



Business Services Authority

Memorandum of Understanding

Between

NHS Business Services Authority

And

NHS England

For

The NHSBSA Provider Assurance team to deliver a national contract and performance management service for Dental, Ophthalmic, Pharmaceutical, and Vaccination & Immunisation services (1 April 2025 to 31 March 2026).

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FORM OF AGREEMENT

The Agreement is made on: 1 April 2025

Between: NHS England (NHSE)

7-8 Wellington Place
Leeds
West Yorkshire
LS1 4AP

And: NHS Business Services Authority (NHSBSA)

Stella House
Goldcrest Way
Newburn Riverside
Newcastle upon Tyne
NE15 8NY

Together referred to as “the Parties”

1. Terms and Conditions of Agreement

1.1. In the Agreement, unless the context otherwise requires, the following words and expressions shall have the meanings respectively assigned to them:

NHSE means NHS England

NHSBSA means the NHS Business Services Authority

2. Status and Purpose of this Agreement

2.1. This Memorandum of Understanding (the Agreement) sets out the relationship between the Parties in respect of supporting NHS England (NHSE). The NHSBSA Provider Assurance team will deliver Contract and Performance Management activities for NHS dental, ophthalmic, pharmaceutical and vaccination & immunisation services.

2.2. The main purpose of the Agreement is to:

- define the relationship between the Parties
- provide clarity of understanding between the Parties on the nature and level of services the NHSBSA will be required to provide
- articulate the governance arrangements that will be in place to ensure that the services provided will be to the benefit of all relevant parties.

2.3. Each party to this MoU is a health service body within the meaning of Section 9(4) of the National Health Service Act 2006 as amended (the "NHS Act"). Accordingly:

- (a) this MoU constitutes an "NHS contract" within the meaning of Section 9 of the NHS Act;
- (b) this MoU is not intended to be legally binding, and no contractual rights or liabilities or other legal rights shall arise between the Parties from this MoU. That being said, the Parties enter into this MoU in good faith, intending to honour all of their respective obligations under this MoU.

NHSBSA & NHSE roles and responsibilities:

- 2.3.1. collaborate and co-operate. Establish and adhere to the governance structure set out in this MoU to ensure that activities are delivered and actions taken as required;
- 2.3.2. be accountable. Manage and account to each other for performance of the respective roles and responsibilities set out in this MoU;
- 2.3.3. be open. Communicate openly about major concerns, issues or opportunities relating to the service provided by the NHSBSA Provider Assurance team.
- 2.3.4. learn, develop and seek to achieve the full potential from the Assurance Services. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- 2.3.5. adhere to statutory requirements and good practice. Comply with all applicable laws and standards including the Equality Act 2010, the Public Interest Disclosure Act 1998, UK Public Contracts Regulations, data protection and freedom of information legislation. In particular, the Parties shall comply with the requirements of any information sharing protocol agreed between the Parties;
- 2.3.6. act in a timely manner.
- 2.3.7. deploy appropriate resources. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this MoU; and

2.3.8. act in good faith to support compliance with these key principles.

3. Duration of the Agreement

3.1. The Agreement shall commence on 1 April 2025 until 31 March 2026. It will be reviewed annually as per clause 5. A decision not to renew the agreement shall be subject to a minimum of six months written notice, which can be given at any time.

4. Description of Services

4.1. The Contract and Performance Management services to be provided are set out in Appendix 1.

4.2. The Key Performance Indicators (KPIs) for the Contract and Performance Management service are described in clause 11.

4.3. The contract and performance management activities will be agreed with NHSE and detailed in a portfolio of workstreams (See appendix 1). Workstream descriptions and/or service request forms for each activity carried out across all contractor types will be documented. An example of the workstream description and service request form templates can be found at Appendix 4.

4.4. Where NHSE requires changes to Clauses/Appendices within this MOU, these will be discussed in routine engagement and service line boards and then managed and agreed between the parties via the variation procedure. This is found at Appendix 5, and in line with Clause 7. When priority planning changes occur, these will be decided on in the routine engagement and service line boards, and managed through the business as usual arrangements. For example: If NHSE asks NHSBSA to remove a workstream, that would be deemed a contract change, but if NHSE asks for some of the NHSBSA staff to move from Workstream A to Workstream B for three months that would be managed as business as usual agreement.

