

Service Level Agreement for the Provision of Local Enhanced Service Agreement to Provide a Priority Stop Smoking Service 18+

Ref:CO-01100

BETWEEN: Yorkshire Smokefree Wakefield
Hosted by South West Yorkshire Partnership NHS Foundation Trust,
(SWYPT)
Fieldhead, Ouchthorpe Lane, Wakefield, WF1 3SP
(The “Commissioner”)

AND: **XX,**
Address
(the “Provider”)

together referred to as the “Parties” or individually a “Party”.

Issue date:

Version Control		
Version 1	Created by James Vickers	18 June 2023

Review Date
Document Change Record

The following table records the complete history of the successive editions of the present document.

Version	Date	Description	Authorisation

Commissioner

Name / Signature
Position
Date
Email
Telephone

Provider

Name / Signature
Position
Date
Email
Telephone

Related Documents

- Tender Document (if applicable).
- NHS Terms and Conditions for the Supply of Services (Contract Version) (May 2018). Copy available via the “Document Owner” or the link detailed below:
<https://www.gov.uk/government/publications/nhs-standard-terms-and-conditions-of-contract-for-the-purchase-of-goods-and-supply-of-services>
- Service Level Agreement Schedules.
 - Schedule 1 – Service Description
 - Schedule 2 – Service Fees
 - Schedule 3 – Key Performance Indicators
 - Schedule 4 – Service Level Agreement Review
 - Schedule 5 – Information and Data Provisions

1. Action List

Action	Date	Reason for Change	Sections Affected

2. Commencement Date

This Service Level Agreement will commence on **01 July 2024**.

3. Service Level Agreement Period

The Service level Agreement is for **24 months** until **30th June 2026**. The designated “Document Owner” is responsible for facilitating regular reviews of this document. The agreement remains “*Commercial in Confidence*” at all times.

4. Termination Notice Period

The minimum Termination Notice Period for this Service Level Agreement is **1 month**. Any termination notices given; which can be provided by either party; **must** be submitted formally in writing and should be then be mutually agreed.

5. General Overview

This is a Service Level Agreement (SLA) between **XX** and South West Yorkshire Partnership NHS Foundation Trust receiving the service.

5.1 The service **Provider** provides to the Trust

5.1.1 The responsibilities of **XX** as a Provider of these services and of the Trust receiving the service.

5.1.2 Process for requesting charges to the services on an “ad hoc” and/or a permanent basis.

6. Service Description

6.1 Service scope, description as detailed in Schedule 1.

6.2 Service availability **XX** shall provide the service as follows:

6.2.1 Monday to Friday from 08.00 a.m. to 17.00 p.m. excluding bank holidays.

6.3 Assumptions

6.3.1 Scheduling and delivery of all services shall be in accordance with Schedule 1.

7. Requesting Service Contact Information

7.1 Name: **James Vickers**
Title: **Senior Contracts Manager**
Telephone Number: **07385 460030**
Email Address: james.vickers@swyt.nhs.uk

8. Escalation Process

The dispute resolution process will follow the clauses stated in the NHS Terms and Conditions for the Supply of Services. In support of any potential disputes with this Service Level Agreement the following will apply.

Level	Job Title / Role
1	Service/Commissioning Manager
2	District Director
3	Deputy Chief Executive / Chief Executive

9. Changes to the Services

Either party may propose changes to the scope, nature, or time schedule of the service being performed under this Service Level Agreement.

The parties shall mutually agree to any proposed changes, including adjustments to costs as a result of the changes to services prior to the change being implemented.

All changes are to be subject to mutually agreed change control procedures and must be approved in writing by both parties.

10. Obligations of the Trust (Commissioner)

The Commissioner shall be responsible for ensuring that the supplier is kept fully informed of any changes which shall have an effect on the provider's ability to deliver the service included in the scope of this Service Level Agreement for the **Provision of Local Enhanced Service Agreement to Provide a Priority Stop Smoking Service.**

11. Invoicing Arrangements

11.1 Invoices presented to the Commissioner of the service shall show the period and the amount of the services for which payment is claimed together with the agreed charging rates and any other details which are deemed part of the

service specification.

