reduced Price for Siblings placed under Lot 2 provisions. Similarly, Long Term discounts will not be enforced for this cohort of Children.

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# Fostering Agency Placement Flexible Agreement

## Service Specification

Step Down into Foster Care (Lot 3)

### 11. Supplementary Specification in relation to Lot 3: Step Down in to Foster Care

Note this paragraph 10 applies to Lot 3 Services only.

#### 11.1 General Description

- 11.1.1. The requirements of the Lot 3 Services in relation to Referrals made under Lot 3: Step Down are in addition to those outlined in preceding provisions of this Specification.
- 11.1.2. The Contracting Body recognises the need for Placements which provide a high level of planned intervention as an alternative to residential care. These Placements will offer targeted interventions with highly skilled and well-resourced Foster Carers who have access to additional support and training.
- 11.1.3. It is anticipated that the support needs of these Children will reduce as the Placement progresses. As a result, the additional resources will be provided for a limited time period either to support Children to move out of residential care or as an alternative to Children going into residential care. Consequently the Service model includes stages with differing levels of support with transition between stages depending on the length of time in Placement and the progress of the Child in Placement.
- 11.1.4. Providers will need to embrace delivering care from a strengths and resilience perspective, which allows for new and creative ways to engage and work with Children which values their interests, skills, competencies, and talents.
- 11.1.5. Providers will need to offer greater support and more responsive solutions to Children who may be in or faced with being placed into a residential service as a result of their needs being high or previous interventions having been unsuccessful.
- 11.1.6. Children in these Placements are likely to be at higher risk of a number of factors which may include, but not be limited to; child sexual exploitation; criminal exploitation; missing incidents; offending; substance misuse and sexualised behaviours.
- 11.1.7. The Contracting Body will require these Placements to help the Child to improve their outcomes with a reduced amount of intervention thereafter by implementing a process of planned change which will help the Child to:

- i. Develop resilience
- ii. Build self-esteem, confidence and emotional health and well-being
- iii. Build trust
- iv. Manage feelings and behaviour
- v. Contribute and feel valued
- vi. Feel they belong.

11.1.8. The aim of these Placements is to offer Children, the ability to live within a stable, nurturing family environment through a high level of planned intervention.

11.1.9. The Contracting Body aims to work closely with all Providers to improve the quality and quantity of suitable Foster Carers, and the Placement support arrangements, for this cohort of Children.

11.1.10. Providers will work more closely with the Contracting Body. This will include:

- 11.1.10.1. Attending Exchange Events
- 11.1.10.2. Responding to Placement requests in a timely manner with a solution focussed approach
- 11.1.10.3. Identifying potential Foster Carers who could offer Step Down Placements
- 11.1.10.4. Identifying and informing the Contracting Body of potential Foster Carers with vacancies. In cases where the Contracting Body wishes to reserve the carer to allow time to identify potential Children who might be a suitable match, no other Child would be placed with the Carer.
- 11.1.10.5. Creatively find Placement solutions for Children
- 11.1.10.6. Maintain Placement stability wherever possible and in the Child's best interests
- 11.1.10.7. Working closely with the Contracting Body where there are concerns, including safeguarding concerns
- 11.1.10.8. Identifying areas of practice that could be improved
- 11.1.10.9. Identifying areas of best practice that could be shared/ replicated
- 11.1.10.10. Working closely with the Contracting Body on specific targeted individual KPIs
- 11.1.10.11. Working together with Contracting Bodies in any way that develops local Placement resources and promotes BBCL access to those resources.

11.1.11. Tier 1 Providers must attend Exchange Events (or equivalents) to discuss current and forthcoming Placement needs, explore Step Down Foster Care Placements and share learning.

11.1.12. The Contracting Bodies will regularly meet with Providers, more specifically with Tier 1 Providers, to facilitate and support a culture of open and ongoing dialogue.

11.1.13. Providers will promote Step Down Foster Care Placements and work with their Foster Carers to find as many good, well matched, local Placements for the identified Children as possible. This will be an outcome of the closer working and longer planning afforded to successful Providers.