4.5. Clear and appropriate escalation procedures to NHS England Counter Fraud Team shall be established with a good professional working relationship. These escalations procedures shall be supplemented by the routine sharing of proposed Contract and Performance Management activity to ensure effective collaboration with NHS England Counter Fraud Team and appropriate links with NHS Counter Fraud Authority.

4.6. NHSBSA are encouraged to undertake service improvement activities in collaboration with NHSE. In 2025/26 NHSE and NHSBSA will work together to undertake a review of the service requirements for 2026/27 onwards. This will consider minimum requirements and areas of development.

5. Agreement Review and MOU Management

5.1. Both parties will review this MoU on an annual basis, as a minimum, to ensure it continues to reflect the way the services are required to be delivered and monitored. The appendices associated with this Agreement will be reviewed jointly by the Parties.

5.2. Quarterly progress meetings will be held throughout the duration of the agreement to monitor compliance with the requirements of the Agreement, including but not limited to performance monitoring of the activities, service variations and cost of the service.

5.3. The NHSBSA will comply with the attainment of KPIs described in clause 11.

6. Entire Agreement

- 6.1. The signing of this Form of Agreement constitutes the entire agreement between both Parties relating to the Contract and Performance Management service and supersedes all prior negotiations, representations or understandings whether written or oral.

7. Agreement Variation

- 7.1. Any proposal by either party to materially add, modify or remove part of the functions, deliverables or activities associated with this Agreement must be agreed by both parties in writing upon 3 months' notice for adding or modifying a service and 6 months' notice for removing a service before it may be implemented. If the Contract and Performance Management service happens to be reduced for any reason, NHSE will be liable for any close down costs including staff redundancy or any other associated costs.
- 7.2. Either party may terminate this Memorandum of Understanding by written notice to the other party (taking effect on the date specified in the notice) in any of the following circumstances:
- 7.2.1. a Default is committed by the other party where that other party has failed to remedy the relevant Default within sixty (60) days of receipt of written notice from the non-breaching party specifying the Default and requiring its remedy; or
 - 7.2.2. a Default is committed by the other party, which is not capable of remedy, provided that a Default shall not be treated as incapable of remedy merely because it has already occurred.
- 7.3. NHSE may terminate the Agreement, or to terminate the provision of any part of the Services, at any time by giving six months' notice in writing to NHSBSA. NHSE may extend the period of notice at any time before it expires, subject to agreement on the level of Services to be provided by NHSBSA during the period of extension of such notice.
- 7.4. In the event of the termination or expiry of this Memorandum of Understanding, howsoever arising, each Party shall forthwith deliver up to the other Party, or as the other party notifies, all property and data of the other party then held in the custody or control of that Party. As per Art 28 (g)
- 7.4.1. at the choice of the controller, deletes or returns all the personal data to the controller after the end of the provision of services relating to processing, and deletes existing copies unless domestic law requires storage of the personal data.
 - 7.4.2. The termination or expiry of this Memorandum of Understanding shall not prejudice or affect any right or remedy which shall have accrued or shall thereafter accrue to any Party.

8. Quality Assurance Management

- 8.1. NHSBSA shall demonstrate concern for quality, manifested through routine and systematic quality assurance processes to ensure accurate recording of data, identification of error and assurance on any potential financial recovery identified.

9. Confidential Information

- 9.1. Each party shall at all times use its best endeavours to maintain confidentiality and ensure that its employees and agents keep confidential any information in relation to the business and affairs of the other party. Neither party shall disclose such information except with the

consent of the other party. A disclosure by a party in accordance with an Act of Parliament or legislation made under it or in compliance with a Court Order shall not be an actionable breach of confidence.

9.2. The obligations of each party shall continue without limit in point of time but shall cease to apply to any information that is put into the public domain otherwise than by a party breaching its obligations.