- 11.2** All invoices **must** quote a valid Purchase Order number and should be sent within 30 days of receipt of the services to:

SW YORKSHIRE PARTNERSHIP NHS FT
RXG PAYABLES F895
PHOENIX HOUSE,
TOPCLIFFE LANE
WAKEFIELD
WF3 1WE

- 11.3** Invoices can be sent to the Trust by either of the following two methods:

1. Send an e-invoice via Tradeshift.

If you do not have Tradeshift set up, you can register for **free** by following this link: <https://go.tradeshift.com/register> This is the preferred method of use as you have an electronic record of what invoices have been sent to us, they are with us for coding/matching to Purchase Orders straight away.

If you have any trouble setting this up, please contact the NHS SBS team on Telephone Number: 0303 123 1177, or emailing the following:
SBS-W.e-invoicingqueries@nhs.net

2. Post a paper invoice to the address above.

- 11.4** Invoice queries:

In the event of an invoice query please contact NHS Shared Business Services Payables Helpdesk in the first instance – Please do not contact SWYPFT staff direct. The SBS helpdesk will forward any messages onto the correct person within SWYPFT.

Tel: **0303 123 1177**

Website: www.sbs.nhs.uk

Email: SBS-W.Payables@nhs.net (please note this email is for queries only please do not email invoices to this address)

If SBS have been unable to resolve your query please email invoicequery@swyt.nhs.uk – Your email **MUST** include your SBS call reference number otherwise we will not deal with it.

- 11.5** Statements of account should be emailed to statements@swyt.nhs.uk

- 11.6** South West Yorkshire Partnership NHS Foundation Trust shall pay the contract price to **XX**, by BACS (Bank Account Clearing System), within 30 days of the receipt of a valid invoice.

Schedule 1 - Service Description

1. Service

1.1 Service Description

The provision of **Local Enhanced Service Agreement to Provide a Priority Stop Smoking Service.**

1.2 Key Stakeholders for this Service are:

Nominated Officer for the Commissioner	Nominated Officer for the Provider
Name: Sonia Brown	Name: XX
Position: Service Manager	Position: XX
Phone: 01924 252174	Phone: XX
email: Sonia.brown@swyt.nhs.uk	email: XX

1.3 Introduction

Smoking is the single greatest cause of preventable illness and premature death in the UK. It causes more than 100,000 deaths each year. One in two smokers will die from a smoking related disease and 70% of smokers say they would like to stop.

Information taken from the JSNA July 2023 states:

- 18.3% of adults in Wakefield are smokers, according to primary care data.
- Smoking prevalence across the district has declined over the last 10 years.
- People in the most deprived areas (30.3%) are 4x more likely to smoke than people in least deprived areas (7.7%).
- Males (20.6%) are more likely to smoke than females (16.7%).
- Those aged 40-44 have the highest smoking prevalence rates (25.5%).
- There were 1,681 per 100,000 population smoking attributable hospital admissions between April 2022 – March 2023*.
- There were 266 per 100,000 population smoking attributable mortalities in the three years 2020-2022**.
- Males are more likely to have a smoking attributable hospital admission or mortality than females.

**Hospital admissions dropped across the board during the Covid-19 pandemic and so the 2020-2021 and 2021-2022 figures may have been affected.*

***Admissions and mortalities where Covid-19 was recorded as the primary cause have not been included as the smoking attributable relative risk for Covid-19 has not yet been published. The smoking attributable hospital admission and mortality counts and rates will be recalculated once these become available.*

1.4 The Aim of the Scheme

SWYFT plans to support people who express a desire to quit smoking utilising either local primary care services, other partner providers or by referral to the Specialist Stop Smoking Service. This reflects both national priorities and additional locally identified priorities.

This scheme is intended to assist SWYFT and its constituent partner providers to meet these priorities by:

- providing comprehensive local access to equitable, consistent, flexible and high quality stop smoking services
- Enabling prompt and appropriate access to stop smoking medications, such as nicotine replacement therapy, varenicline and bupropion.
- ensuring that services are delivered in the most appropriate setting by the most appropriate advisor as part of an overall programme of support
- ensuring staff are competent in delivering the service to a high standard
- ensuring that all stop smoking targets are met including those set out in the DH Stop Smoking Services: Service and Monitoring Guidance 2014(http://www.ncsct.co.uk/publication_service_and_delivery_guidance_2014.php) and subsequent updates.