## **11.2. Lot 3 Service Access Criteria**

- 11.2.1. Referrals will be shared with Providers through the Call-Off Procedure, outlined in Schedule 2 of the Agreement. Referrals could also be discussed at exchange events (specialist forums).
- 11.2.2. The Contracting Body will identify Children who require a Placement and will be specifically for the following groups:
  - 11.2.2.1. Children who have a plan for fostering but have been placed into residential care due to their needs exceeding what can be offered through a standard fostering Placement as identified by the Contracting Body.
  - 11.2.2.2. Children who have a plan for fostering but are likely to be placed into residential services through exhibiting behaviours that the Contracting Body has identified as high risk and where 'Step Down' is deemed, by the Contracting Body, to be in their best interest.
  - 11.2.2.3. Children who have experienced multiple Placement breakdowns within their journey into children's social care.
- 11.2.3. The assessment procedure carried out by the Contracting Body prior to Placement Referral will identify the suitability that this type of Placement can meet the individual Child's needs. Only Children who have been assessed as being likely to benefit from a Step Down Placement will be eligible for the Service.

## **11.3. Lot 3 Step Down Service requirements**

- 11.3.1. The Provider will deliver these Lot 3 Services in a targeted, achievable manner that will evidence input, output, outcomes and achievements of both the Child and the Provider.
- 11.3.2. The Contracting Body will strive to avoid any unplanned Placement or emergency Placement into the Lot 3 Services so that an agreed Placement Plan can be implemented and directed to meet the Child's individual needs.
- 11.3.3. The Contracting Body will nominate a designated individual to work with the Provider to ensure a tailored package of care and support is available for the Child that is linked to their needs and risk assessment.
- 11.3.4. The Contracting Body, where possible and if appropriate, will support the Provider to work with risk more positively to identify and streamline interventions that both work and reduce crises.
- 11.3.5. The Contracting Body will support, where appropriate, the Provider to meet Ofsted / Care Inspectorate requirements by providing feedback and supporting evidence to inspectors in a timely manner.
- 11.3.6. The Contracting Body will promote a multi-agency approach to the delivery of the Lot 3 Services to achieve consistency and a shared vision for the delivery of care. This aim is to improve outcomes by meeting the health and wellbeing needs of the Child and promote a reduction of the behaviours the Child may

present.

- 11.3.7. Where appropriate and possible, the Contracting Body will signpost the Provider to shared resources run by the Contracting Body. This may include, but is not limited to: training, in house therapy services, additional social work support, additional training, education and development resources.
- 11.3.8. Where necessary and if possible, the Provider will work collaboratively with the local Child and Adolescent Mental Health Service (CAMHS) and Virtual School to identify and access suitable resources to support the Placement.
- 11.3.9. Strengths and Difficulties Questionnaires (SDQ) will be used as an indicator to track the levels of difficulties Children are experiencing and any improvements that are made.
- 11.3.10. The Provider must be able to evidence intervention and outcomes in a written report provided to the Contracting Body every three months which is reflective of individual development and shows how progress and resilience are developing. Any therapeutic interventions for the Child must be agreed by the Contracting Body in advance of delivery and must enhance rather than duplicate the Services offered by the Contracting Body or NHS. The Contracting Body will determine how this approval will be sought and provided.
- 11.3.11. The Provider will need to evidence a planned process of change for the Child that has will achieve the outcomes as identified in the Care Plan.
- 11.3.12. Providers must support Foster Carers with regular, needs led clinical supervision from a UK Council for Psychotherapy (UKCP) or British Association for Psychotherapy (BACP) registered practitioner. Supervision to Foster Carers must be designed to offer them greater understanding of presenting behaviours with strategies to support their management of these behaviours.
- 11.3.13. During the process of matching, the Provider will work with the Contracting Body and the Child to explore potential matches. This may include the provision of child friendly material and child-led face to face engagement .
- 11.3.14. When necessary, the Provider will make additional resources available to both the Foster Carers and the Child in Placement.
- 11.3.15. In order to maintain Placement stability, if in the best interests of the Child and agreed by the Contracting Body, a mainstream Placement with a Lot 3 Provider may change into a Step Down Placement. In such circumstances the Service requirements set out in Lot 3 will apply.