10. Governance

10.1. Data drives all operations, whether that is through the identification and prioritisation of contracts for review, the management of resources and workflows, the measurement of benefits achieved, feedback to NHSE on the actions taken, or the delivery of insight to identify further opportunities for the NHS. Data will be at the heart of planning and evaluation activities.

10.2. The individual Contract and Performance Management services will be accountable to NHSE through the MOU at formal Review meetings (e.g. Engagement and relationship meetings).

10.3. The NHSE Provider Assurance Service Line Boards and Relationship meetings will continue to provide oversight of the individual services, with the strategic direction for the service as a whole managed through the Service Delivery Board.

s94(1)(b) and s94(2) PA23

10.4. In 2025/26 NHSE will be reviewing the above Governance structure, to ensure it is fit for purpose in light of possible changes to the NHS structure. NHSE and NHSBSA will work together to ensure that any revised governance arrangements meet the needs of both parties and facilitate high quality delivery.

10.5. Performance report will be produced by NHSBSA in line with the agreements made at the Service Line Boards, and Joint Governance Meetings, to allow NHSE oversight and monitoring of the contract and performance management service. NHSBSA and NHSE will agree the content and date for submission of the reports.

This report will include:

- KPI indicators
- Operational volumes

- Operational overview of workstreams against the service planning roadmap with appropriate narrative, status, risks and issues
- Incident summaries
- Finance summary

10.6. As Integrated Care Boards (ICB) have taken on delegated responsibilities there may be occasions where they require support over and above the contract and performance management activities covered by this national agreement. ICBs will commission these activities directly with NHSBSA outside this agreement. However, NHSE must be made aware of these activities to ensure consistency and alignment to national policy. This will be achieved through Engagement and Service Line Board meetings.

10.7. The service will have access and be subject to the NHSBSA’s corporate governance functions and policies and will make use of existing NHSBSA office space and IT infrastructure to deliver the programme.

10.8. Costs and Financial benefits will be reported through performance reports and at Service Line Board and Relationship meetings.

11. Performance Standards

11.1. NHSE and NHSBSA will discuss the KPI content annually to ensure they meet the needs of both parties. They will jointly agree any changes to the KPIs ensuring these are enacted in a timely manner.

11.2. As well as the high level KPIs listed below individual service area are also listed:

11.3. High level KPIs

| Objective | KPI Measurements | Target |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| Service Delivery | Benefits achieving budget forecast | Within - 5% |
| | Successful conclusion of cases - cases are concluded with a positive outcome determined by specific workstream expectations | 98% |
| | Completion of contract reconciliation - Reconciliation of all contracts within NHSBSA PA remit completed by agreed timescales. | 90% |
| | Customer Care | Timeliness of response to queries – queries from contractors to be acknowledged and responded to, within agreed specific time of individual workstream |
| Quality | Accuracy of recoveries/financial adjustments - recoveries/financial adjustments from contractors to be applied correctly according to the documented methodology of the contract and performance management service work stream | 100% |
| | Accurate Reporting - Accuracy of data contained in NHSE and Contractor reports | 95% |

These KPIs may be varied where agreed in advance by the variation process shown in Appendix 5 and in accordance with NHSE priorities.

11.4. Service area KPIs

11.4.1. Dental

| Objective | KPIs | Target |
|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| Service Delivery | Categories 1, 2 and 4 contract YE letters to be published in Compass by 30 June | 100% |
| | Process all exceptional circumstance (Force Majeures) claims on the region's behalf by 30 June | 100% |
| | Category 1 and 2 contracts to have a finalised YE position by the end of September | 98% |
| | All category 1 and 2 contract YE underperformance breach notices are to be issued by 31 October | 100% |
| | All contracts (categories, 1, 2, 3, 4 and 5 for 2023-2025) are to have a final YE position by 31 December | 100% |
| | MY reviews for all category 1 and 2 contracts are to be completed by end of October | 100% |
| | 90% of Clinical Adviser cases will be completed within 3 months (91 calendar days) from the start of investigations to the production of a report | 90% |
| | 50% of Clinical Adviser cases will be completed within 2 months (62 calendar days) from the start of investigations to the production of a report | 50% |
| Customer Care | Provide response and Caseworker contact details within 3 working days of provider email query for workstreams | 100% |
| | Provider queries resolved/escalated for all workstreams | 95% within 5 working days 100% within 10 working days |
| Customer satisfaction | Agree and deliver an annual customer satisfaction survey for Contractors and Commissioners and subject to the outcome create an action plan to drive service improvement | Annually |