1.5 Principles

Enhanced service provision will be expected to adhere to a number of core principles:

- Be consistent with national and local strategies and best practice as outlined in evidence based guidelines and NICE guidance:
 - DH (2011/12). “NHS Stop Smoking Services: Service monitoring and guidance”. Department of Health.

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_096886

Evidence based guidelines and NICE guidance should inform service provision and the availability of stop smoking aids.

- HDA (2003) “Meeting Department of Health Smoking Cessation Targets: Recommendations for Primary Care Trusts” Health Development Agency
- NICE (2002) “Brief Interventions and Referral for Smoking Cessation in Primary Care and other Settings”
- NICE (2002) “Nicotine Replacement Therapy (NRT) and Bupropion for Smoking Cessation” – Technology Appraisal Guidance No.38.

- NICE (2007) "Workplace Health Promotion: How to help employees to stop smoking"
- NICE (2007) 'Varenicline for smoking cessation – Technology appraisal 123
- NICE (2008) "Public Health Guidance 10: Smoking Cessation Services in primary care, pharmacies, local authorities and workplaces, particularly for manual working groups, pregnant women and hard to reach groups"
- NICE (2008) "Antenatal Care: Routine Care for the Health Pregnant Woman"
- Raw M, McNeil A, West R. "Smoking Cessation Guidelines for Health Professionals. A Guide to Effective Smoking Cessation Interventions for the Health Care System." *Thorax* 1998; 53 (suppl 5, Pt 2): S1-38.
- West R, McNeil A and Raw M. "National Smoking Cessation Guidelines for Health Professionals: an update." *Thorax* 2000; 55:987-99.
- DH (2006) "Reducing smoking in pre-conception, during pregnancy and postpartum. Integrating high impact actions into routine healthcare practice."
- DH (2008) "The Good System Guide: A toolkit for developing performance improving systems in healthcare organisations. Pharmacies, mental health facilities, acute hospital settings, general and dental practice"
- Nicotine replacement therapy for smoking cessation. Cochrane Database of Systematic Reviews, Issue 1. (2008) Stead LF, Perera R, Bullen C, Mand and Lancaster C.
- DH (2010) "A Smokefree Future – A Comprehensive Tobacco Control Strategy for England"
- NICE (2010/20) "Guidance on School-based Methods to Prevent Children and Young People Smoking"
- National Centre for Smoking Cessation and Training (NCSCT) training standard. Learning outcomes for training stop smoking practitioners <http://ncsct.co.uk/usr/pub/NCSCCTtrainingstandard.pdf>
- DH (2011/12) Service and Monitoring Guidance
- Any other guidance published within the life of this agreement.

1.6 Outline of Service Requirements

- All service providers will be responsible for ensuring the stop smoking support programme is delivered in an appropriate setting (e.g. a confidential environment) and by appropriately trained staff (e.g. intermediate level 2 advisors)
- The provider must ensure that their clients receive behavioural support from a person who has had the appropriate training and supervision. The training consists of Practitioner training; core competences in helping people stop smoking, which leads to NCSCT certification. This will be followed by Level 2 core training, which will incorporate local training elements and will be

provided by the specialist stop smoking service. Following this, a period of shadowing with a fully trained advisor (within the specialist stop smoking service) will also be carried out.

- The provider will adopt a holistic approach to assessment of smoking, smoking behaviour and lifestyle including consideration of other health problems e.g. other physical and mental health problems, pregnancy etc.
- The provider will provide tailored advice, counselling and support, taking into account individual needs and choices particularly for minority ethnic and disadvantaged groups.
- The provider must adopt and adhere to the data collection methodology set out in Department of Health (2014) "NHS Stop Smoking Services: service monitoring and guidance". All intermediate level 2 advisors will be provided with access to the Quit Manager system to record client activity; this will enable appropriate monitoring and audit activity by the core stop smoking service.
- Services will be tailored to include the provision of NICE recommended stop smoking medicines, varenicline (Champix), bupropion (Zyban) and nicotine replacement therapy (NRT), using agreed protocols (the use of NRT voucher scheme/Patient Group Directive (PGD)/prescription requests, where appropriate)
- Providers must maintain a quit rate within the limits set by the Department of Health in the guidance referenced above. The acceptable quit rate is between 35% and 70%. All providers will be expected to exception report performance that falls outside these limits.
- Trained Intermediate level 2 advisors responsible for delivering stop smoking support must attend annual refresher training, annual peer learning networks (arranged by the specialist stop smoking service) and implement any new guidance or directives that are published and update training as offered by NCSCCT. Failure to attend updates as required may result in the withdrawal of this agreement.
- Providers will respect people's choices and lifestyles and maintain effective communication with all clients.