#### **11.4. Foster Carers**

- 11.4.1. Foster Carers will need to be highly resourced, skilled and involved from the point of Referral, with significant relevant experience for this type of Placement.
- 11.4.2. Foster Carers will need to be resilient, understanding that Children within this

cohort may at times show behaviours that challenge the family environment. These behaviours should not trigger a notice to terminate the Placement.

- 11.4.3. The Provider will ensure that Foster Carers will be given any training, advice, information and support that is necessary to enable a successful Placement.
- 11.4.4. Depending on the Placement Plan, the Foster Carers may need to work with the Child to help them understand that the Placement with themselves may not be permanent, with the intention that they move on to a permanent Placement thereafter. It is however recognised that there may be circumstances where it may be in the Child's best interests for the Placement to become permanent. In these instances, this approach will be agreed by both the Contracting Body and the Provider, with such Placements transferring over to a standard, Lot 1, Placement, which may include Additional Services.
- 11.4.5. Foster Carers will need to be willing to continue ongoing contact with the Child after the Placement has ended if it is appropriate to do so.
- 11.4.6. If required, the Foster Carers will need to work with the subsequent Foster Carers and other forms of care to ensure a smooth transition.

## **11.5. Structure of the Placement**

- 11.5.1. The higher level of planned intervention will be needs led but must be time limited, as agreed with the Contracting Body, to ensure there is a consistent approach and measurable development. The Placement will be reviewed every three months and will follow the period structure outlined below. Decisions will be made following discussion with the Provider and will be made as part of the Child's care planning process. However, the Contracting Body will have the ultimate decision as to when the next stage will begin.

**11.5.1.1. Planning and Introduction Period.** This begins from offer of Placement to moving into the Placement. This is an introduction phase whereby the Child and Foster Carer can familiarise themselves, complete overnight stays and activities, and identify local resources such as schools and activities. During this phase, a detailed and comprehensive Placement plan will be developed and agreed to ensure that all of the needs of the Child can be met from when the Child is placed.

**11.5.1.2. Stabilisation Period.** This begins from the date the Child moves into Placement and will include intensive support with regular reviews to assess effectiveness and identify an appropriate time to initiate the settling-in and maintenance period. The stabilisation period should focus on:

- 11.5.1.2.1. Implementing a planned process of change with the Child using small, achievable goals and objectives.
- 11.5.1.2.2. Specific involvement from named people to support the Child to begin to develop their coping mechanisms and to provide the Child with a trusted adult.
- 11.5.1.2.3. Building on the Child's identified strengths, working towards



- meeting their needs and learning from their life experiences.
- 11.5.1.2.4. Recognising and developing strategies with the Foster Carer, Child and all professionals involved to manage often complex and challenging episodes of behaviour which do not result in the Placement ending prematurely to identify what is working and what may need further resources.
- 11.5.1.2.5. Building on successes to develop the Child's confidence and self-esteem.
- 11.5.1.2.6. Recognising the Child's needs and behaviours.
- 11.5.1.2.7. Establishing continued solutions.
- 11.5.1.2.8. Promoting resilience and solutions to give the Child the skills and capacity to function in a less supportive environment.
- 11.5.1.3. **Settling and Maintenance Period.** This begins following the stabilisation period and prepares the Child for the transitional phase. This will include regular reviews to assess effectiveness and identify an appropriate time to initiate the next stage. The Provider and Foster Carer will use this period to:
  - 11.5.1.3.1. Continue to provide responsive care in a structured and nurturing environment that meets the Child's needs, builds confidence and emotional health and well-being and develops effective resilience.
  - 11.5.1.3.2. Continue to engage with any services offered through the established network of professionals. This may include ongoing targeted intervention to address any specific areas of needs.
  - 11.5.1.3.3. Further develop the planned process of change through a strengths based person centred Care Plan that engages the Child.
  - 11.5.1.3.4. Build on successes and progress with a gradual, planned, reduction in intensity of support for the Child and Foster Carer.
  - 11.5.1.3.5. Increase collaboration and capacity for the Child to function in a less supportive environment.
- 11.5.1.4. **Transition Period.** This should be a planned transition period and will allow the Child to step down or move on to a Lot 1: Standard Foster Care Placement arrangement or other arrangement as identified in the Care Plan (permanency). The Child should be fully engaged in transitioning and improving their emotional wellbeing and resilience from the point that matching begins.
- 11.5.1.5. This process could involve a Child staying with the Foster Carers they are with (but moving to a Lot 1: Standard Foster Care Placement), a Provider coordinating a transition to another set of its own Foster Carers, or if necessary, working with another Provider to effect a smooth transition of the Child to a Standard Placement.
- 11.5.2. Where a Provider has a carer vacancy, and that vacancy has characteristics that convince the Contracting Body of its potential use as a Step Down

Placement then the Contracting Body may reserve that Placement, as specified under Section 4.5 Foster Carer Retention.