11.4.2. Pharmaceutical

| Objective | KPIs for | Target |
|-------------------------|------------------------------------------------------------------------------------------------------------|-------------------------------------------|
| Service Delivery | Costs within budget forecast | Within + 5% |
| | Benefits achieving budget forecast | Within - 5% |
| | Work streams delivered in line with agreed plans as set out in the business case and subsequent variations | RAG score |
| | Note: over 5 year period all contractor engaged at least once | |
| Customer Care | Acknowledge emails/phone calls | 95% within 24 hours 100% within 2 days |

| Objective | KPIs for | Target |
|----------------|--------------------------------------------------------------------|-----------------------------|
| | Resolve queries/enquiries | 95% within 5 working days |
| | | 100% within 10 working days |
| Quality | Accuracy of information included in NHS England/Contractor Reports | 95% |
| | Accuracy of financial adjustments | 100% |

11.4.3. Ophthalmic

| Objective | KPIs | Target |
|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| Service delivery | Costs within budget forecast | Within + 5% |
| | Benefits achieving budget forecast | Within - 5% |
| | Work streams delivered in line with agreed plan | 100% |
| | Adult GOS 4 Pre-Authorisation enquiries will be responded to in a timely manner Note: some enquiries will require escalation to Clinical Advisors and will take longer than the two hours but the caseworker would keep the contractor updated on progress. | 95% within 2 hours 100% within 5 days |
| | PPV case will be complete within 2 months of the last contractor within that sample submitting their final evidence. This is defined as findings reports are sent to Regional Team for review. Note: The outcome reports to contractors will follow this as time is given to allow Regional Team/Clinical Advisors to review (normally 5 workdays but could be longer). | 100% |
| | Progress to clear the backlog of GOS Contract Management cases by NHSBSA to be reported to NHSE on a monthly basis, including any pauses due to third party involvement. Performance of this measure will be monitored on a regular basis, with a view to achieving the following target on or before the 31st March 2025: <i>All Contract Management applications, variations and terminations completed within a target completion date of 12 weeks.</i> <i>On receipt of the application, variation, and termination, NHSBSA will start the clock as day one of the process.</i> | 95% |
| Customer care | Acknowledge emails/phone calls within 24 hours | 95% |
| | Resolve queries/enquiries within 5 working days | 95% |

| | | |
|----------------|--------------------------------------------------------------------|------|
| Quality | Accuracy of information included in NHS England/Contractor Reports | 98% |
| | Accuracy of financial adjustments | 100% |

11.4.4 Vaccines and Immunisations

| Objective | KPIs | Target |
|-------------------------|------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| Service Delivery | Costs within budget forecast | Within + 5% |
| | Benefits achieving budget forecast | Within - 5% |
| | Work streams delivered in line with agreed plans as set out in the business case and subsequent variations | RAG score |
| Customer Care | Acknowledge queries/enquiries and provide a non-automated response | 95% within 24 hours 100% within 5 days |
| | | |
| Quality | Accuracy of financial adjustments | 98% |
| | Accurate Reporting | 100% |
| Cases | Successful Conclusion of Cases | 100% |

12. Escalation Process

- 12.1. The parties agree to nominate a representative to liaise with the other party and be the primary point of contact in all matters concerning the operation of this Agreement. ‘Business as usual’ contact will generally be between the NHSBSA Service Portfolio Leads, and NHSE Policy Leads. The key personnel are set out in Appendix 3
- 12.2. The parties agree to inform each other immediately of any problem arising in respect of this Agreement and/or the services and try to resolve the problem as soon as reasonably practicable.
- 12.3. If the parties are unable to agree a matter arising under this Agreement, the parties will attempt in good faith to resolve the dispute. The parties agree that for first tier escalation, the dispute will be referred to a senior person, usually the NHSE Deputy Director (Contracts) and the NHSBSA Service Portfolio Lead. If after this escalation, the matter is still left un-resolved, for NHSBSA, the senior person will be the Head of Assurance Services. For NHSE the senior person will be the Director for the Support Services Team - Primary Care, Community, Vaccinations & Screening Team.
- 12.4. In such cases, the parties will take all necessary steps to eliminate or minimise the risk of disruption to the service while seeking a resolution to the dispute.