Data Collection

- Providers will submit full **and accurately completed** data via Quit Manager for each individual smoker who registers for support, within the timescales attached to this agreement. This must include all the information required by the Department of Health, set out in the Service Monitoring and Guidance 2014.
- Failure to submit the data by the required date will result in the withdrawal of payment for those clients.
- Failure to fully complete and submit the data accurately will result in any payments due being withheld until it is completed satisfactorily within required timescales.

1.7 Local Enhanced Service Delivery

The following planned intervention must be provided to all smokers supported through this agreement:

- The smoker expresses a desire to quit smoking (this step involves the member of staff to use nationally recognised brief and very brief intervention models).
- The advisor provides information on smoking, the consequences of smoking and the potential treatments to support quitting.
- An assessment is undertaken considering smoking, lifestyle, behavioural and health factors affecting the smoker's ability to quit. This may include assessing the smokers wider support network of family and friends and whether they can be engaged to provide additional motivation and support.
- Advice is given on and provision of NRT, Varenicline or Bupropion, if appropriate, and in line with agreed protocols.
- A quit date is agreed and recorded.
- The information sharing consent section on the monitoring form (to enable follow up of quit attempts) is completed.
- Structured follow up sessions of behavioural intervention and support are offered (weekly sessions for a minimum of 4 weeks after the quit date).
 - Behavioural support consists of advice, discussion and exercises provided face-to-face. It can also be delivered by telephone. It aims to make a quit attempt successful by:
 - helping clients escape from or cope with urges to smoke and withdrawal symptoms
 - maximising the motivation to remain abstinent and achieve the goal of permanent cessation
 - boosting self-confidence
 - maximising self-control
 - optimising use of pharmacotherapy
- CO monitoring is to be undertaken at each appointment as an aid to motivation and the reading recorded on the client's notes at each contact.
- Follow-up at four weeks is to be conducted with all self-reported quitters and an attempt must be made to confirm the smoking status of all clients reporting having quit for four weeks by use of an expired air carbon monoxide (CO) monitor. If clients do not attend their appointment, they should be followed up by telephone, text or email (three times at different times of day) and, importantly, asked and encouraged to attend for CO-verification.

- A carbon monoxide-verified four-week quitter is a treated smoker whose CO reading is assessed 28 days from their *quit date* (-3 or + 14 days) and whose Co reading is less than 6ppm. The -3 or +14 day rule allows for cases where it is impossible to carry out a face-to-face follow-up at the normal four-week point (although in most cases it is expected that follow-up will be carried out at four weeks from the quit date). This means that follow-up must occur 25 to 42 days from the quit date.
- Co-verification must be conducted face-to-face and carried out for all four-week quitters. Providers who fail to obtain CO readings for at least 85% of the four week-quitters may be subject to additional verification processes.
- The monitoring information is inputted onto Quit Manager (see Data Collection section above) or indicating whether the patient has successfully quit or not. The data collection at this point is equally important in establishing successful and unsuccessful quitters and must be submitted for both categories. The follow up described above must be undertaken before the client outcome recorded and data return is completed.
- Providers must not develop waiting lists of smokers requesting support. If a smoker cannot be seen within a week of their initial request for support they must be referred to the Specialist Stop Smoking Service so alternative support can be arranged, (including face to face, telephone or online support) unless the smoker has a particular wish to remain with the LES provider and are happy to wait.

Further guidance on monitoring is available in the DH document NHS Stop Smoking Services: Service and Monitoring Guidance 2014/15 and any updates.

It is acknowledged that some patients/clients will still require referral to the Specialist Service, these must include heavily addicted smokers, young people under the age of 18 and pregnant women, smokers with mental health issues, but may also be for other clients due to reasons of choice or access.

The Specialist Service will provide information, advice and support to all providers who wish to work with specific client groups with additional support needs.