- 11.5.3. The Contracting Body will not require a reduced fee for Siblings placed under Lot 3 provisions. Similarly, Long Term discounts will not be enforced for this cohort of Children.

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## Schedule 2 - Service Levels / Key Performance Indicators

### Part 1 Service Levels

The Service Levels are the KPI Targets set out below

#### Part 2. Key Performance Indicators

The Contracting Body will require Providers to evidence service delivery and quality of service through a programme of contract management. This will include a combination of contract management approaches including reports, contract reviews, contract monitoring and key performance indicators.

Please see Schedule 1 Specification Section 7 'Performance for further information in relation to monitoring and performance management.

The key performance indicators will be required to be sent to the Contracting Body by the Providers in order to measure the effectiveness of service delivery by the Provider, and wider market performance, on key objectives.

The Contracting Body may review the minimum performance levels set below. Any changes to key performance indicator targets will be reviewed in engagement with Providers and will be set at no more than 10% above or below the benchmark of KPI performance prior to the review.

The Contracting Body will review Provider's performance against the following KPIs quarterly. It is anticipated that the Contracting Body will hold the information for these KPIs and will undertake analysis of performance prior to each quarterly review.

KPI	Key Performance Indicator	Target	
		Tier 1	Tier 2 and Tier 3 (Lot 1 only)
KPI 1	Number of approved Blackburn with Darwen, Blackpool, Cumbria and Lancashire (BBCL) Registered Households against BBCL active Placements, by Contracting Body, including number of vacancies.	To be individually monitored and increase agreed.	Report for information only
KPI 2	Increase in number of potential Lot 2: Enhanced Foster Care (EFC) and Lot 3: Step Down(SD) Registered Households within each Contracting Body BBCL Boundaries.	To be individually monitored and increase agreed.	Report for information only
KPI 3	Number of new Foster Care Households, potential EFC and SD Registered Households, recruited within quarter, including locality and number and type of approved Placements.	To be individually monitored and target agreed.	Report for information only
KPI 4	Increase in number of Placements made by each Contracting Body of BBCL within quarter (by type Lot 1: Standard, Lot 2	To be individually monitored and increase agreed.	Report for information only

	Enhanced Foster Care and Lot 3 Step Down Foster care).		
KPI 5	Increase in number of suitable Placement offers made.	To be individually monitored and increase agreed.	Report for information only
KPI 6	Complaints responded to, actioned and reported to the Contracting Body	100%	100%
KPI 7	Safeguarding concerns are actioned/reported.	100%	100%
KPI 8	Attendance at exchange events or similar.	85% or above	No reporting needed
KPI 9	Attendance at monitoring and service development meetings.	100%	100%
KPI 10	Number of Placements made with Additional Services commissioned.	Report for information only	Report for information only
KPI 11	Outcomes progressed as an impact of Additional Services.	Report for information only	Report for information only

### Part 3 Consistent failure

In these Terms and Conditions, **Consistent Failure** shall mean: the Contracting Body serving 4 Default Notices in a rolling 12 Month period.

### **Schedule 3**

### **Provider's Tender/Offer**

The Providers Tender/Offer will be stored by the Contracting Body where a Service Contract has been awarded.

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## INDIVIDUAL PLACEMENT AGREEMENT (IPA)

### Standard Foster Care Placement

*The IPA is the Individual Placement Agreement for each Child placed with the Provider and forms part of the terms and conditions of the Service Contract where a Placement Request or other Call-Off Procedure is used.*

The IPA will incorporate the Call Off Terms and Conditions, as far as applicable and subject to variation under the specific terms of this IPA.

This IPA is between the Provider and the Council for the Child named below.