13. Data Processing Legal basis

13.1. The Customer and the Data Controller - NHSE has the following legal basis (by reference to the following articles of the UK GDPR for Processing the Personal Data):

13.2. In relation to Article 6(1) for Personal Data:

- a) Individual(s) will be giving their consent for us to have their personal data, and/or
- b) The processing is necessary for the performance of a lawful task or function carried out in the public interest or as part of a Direction or Regulation imparted on NHSE
- c) Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
- d) For the above legal basis, the Provider and Data Processor– NHSBSA acts on behalf of the Customer - NHSE. Therefore, the Provider uses the same legal basis as the Customer for processing personal data under this agreement.

13.3. In addition, NHSBSA will be acting as Controller for the purposes of post payment verification of Pharmacy Advanced and Enhanced services. The legal basis under Article 6 of the UK GDPR is as follows:

- (a) The processing is necessary for the performance of a lawful task or function carried out in the public interest or as part of a Direction or Regulation imparted on NHSBSA:-

Direction 2a of the Pharmaceutical Services (Advanced and Enhanced Services and Emergency Declaration) (England) (Amendment) (No. 2) Directions 2020 as amending the 2013 Directions:

‘Processing of data relating to service provision and remuneration and for NHS management functions

2A.(1) The processing of data which relates to the provision of an advanced or enhanced service and is provided by a patient or an NHS chemist in the course of, or to enable, the provision of an advanced or enhanced service is—

- (a) necessary for the performance of a task carried out in the public interest; and
- (b) if the data is personal data concerning health, necessary for the management of health care systems or services, where the processing is by or on behalf of a relevant body or an NHS chemist (including by another body on behalf of the relevant body or the NHS chemist) and is for the purposes of performing, or facilitating the performance of, the functions listed in paragraph (2).

(2) Those functions are—

- (a) remunerating the NHS chemist for providing the advanced or enhanced service;
- (b) post payment verification;
- (c) charging the patient for providing the advanced or enhanced service (if that is expressly provided for by or under any enactment); and (d) management functions of a relevant body relating to ensuring that the functions mentioned in sub-paragraphs (a) to (c) are performed effectively, efficiently and economically.’

13.4. In addition, Direction 5 of the Pharmaceutical and Local Pharmaceutical Services (Prescriptions, Payments and Listings) Directions 2013 provides NHSBSA with the legal basis for processing data regarding functions in relation to pharmaceutical remuneration and prescription charging.

Following post payment verification, NHSBSA will share the anonymised data with NHSE.

13.5. NHSBSA will also be acting as Data Controller for the purposes of the prevention, investigation and detection of fraud or other unlawful activities for primary dental services. The legal basis under Article 6 of the UK GDPR is as follows:

- (a) The processing is necessary for the performance of a lawful task or function carried out in the public interest or as part of a Direction or Regulation imparted on NHSBSA:-

13.6. Paragraph 8, Schedule 3, Table 1 of the Functions of the National Health Service Commissioning Board and the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Primary Dental Services) (England) Regulations 2013:

‘(a) Processing, assessing and monitoring the information received pursuant to paragraph 35(2) of Schedule 3 to the GDS Contracts Regulations, in particular for the purposes of the prevention, investigation and detection of fraud or other unlawful activities.

(b) Preparing and sending to the Board the information received pursuant to paragraph 35(2) of Schedule 3 to the GDS Contracts Regulations in the Board’s required format.

(c) Providing timely reports to the Board in respect of the information received pursuant to paragraph 35(2) of Schedule 3 to the GDS Contracts Regulations which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.’