Use of electronic cigarettes

South West Yorkshire Partnership NHS Foundation Trust recognises that a significant number of smokers are turning to electronic cigarettes (e-cigs) as a means of reducing or ceasing their use of smoked tobacco. E-cigs are currently unregulated and untested. In 2013 the UK **Medicines and Healthcare Products Regulatory Agency** (MHRA) announced that from 2016, it intended to regulate electronic cigarettes and other nicotine-containing products as medicines by function which will require manufacture to medicinal purity and delivery standards and control advertising. The proposed regulation will provide a route to licensing by deeming any nicotine device that is proved to deliver nicotine to be effective as a smoking substitute or cessation aid.

Until there is clear guidance from the **(MHRA) and Department of Health**, South West Yorkshire Partnership NHS Foundation Trust and any agents operating through this agreement are unable to provide e-cigs as part of a stop smoking support programme or recommend their use as a means to quitting smoking. This is particularly the case whilst there are ongoing concerns about safety and nicotine concentrations in e-cigs where data is limited.

However, in order to take a pragmatic approach and in recognition of the fact that some smokers are using e-cigs as the first step to quitting the use of smoked tobacco, South West Yorkshire Partnership NHS Foundation Trust requires providers to take the following approach:

- For the purpose of this agreement, e-cigs are to be treated as a nicotine containing device (akin to nicotine replacement products)
- Providers can support anyone to quit smoking under current NHS guidance, whether they are using any smoking cessation aids or not
- Provider's advisors should provide behavioural support to smokers who chose to use an e-cig to help them stop using smoked tobacco products
- Advisors should provide the standard stop smoking support programme to smokers using e-cigs, in line with the local treatment protocol and eligibility criteria in Appendix B
- Advisors should still advise smokers using e-cigs to support their quit attempt about the full range of stop smoking pharmacotherapy available locally (Appendix C) and discuss the relative benefits of using these products
- Providers must ensure that use of e-cigs are clearly recorded on the clinical record on Quit Manager in the appropriate
- **A smoker who has set a quit date and who has refrained from smoking tobacco at 4 weeks will be recorded as a treated smoker whether or not they are continuing to use an e-cig or other nicotine containing product**
- A treated smoker quit at 4 week will be recorded as either a CO verified quit or a self reported quit even if they are continuing to use an e-cig to support their ongoing abstinence from smoked tobacco
- Advisors must not promote or any specific advice or support around use of e-cigs
- Advisors should not provide Nicotine Replacement products, Champix or any other stop smoking pharmacotherapy to people using e-cigs

1.8 Eligibility

Providers of the service must ensure their employees/agents are appropriately qualified to provide all elements of the service. The provider should ensure that their clients receive behavioural support from a person who has had training and supervision that complies with the NHS Centre for Smoking Cessation and Training (NCSCT). March 2010.

Individuals providing stop smoking support through this agreement must have completed the Intermediate (Level 2) training delivered by a National Stop Smoking Service and locally delivered Level 2 training as required.

Knowledge and competencies must be maintained by attending one annual update meetings arranged by the Specialist Service, or by providing evidence of equivalent learning through attendance at national/regional alternatives.

Clients must either be resident within the Wakefield Metropolitan District Council or be registered at a GP within the Wakefield CCG/ICS.

1.9 Data Collection Timetable

DEPARTMENT OF HEALTH – MONTHLY REPORTING DATES

Month in Which Quit Date Set (Financial Year)	Last Date for Stop Smoking Service To Receive Completed Data	Reporting/Payment Deadlines
Quarter1 April, May, June	1st September	Mid September
Quarter 2 July, August, September	1st December	Mid December
Quarter 3 October, November, December	1st March	Mid March
Quarter 4 January, February, March	1st June	Mid June

NB Data received after the quarterly reporting deadline date will not be awarded a LES payment

1.10 Commencement Date

The commencement date of the agreement is 01 July 2024.

1.11 Sites

The services will be provided at **XX**.

Schedule 2 – Service Fees/Funding

1. Service Fees/Funding

- 1.1** The Payment will only be made to providers of the LES who have entered into a signed service agreement with South West Yorkshire Partnership NHS Foundation Trust.

Participating providers will be funded on the following basis:

Payment will be made to providers on a quarterly basis under the Local Enhanced Service providing that monitoring data is fully completed and submitted for each person who registers for support. This must be submitted to the Stop Smoking Service in accordance with the timescales set out in Section 10.

For the purpose of this enhanced service, an episode of care has been defined as a completed 4-week assessment. However, it is expected that if patients require support after this point, that care will be provided.