This IPA will supersede all other agreements signed in respect of the placement of the Child.

The IPA (or any successive agreement) will be shared with the Provider who has been identified to deliver a Placement at the time of making the Placement.

The Provider will be required to sign the IPA.

The IPA includes details of the Child and details of the Placement.

This IPA template may change from time to time.

### THIS IPA IS BETWEEN:

<b>The Council</b>	Lancashire County Council
<b>The Provider</b>	

### 1. THE CHILD

<b>Family name</b>	
<b>First name(s)</b>	
<b>Child Identity number</b>	
<b>Date of birth</b>	
<b>Gender</b>	

### 2. THE PLACEMENT

<b>Placement type</b>	
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Date Placement Starts	
Expected duration of placement (if known)	
Name and address of Foster Carer/s	
Social Worker's name	

The named Child may not be moved to another Placement by the Provider without the prior approval of the Council.

### 3. OUTCOMES TO BE ACHIEVED FOR THE CHILD

The Provider will work collaboratively with the Council to meet the outcomes identified in the Child's Care Plan, including as applicable the Pathway Plan, Health Plan, Education, Health and Care Plan (EHCP) / Statement of SEN and Personal Education Plan (PEP).

### 4. THE PRICE

In accordance with the Specification of the Service Contract, the Council shall pay the Provider the following sums:

#### Weekly Price – Standard Foster Care

Standard weekly Price	
Additional weekly Price – AS DETAILED BELOW	
<b>Total weekly Price of Placement</b>	

#### Breakdown of Additional Prices

Description of Additional Services	Unit cost	Price per week	Start date	Review date

Please note if there is no prior written approval from the Council (the Social Worker's Practice Manager) for the Provider to apply Additional Prices, those Prices will not be paid.

*(See clause 11 of the Service Contract.)*

If you have any queries regarding the IPA , please contact the Council's Access to Resource Team Email – [artenquiries@lancashire.gov.uk](mailto:artenquiries@lancashire.gov.uk) Phone – 01772 531293

## 5. SIGNATORIES TO THE AGREEMENT AND APPROVAL FOR FUNDING

The Provider and the Council agree to the Placement of the named Child in accordance with the details set out above.

For the purposes of this Individual Placement Agreement (IPA), the date the placement commences may not be affected or altered in any way by the date of signature of this IPA.

### The Council

Name of organisation	Lancashire County Council
Name of signatory	
Position	
Signature	
Date	

### The Provider

Name of organisation	
Name of signatory	
Position	
Signature	
Date	

## AMENDMENTS AND VARIATIONS

Amendments and variations to the IPA must be made in writing by the requesting party and agreed by the Council and the Provider in advance of the variation to the IPA taking effect.

Any variations to the Services and Prices must be detailed in a revised version of the IPA. The revised IPA will replace the original IPA and must be signed by both parties before any Additional Prices become payable.



## INDIVIDUAL PLACEMENT AGREEMENT (IPA)

### Enhanced Foster Care Placement

*The IPA is the Individual Placement Agreement for each Child placed with the Provider and forms part of the terms and conditions of the Service Contract where a Placement Request or other Call-Off Procedure is used.*

The IPA will incorporate the Call Off Terms and Conditions, as far as applicable and subject to variation under the specific terms of this IPA.

This IPA is between the Provider and the Council for the Child named below.

This IPA will supersede all other agreements signed in respect of the placement of the Child.

The IPA (or any successive agreement) will be shared with the Provider who has been identified to deliver a Placement at the time of making the Placement.

The Provider will be required to sign the IPA.

The IPA includes details of the Child and details of the Placement.

This IPA template may change from time to time.

#### THIS IPA IS BETWEEN:

<b>The Council</b>	<b>Lancashire County Council</b>
<b>The Provider</b>	

#### 6. THE CHILD

<b>Family name</b>	
<b>First name(s)</b>	
<b>Child Identity number</b>	
<b>Date of birth</b>	
<b>Gender</b>	

#### 7. THE PLACEMENT

<b>Placement type</b>	
<b>Date the placement starts</b>	
<b>Name and address of Foster Carer/s</b>	

Social Worker's name	
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The named Child may not be moved to another placement by the Provider without the prior approval of the Council.