13.7. In relation to Article 9(2) for special category Data. Data may include medical and healthcare information which is considered a special category:

- (a) Individual(s) will be giving their consent for us to have their special category data, and/or
- (b) The processing is necessary for the management of health care systems, services, social care systems or services on the basis of domestic law..
- (c) The processing is necessary for reasons of public interest in the area of public health (e.g. ensuring contractual and clinical standards are adhered to).
- (d) The Provider and Data Processor – NHSBSA acts on behalf of the Customer and Data Controller - NHSE. Therefore, the Provider uses the same legal basis as the Customer for processing personal data under this agreement.

13.8. In addition, NHSBSA will be acting as Controller for the purposes of post payment verification of Pharmacy Advanced and Enhanced services. The legal basis under Article 9 of the UK GDPR is as follows:

- (a) The processing is necessary for the management of health care systems or services or social care systems or services on the basis of domestic law:-

Direction 2a of the Pharmaceutical Services (Advanced and Enhanced Services and Emergency Declaration) (England) (Amendment) (No. 2) Directions 2020 as amending the 2013 Directions

Following post payment verification, NHSBSA will share the anonymised data with NHSE.

13.9. NHSBSA will also be acting as Controller for the prevention, investigation and detection of fraud or other unlawful activities for primary dental services. The legal basis under Article 9 of the UK GDPR is as follows:

The processing is necessary for the management of health care systems or services or social care systems or services on the basis of domestic law:-

Para 8, Schedule Table 1 of the Functions of the National Health Service Commissioning Board and the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Primary Dental Services) (England) Regulations 2013.

14. Protection of Personal Data (Data Protection)

14.1. Each party shall ensure that it complies with and shall not breach the provisions of the UK General Data Protection Regulation (UK GDPR), the provisions of the Data Protection/GDPR Responsibilities, as set out in Appendix 2, and any other obligations which arise in connection with this Memorandum of Understanding. NHSE will act as Controller and the NHSBSA as Processor, except for the instance whereby NHSBA will be acting as Controller as set out in section 13 of this MOU.

14.2. Notwithstanding the general obligation in clause 14.1, where the NHSBSA is Processing Personal Data as a Processor for the Authority, the NHSBSA shall:

- 14.2.1. ensure that it has in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful Processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under Article 5 f) the 'integrity and confidentiality' Principle; and reasonably require to satisfy itself that the NHSBSA is complying with its obligations under Data Protection Legislation;
- 14.2.2. provide NHSE with such information as NHSE may reasonably request
- 14.2.3. not transfer Personal Data outside of the UK and/or the European Union Area;
- 14.2.4. only process Personal Data in accordance with, and for the purposes set out in, written instructions received from NHSE from time to time.
- 14.2.5. promptly notify NHSE of any breach of the security measures required to be put in place pursuant to this clause 14.2;
- 14.2.6. promptly notify NHSE of any instruction received that it believed breaches any data protection law pursuant to this clause 14.2;
- 14.2.7. co-operate with NHSE in informing Data Subjects of any Personal Data breach (as defined by Article 4 (12) of UK GDPR);
- 14.2.8. ensure it does not knowingly or negligently do or omit to do anything which places NHSE in breach of NHSE's obligations under Data Protection Legislation;
- 14.2.9. Inform NHSE of any sub-contractor and ensure that they are subject to the same contractual obligations as the NHSBSA in the same terms as this Clause 14;
- 14.2.10. permit NHSE at any time and from time to time upon seven days' written notice to have escorted access to the appropriate part of the NHSBSA's premises, systems, equipment, and other materials and facilities to enable NHSE to inspect the same for the purposes of monitoring compliance with this Memorandum of Understanding and the Data Protection legislation to the extent that such premises, equipment and other materials and facilities are used for or relevant to the Services. Such inspection shall not relieve the NHSBSA of any of its obligations under this Memorandum of Understanding.