Providers will be reimbursed at the following rate/s:

- A payment by results of **£70** per smoke free patient as measured by a carbon monoxide monitor at the 4 week assessment for each fully completed client record.
- A payment by results of **£50** per smoke free patient whose smoke free status is self- verified and not measured by carbon monoxide monitoring at the 4 week assessment for each fully completed client record.
- A payment of **£20** for clients who set a quit date but do not quit following 3 episodes of trying to make contact.
- Payment will be authorised on submission of a completed client record on Quit manager within ten days of 4 week assessment, which should be sent to the Wakefield Stop Smoking Service. Please ensure you include all requested information including occupation data and postcode.
- Payment may be withheld if client records are not completed within this timescale or not be completed fully or correctly. Incomplete client records will be notified to the Provider. Should this occur the client record must be fully completed within 15 working days. Payment will not be made for any client record not completed within this timescale.
- Providers will only be paid for patients who successfully complete the 4 week course and quit smoking.

Providers may wish to retain the details of commissioned service activity from their service as quarterly assessment of the figures does not occur till 6-8 weeks after the end of the quarter. This is due to the methodology set by Department of Health for collecting smoking quitters data based on the set

quit date rather than when the 4 weeks is reached. This results in a delay in payment of about 3 months.

Claims for previous quarters/financial years will not be paid.

- 1.2** Payment terms are 30 days from the submission of the Provider's invoice which cannot be submitted before the Service is completed.
- 1.3** Variation of Service. In the event that any of the Services or part of the Services are no longer needed during the Contract Period, or additional Services are required for whatever reason, the Parties will, in accordance with Clause 9 of Service Level Agreement, discuss the effect this has on the Commissioner's organisation and agree an amendment to the Service fee which will not necessarily be on a pro-rata basis.

Schedule 3 – Key Performance Indicators

1. Key Performance Indicators

There are 6 key performance indicators (KPIs) that all providers will be assessed against on a quarterly basis:

1. All providers must achieve the Department of Health minimum standard of 35% quit conversion rate i.e., for every 3 people that set a quit date, at least 1 successful quit should be achieved.
2. The provider will provide CO-monitor verified quits in minimum of 85% of quits, in line with Department of Health standards.
3. The provider must provide full and complete client records including a clear outcome via Quit Manager and submit to the Service within the nationally agreed timescale of 6 weeks from the client's quit date (see section 10 for data collection deadlines).
4. The maximum lost to follow up rate should not exceed 10% (i.e. For every 10 clients that are seen, the outcome – quit or not quit - should be known for at least 9 of them)
5. All (100%) client details should have a completed code to record client ethnicity and employment status and should be correctly categorised on Quit Manager.
6. All providers should achieve a minimum of 10 quits per annum per advisor

Providers will also be monitored against SWYFT governance arrangements for record keeping and other Care Quality Commission.

The Specialist stop smoking Service will support providers and assist them to meet the requirements of the guidance set out in Part 3 of this agreement.

The Provider will meet with representatives of the Specialist stop smoking Service face to face annually to monitor compliance with this agreement.

Providers with quit rates falling outside the accepted 35% to 70% range will be exception reported and offered support from the specialist stop smoking service, offering retraining if appropriate. Providers with quit rates falling consistently below 35% or failing to meet other KPIs listed above can expect intervention from the specialist stop smoking service to agree action planning and improvement. Failure to demonstrate improvement within agreed timescales (usually six months) or failure to comply with remedial action will lead to the withdrawal of this agreement.

Schedule 4 - Service Level Agreement Review

1. Service Level Agreement Review

- 1.1** On a regular basis, the Commissioner will organise and chair a Service Level Agreement review meeting.
- 1.2** The objective of the Service Level Agreement review meeting is to improve performance and the relationship between the Parties for the overall benefit of the Beneficiaries.
- 1.3** Attendees will include:
- 1.3.1** The Contract Nominated Officers named in clause **Error! Reference source not found.** of Schedule 1 or their successors.
- 1.3.2** A representative from the Commissioner's Procurement and/or Finance function
- 1.3.3** Any other involved persons by invitation of the Chair.
- 1.4** The agenda will typically include:
- Review of previous actions.
 - Review of Contract performance measurements.
 - Issues that are working very well.
 - Issues of non-conformance with the Service Level Agreement.
 - Changes needed to Contract Service or delivery including any financial implications.
 - Suggestions for improvement, including new products and technologies.
 - Date of next Contract review meeting.
- 1.5** Minutes will be taken by the Commissioner and circulated to all persons involved.