## 8. OUTCOMES TO BE ACHIEVED FOR THE CHILD / YOUNG PERSON

The Provider will work collaboratively with the Council to meet the outcomes identified in the Child's Care Plan, including as applicable the Pathway Plan, Health Plan, Education, Health and Care Plan (EHCP) / Statement of SEN and Personal Education Plan (PEP).

## 9. THE PRICE

In accordance with the Specification of the Service Contract, the Council shall pay the Provider the following sums:

### Weekly Costs – Enhanced Foster Care

Standard weekly Price	
Additional weekly Price – AS DETAILED BELOW	
<b>Total weekly Price of Placement</b>	

### Breakdown of Additional Prices

Description of Additional Services	Unit Price	Price per week	Start date	Review date

Please note if there is no prior written approval from the Council (the Social Worker's Practice Manager) for the Provider to apply Additional Prices, those Prices will not be paid.

*(See clause 11 of the Service Contract.)*

If you have any queries regarding the IPA, please contact the Council's Access to Resource Team Email – [artenquiries@lancashire.gov.uk](mailto:artenquiries@lancashire.gov.uk) Phone – 01772 531293

## 10. SIGNATORIES TO THE AGREEMENT AND APPROVAL FOR FUNDING

The Provider and the Council agree to the Placement of the named Child in accordance with the details set out above.

For the purposes of this Individual Placement Agreement (IPA), the date the placement commences may not be affected or altered in any way by the date of signature of this IPA.

**The Council**

Name of organisation	<b>Lancashire County Council</b>
Name of signatory	
Position	
Signature	
Date	

**The Provider**

Name of organisation	
Name of signatory	
Position	
Signature	
Date	

**AMENDMENTS AND VARIATIONS**

Amendments and variations to the IPA must be made in writing by the requesting party and agreed by the Council and the Provider in advance of the variation to the IPA taking effect.

Any variations to the Services and Prices must be detailed in a revised version of the IPA. The revised IPA will replace the original IPA and must be signed by both parties before any Additional Prices become payable.

## INDIVIDUAL PLACEMENT AGREEMENT (IPA)

### Step Down into Foster Care Placement

*The IPA is the Individual Placement Agreement for each Child placed with the Provider and forms part of the terms and conditions of the Service Contract where a Placement Request or other Call-Off Procedure is used.*

The IPA will incorporate the Call Off Terms and Conditions, as far as applicable and subject to variation under the specific terms of this IPA.

This IPA is between the Provider and the Council for the Child named below.

This IPA will supersede all other agreements signed in respect of the placement of the Child.

The IPA (or any successive agreement) will be shared with the Provider who has been identified to deliver a Placement at the time of making the Placement.

The Provider will be required to sign the IPA.

The IPA includes details of the Child and details of the Placement.

This IPA template may change from time to time.

#### THIS IPA IS BETWEEN:

<b>The Council</b>	<b>Lancashire County Council</b>
<b>The Provider</b>	

#### 11. THE CHILD

<b>Family name</b>	
<b>First name(s)</b>	
<b>Child Identity number</b>	
<b>Date of birth</b>	
<b>Gender</b>	

#### 12. THE PLACEMENT

<b>Placement type</b>	
<b>Date the placement starts</b>	
<b>Name and address of Foster Carer/s</b>	
<b>Social Worker's name</b>	

The named Child may not be moved to another placement by the Provider without the prior approval of the Council.

### 13. OUTCOMES TO BE ACHIEVED FOR THE CHILD

The Provider will work collaboratively with the Council to meet the outcomes identified in the Child's Care Plan, including as applicable the Pathway Plan, Health Plan, Education, Health and Care Plan (EHCP) / Statement of SEN and Personal Education Plan (PEP).

### 14. THE PRICE

In accordance with the Specification of the Service Contract, the Council shall pay the Provider the following sums:

#### Weekly Costs – Step Down Foster Care

	Stage 1 Planning & Introductory	Stage 2 Intensive Support	Stage 3 Stabilisation	Stage 4 Transition
Standard weekly Price	£	£	£	£
Additional weekly Price – AS <i>DETAILED BELOW</i>	£	£	£	£
<b>Total weekly cost of placement</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>

Breakdown of Step Down Weekly Price, including duration	Price per week	Start date	Review date
Stage 1 - Planning & Introductory			
Stage 2 – Intensive Support			
Stage 3 - Stabilisation			
Stage 4 - Transition			

#### Breakdown of Additional Prices

Description of Additional Services	Unit Price	Price per week	Start date	Review date


Please note if there is no prior written approval from the Council (the Social Worker's Practice Manager) for the Provider to apply Additional Prices, those Prices will not be paid.

*(See clause 11 of the Service Contract.)*

If you have any queries regarding the IPA, please contact the Council's Access to Resource Team Email – [artenquiries@lancashire.gov.uk](mailto:artenquiries@lancashire.gov.uk) Phone – 01772 531293

## 15. SIGNATORIES TO THE AGREEMENT AND APPROVAL FOR FUNDING

The Provider and the Council agree to the Placement of the named Child in accordance with the details set out above.

For the purposes of this Individual Placement Agreement (IPA), the date the placement commences may not be affected or altered in any way by the date of signature of this IPA.

### The Council

Name of organisation	<b>Lancashire County Council</b>
Name of signatory	
Position	
Signature	
Date	

### The Provider

Name of organisation	
Name of signatory	
Position	
Signature	
Date	

## AMENDMENTS AND VARIATIONS

Amendments and variations to the IPA must be made in writing by the requesting party and agreed by the Council and the Provider in advance of the variation to the IPA taking effect.

Any variations to the Services and Prices must be detailed in a revised version of the IPA. The revised IPA will replace the original IPA and must be signed by both parties before any Additional Prices become payable.

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**Schedule 5 – Retained Placement Agreement**

**RETAINED PLACEMENT AGREEMENT (RPA)**

**Agreement for the Retention of a Foster Care Placement**

Under the terms and conditions of the Service Contract, a Retained Placement Agreement can be entered into between a contracted Provider and the Council to support the meeting of specific gaps in provision or harder to source Placements.

An RPA will be issued for each Placement the Council has agreed to pay a retainer. This will be applied only where there is a vacant Placement within a Registered Household with no matched child, up to the maximum of 28 days from the RPA start date.

This RPA is between the Provider (the Flexible Agreement Provider) and the Council for the retention of the Foster Carer Placement named below.

The RPA will incorporate the Call Off Terms and Conditions, as far as applicable and subject to variation.

This RPA will supersede all other agreements signed in respect of a Retained Placement.

The RPA template may change from time to time.

**THIS RPA IS BETWEEN:**

<b>The Council</b>	
<b>The Provider</b>	

**16. THE RETAINED PLACEMENT**

<b>Name and address of Foster Carer for which the Placement is being retained</b>	
<b>Type of Placement being retained (e.g. Standard, Enhanced, Step Down)</b>	
<b>Date the RPA starts</b>	
<b>Agreed duration of the RPA</b>	



Maximum duration date of the RPA (28 days from start)	
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The Provider agrees to work collaboratively with the Council to identify a suitable Child for the vacant Placement under this RPA and not to consider Children from other Local Authorities for the above vacancy for the duration of the RPA.

The Council will determine which Children they wish to be considered for the above Retained Placement. A clear, justified reason must be given by the Provider should the decision be made to not put forward an Offer for an identified Child.

The Council reserves the right to end this Retained Placement Agreement at any time should there be concerns in relation to the ability of the provision to be able to meet demand.

The Council will not enter into, or continue with, a Retained Placement Agreement with a Provider that has or receives an Ofsted (or equivalent) rating of Inadequate or a Care Inspectorate rating of Weak or Unsatisfactory.

Should the vacant Placement under the RPA not be filled during the agreed time period, there would be the option to extend beyond the agreed duration of the RPA, up to the maximum of 28 days from the RPA start date, should both parties agree.

For avoidance of doubt, a retainer fee may continue once a child is matched to the Foster Carer named in this RPA. In this circumstance this RPA will be ceased, and IPA will be issued as described in the Flexible Agreement.

## 17. THE PRICE

In accordance with the Service Specification and any Price submitted by the Provider, the Council shall pay the Provider the following sums:

Weekly Retained Placement Cost	£
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## 18. PAYMENT

Please see Clause 11 (Payments and Charges) of the Agreement for information in relation to the payment terms.