Schedule 5 – Information and Data Provisions

1 Confidentiality

- 1.1 In respect of any Confidential Information it may receive directly or indirectly from the other Party ("Discloser") and subject always to the remainder of Clause 1 of this Schedule 5, each Party ("Recipient") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party without the Discloser's prior written consent provided that:
- 1.1.1 the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the Commencement Date.
- 1.1.2 the provisions of Clause 1 of this Schedule 5 shall not apply to any Confidential Information:
- (i) which is in or enters the public domain other than by breach of this Contract or other act or omissions of the Recipient.
 - (ii) which is obtained from a third party who is lawfully authorised to disclose such information without any obligation of confidentiality.
 - (iii) which is authorised for disclosure by the prior written consent of the Discloser.
 - (iv) which the Recipient can demonstrate was in its possession without any obligation of confidentiality prior to receipt of the Confidential Information from the Discloser.
 - (v) which the Recipient is required to disclose purely to the extent to comply with the requirements of any relevant stock exchange.
- 1.2 Nothing in Clause 1 of this Schedule 5 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable Law, including the Freedom of Information Act 2000 ("FOIA"), Codes of Practice on Access to Government Information, on the Discharge of Public Authorities' Functions or on the Management of Records ("Codes of Practice") or the Environmental Information Regulations 2004 ("Environmental Regulations").
- 1.3 The Commissioner may disclose the Provider's Confidential Information:
- 1.3.1 on a confidential basis, to any consultant, contractor or other person engaged by the Commissioner receiving such information.
- 1.3.2 to any relevant party for the purpose of the examination and certification of the Commissioner's accounts.
- 1.3.3 to any relevant party for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Commissioner has used its resources.

- 1.3.4 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirements.
- 1.3.5 on a confidential basis, to a proposed successor body in connection with any proposed or actual, assignment, novation or other disposal of rights, obligations, liabilities or property in connection with this Contract.

For the purposes of this Contract, references to disclosure "on a confidential basis" shall mean the Commissioner making clear the confidential nature of such information and that it must not be further disclosed except in accordance with Law or this Clause 1.3 of this **Error! Reference source not found..**

- 1.4 The Provider may only disclose the Commissioner's Confidential Information, and any other information provided to the Provider by the Commissioner in relation to this Contract, to the Provider's Staff or professional advisors who are directly involved in the performance of or advising on the Provider's obligations under this Contract. The Provider shall ensure that such Staff or professional advisors are aware of and shall comply with the obligations in Clause 1 of this Schedule 5 as to confidentiality and that all information, including Confidential Information, is held securely, protected against unauthorised use or loss and, at the Commissioner's written discretion, destroyed securely or returned to the Commissioner when it is no longer required. The Provider shall not, and shall ensure that the Staff do not, use any of the Commissioner's Confidential Information received otherwise than for the purposes of performing the Provider's obligations in this Contract.
- 1.5 For the avoidance of doubt, save as required by Law or as otherwise set out in this Schedule 5, the Provider shall not, without the prior written consent of the Commissioner (such consent not to be unreasonably withheld or delayed), announce that it has entered into this Contract and/or that it has been appointed as a Provider to the Commissioner and/or make any other announcements about this Contract.
- 1.6 Clause 1 of this Schedule 5 shall remain in force:
 - 1.6.1 without limit in time in respect of Confidential Information which comprises Personal Data or which relates to national security; and
 - 1.6.2 for all other Confidential Information for a period of three (3) years after the expiry or earlier termination of this Contract unless otherwise agreed in writing by the Parties.

2 Data protection

- 2.1 The Parties acknowledge their respective duties under Data Protection Legislation and shall give each other all reasonable assistance as appropriate or necessary to enable each other to comply with those duties. For the avoidance of doubt, the Provider shall take reasonable steps to ensure it is familiar with the Data Protection Legislation and any obligations it may have under such Data Protection Legislation and shall comply with such obligations.
- 2.2 Where the Provider is Processing Personal Data under or in connection with this Contract, the Parties shall comply with the Data Protection Protocol.

- 2.3 The Provider and the Commissioner shall ensure that Personal Data is safeguarded at all times in accordance with the Law, and this obligation will include (if transferred electronically) only transferring Personal Data
- (a) if essential, having regard to the purpose for which the transfer is conducted; and
 - (b) that is encrypted in accordance with any international data encryption standards for healthcare, and as otherwise required by those standards applicable to the Commissioner under any Law and Guidance (this includes, data transferred over wireless or wired networks, held on laptops, CDs, memory sticks and tapes).
- 2.4 Where any Personal Data is Processed by any Sub-contractor of the Provider in connection with this Contract, the Provider shall procure that such Sub-contractor shall comply with the relevant obligations set out in Clause 2 of this Schedule 5, as if such Sub-contractor were the Provider.
- 2.5 The Provider shall indemnify and keep the Commissioner indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings whatsoever or howsoever arising from the Provider's unlawful or unauthorised Processing, destruction and/or damage to Personal Data in connection with this Contract.

3. Freedom of Information and Transparency

- 3.1 The Parties acknowledge the duties of Contracting Authorities under the FOIA, Codes of Practice and Environmental Regulations and shall give each other all reasonable assistance as appropriate or necessary to enable compliance with those duties.
- 3.2 The Parties acknowledge the duties of Contracting Authorities under the FOIA, Codes of Practice and Environmental Regulations and shall give each other all reasonable assistance as appropriate or necessary to enable compliance with those duties.
- 3.3 The Provider shall assist and cooperate with the Commissioner to enable it to comply with its disclosure obligations under the FOIA, Codes of Practice and Environmental Regulations. The Provider agrees:
- 3.3.1 that this Contract and any recorded information held by the Provider on the Commissioner's behalf for the purposes of this Contract are subject to the obligations and commitments of the Provider under the FOIA, Codes of Practice and Environmental Regulations.
 - 3.3.2 that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under the FOIA, Codes of Practice and Environmental Regulations is a decision solely for the Commissioner.

- 3.3.3 that where the Provider receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Provider itself is subject to the FOIA, Codes of Practice and Environmental Regulations it will liaise with the Commissioner as to the contents of any response before a response to a request is issued and will promptly (and in any event within two (2) Business Days) provide a copy of the request and any response to the Commissioner;
- 3.3.4 that where the Provider receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Provider is not itself subject to the FOIA, Codes of Practice and Environmental Regulations, it will not respond to that request (unless directed to do so by the Commissioner) and will promptly (and in any event within two (2) Business Days) transfer the request to the Commissioner.
- 3.3.5 that the Commissioner, acting in accordance with the Codes of Practice issued and revised from time to time under both section 45 of FOIA, and regulation 16 of the Environmental Regulations, may disclose information concerning the Provider and this Contract.
- 3.3.6 to assist the Commissioner in responding to a request for information, by processing information or environmental information (as the same are defined in FOIA and the Environmental Regulations) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of FOIA, and providing copies of all information requested by the Commissioner within five (5) Business Days of that request and without charge.
- 3.4 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, Codes of Practice and Environmental Regulations, the content of this Contract is not Confidential Information.
- 3.5 Notwithstanding any other term of this Contract, the Commissioner consents to the publication of this Contract in its entirety (including variations), subject only to the redaction of information that is exempt from disclosure in accordance with the provisions of the FOIA, Codes of Practice and Environmental Regulations.
- 3.6 In preparing a copy of this Contract for publication under Clause 3.4 of this Schedule 5, the Commissioner may consult with the Provider to inform decision making regarding any redactions but the final decision in relation to the redaction of information will be at the Commissioner's absolute discretion.
- 3.7 Where any information is held by any Sub-contractor of the Provider in connection with this Contract, the Provider shall procure that such Sub-contractor shall comply with the relevant obligations set out in Clause 3 of this Schedule 5, as if such Sub-contractor were the Provider.

4. Information Security

- 4.1 Without limitation to any other information governance requirements set out in this Schedule 5, the Provider shall:

- 4.1.1 notify the Commissioner forthwith of any information security breaches or near misses (including without limitation any potential or actual breaches of confidentiality or actual information security breaches) in line with the Commissioner's information governance Policies; and fully cooperate with any audits or investigations relating to information security and any privacy impact assessments undertaken by the Authority and shall provide full information as may be reasonably requested by the Authority in relation to such audits, investigations and assessments.