If you have any queries regarding the RPA, please contact the Council's Access to Resource Team Email – [artenquiries@lancashire.gov.uk](mailto:artenquiries@lancashire.gov.uk) Phone – 01772 531293

## 19. SIGNATORIES TO THE AGREEMENT AND APPROVAL FOR FUNDING

The Provider and the Council agree to retain the named Placement in accordance with the details set out above.

For the purposes of this Retained Placement Agreement (RPA), the date the agreement commences may not be affected or altered in any way by the date of signature of this agreement.

**The Council**

Name of organisation	
Name of signatory	
Position	
Signature	
Date	

**The Provider**

Name of organisation	
Name of signatory	
Position	
Signature	
Date	

**AMENDMENTS AND VARIATIONS**

Amendments and variations to the RPA must be made in writing by the requesting party and agreed by the Council and the Provider in advance of the variation to the RPA taking effect.

Any variations to the Services and Prices must be detailed in a revised version of the RPA. The revised RPA will replace the original RPA and must be signed by both parties before any additional Prices become payable.

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## **Schedule 7      Change control**

### **1.      GENERAL PRINCIPLES**

- 1.1 Where the Contracting Body or the Provider sees a need to change the Term and Conditions the Contracting Body may at any time request, and the Provider may at any time recommend, such Change only in accordance with the Change Control Procedure set out in paragraph 2 of this Schedule 7.
- 1.2 Until such time as a Change is made in accordance with the Change Control Procedure, the Contracting Body and the Provider shall, unless otherwise agreed in writing, continue to perform the Service Contract in compliance with these Terms and Conditions before such Change.
- 1.3 Any discussions which may take place between the Contracting Body and the Provider in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of either party.
- 1.4 Any work undertaken by the Provider and the Provider's Personnel which has not been authorised in advance by a Change, and which has not been otherwise agreed in accordance with the provisions of this Schedule 7, shall be undertaken entirely at the expense and liability of the Provider.

### **2.      PROCEDURE**

- 2.1 Discussion between the Contracting Body and the Provider concerning a Change shall result in any one of the following:
  - (a) no further action being taken; or
  - (b) a request to change the Service Contract by the Contracting Body; or
  - (c) a recommendation to change the Service Contract by the Provider.
- 2.2 Where a written request for an amendment is received from the Contracting Body, the Provider shall, unless otherwise agreed, submit two copies of a Change Control Note signed by the Provider to the Contracting Body within three weeks of the date of the request.
- 2.3 A recommendation to amend the Terms and Conditions by the Provider shall be submitted directly to the Contracting Body in the form of two copies of a Change Control Note signed by the Provider at the time of such recommendation. The Contracting Body shall give its response to the Change Control Note within three weeks.
- 2.4 Each Change Control Note shall contain:
  - (a) the title of the Change;
  - (b) the originator and date of the request or recommendation for the Change;
  - (c) the reason for the Change;

- (d) full details of the Change, including any specifications;
- (e) the price, if any, of the Change;
- (f) a timetable for implementation, together with any proposals for acceptance of the Change;
- (g) a schedule of payments if appropriate;
- (h) details of the likely impact, if any, of the Change on other aspects of the Terms and Conditions including:
  - (i) the timetable for the provision of the Change;
  - (ii) the personnel to be provided;
  - (iii) the Charges;
  - (iv) the Documentation to be provided;
  - (v) the training to be provided;
  - (vi) working arrangements;
  - (vii) other contractual issues;
- (i) the date of expiry of validity of the Change Control Note; and
- (j) provision for signature by the Contracting Body and the Provider.

2.5 For each Change Control Note submitted by the Provider the Contracting Body shall, within the period of the validity of the Change Control Note:

- (a) allocate a sequential number to the Change Control Note; and
- (b) evaluate the Change Control Note and, as appropriate:
  - (i) request further information;
  - (ii) arrange for two copies of the Change Control Note to be signed by or on behalf of the Contracting Body and return one of the copies to the Provider; or
  - (iii) notify the Provider of the rejection of the Change Control Note.

2.6 A Change Control Note signed by the Contracting Body and by the Provider shall constitute an amendment to the Terms and Conditions.

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