14.3. Where the NHSBSA receives an Information Rights Request (as defined in Articles 15 to 22 of UK GDPR) from a Data Subject in relation to information which it is holding on behalf of the other Party, it shall (and shall procure that its sub-contractors shall):

- 14.3.1. transfer the Request for Information to NHSE as soon as practicable after receipt and in any event within two (2) Working Days of receiving the Information Rights Request;
 - 14.3.2. provide NHSE with a copy of all information in its possession or power in the form that NHSE requires within ten (10) Working Days (or such other period as may be agreed) of NHSE requesting that information; and
 - 14.3.3. provide all necessary assistance as reasonably requested to enable NHSE to respond to the Information Rights Request within the time for compliance set out in UK GDPR.
- 14.4. NHSE hereby permits the NHSBSA to store Personal Data relating to (the Personal Data being processed) on a third party supplier's system and NHSE permits the NHSBSA's third party supplier to act as the Processor on its behalf.
- 14.5. The provisions of this clause 14 shall apply during the continuance of this Memorandum of Understanding and for as long as the Data Protection Legislation requires after its expiry or termination.

15. Freedom of information requests

- 15.1. If the information referred to herein is subject to a freedom of information (FOI) or other request to share the data, then NHSBSA will be responsible for the fulfilment of the request, but will seek views from NHSE before undertaking this.

16. Liaison and Administration

- 16.1. The points of contact are outlined in Appendix 3.
- 16.2. In the event that any named individuals in this document are replaced, their successor will assume responsibility for this Agreement.

17. Finance

- 17.1. Following business case approvals, NHSE will fund the Provider Assurance team for the contract and performance management services. It is anticipated that payment will be through purchase order (PO) and invoice arrangements.
- 17.2. NHSE to raise the PO prior to the end of first quarter to allow invoices to be raised on a quarterly basis with the quarterly performance report and Service Management Boards acting as an escalation route if necessary
- 17.3. Any finances recovered as part of the Contract and Performance Management service will be handled as per existing arrangements for contractor adjustments.
- 17.4. The agreement of services outlined within this MoU are not for profit and will operate under an NHS to NHS agreement as outlined in clause 2.3. Costs will include annual increases such as NHS Agenda for Change salary, national insurance or pension contribution increases.

18. Communications

18.1. All communications will be jointly agreed by the Parties prior to distribution. In practical terms communications will be agreed through the NHSBSA Service Portfolio Leads and NHSE Policy Leads.

19. Publicity and disclosure of information

19.1. Save as expressly set out in this clause 19 or otherwise with the written consent of the other party, no party shall make any press announcements about this Memorandum of Understanding or publicise this Memorandum of Understanding or any of the terms in any way and each party shall ensure that any such information disclosed is solely for the purpose of performing its obligations under this Memorandum of Understanding.

19.2. Notwithstanding the provisions of clause 19.1, each party shall be entitled to disclose any information relating to this Memorandum of Understanding in the following circumstances:

- for the purpose of any examination of this Memorandum of Understanding by the National Audit Office pursuant to the National Audit Act 1983 or otherwise;
- for parliamentary, governmental, statutory or judicial purposes; or
- in relation to any other legal obligation on the disclosing party; or
- such information is already in the public domain.

19.3. Each party shall take all reasonable steps to ensure the observance of this clause 19 by all its servants, employees, agents and consultants.

20. Agreement Price

20.1. The service expenditure is expected to be in line with the agreed Provider Assurance business case. Where there is deviation that exceeds these projections; The Customer and the Provider will evaluate the impact and jointly agree any necessary mitigation, which may include funding any shortfall through using income generated by the service. This will be reported on a monthly basis within the Provider Assurance Governance Sponsor Report and agreed with the Customer before this approach is implemented.

20.2. The agreement price for the periods 1 April 2025 until 31 March 2026 will be based on the agreed budget shown in table 1:

Table 1

s94(1)(b) and s94(2) PA23

s94(1)(b) and s94(2) PA23

21. Acceptance:

NHSBSA signature:

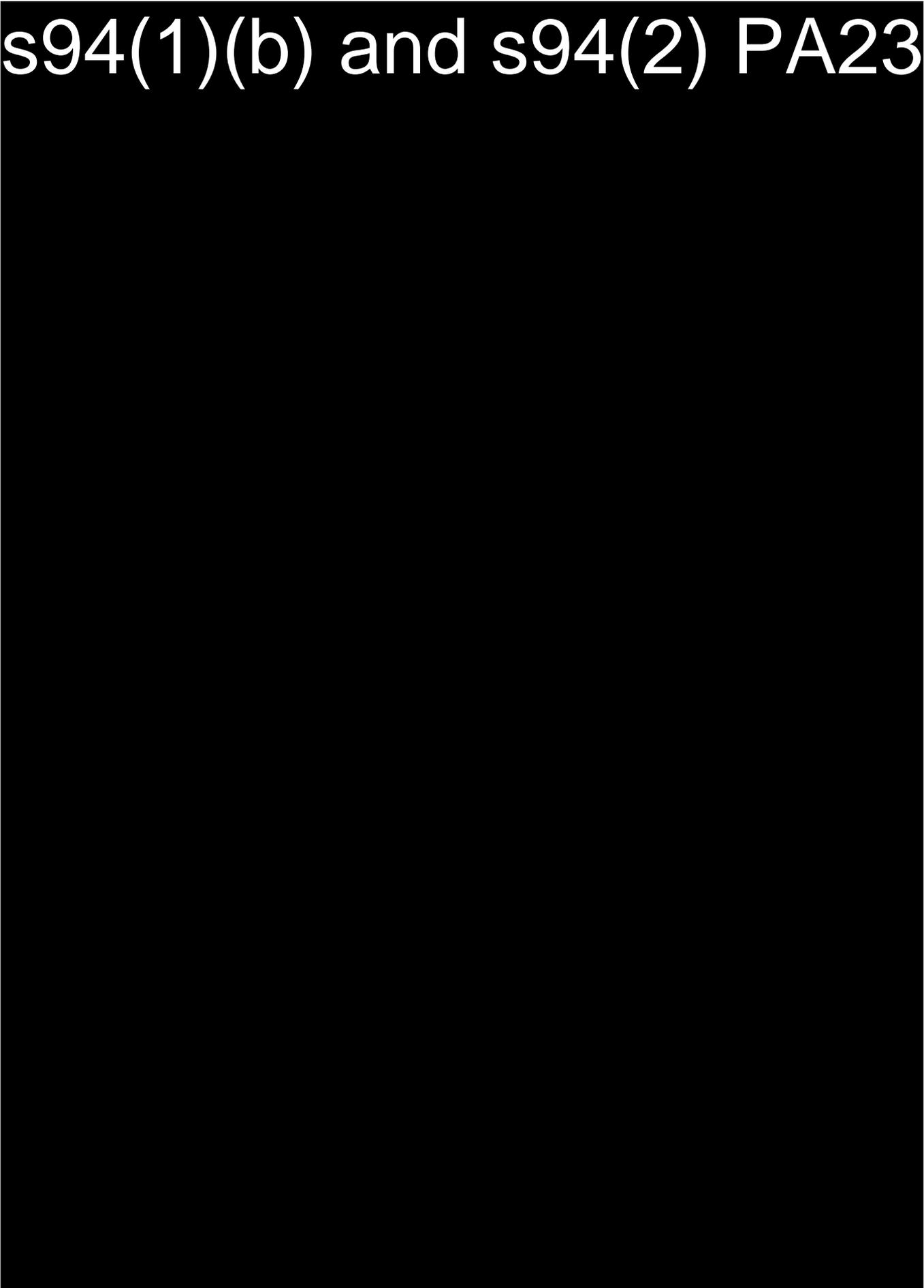
s99(1) PA23

NHS England signature:

s99(1) PA23

Appendix 1 – Workstream information

s94(1)(b) and s94(2) PA23



s94(1)(b) and s94(2) PA23

s94(1)(b) and s94(2) PA23

Note: The activity undertaken on any given Workstream, needs to be agreed with NHS England representatives. This is particularly important if the workstream is to be changed. On this basis an MOU variation may be required to be agreed at the Joint Governance Board meetings.

Appendix 2 - Data Protection / GDPR Responsibilities

1. The Parties agree that they have the following roles, as defined by Data Protection legislation, in providing and receiving the Services: -

| Party | Role(s) |
|-------------|------------|
| NHS England | Controller |
| NHSBSA | Processor |

2. The relevant Controller and the Provider shall set out details of their Processing under this Agreement in the table below: -

| Requirement in Article 28(3) GDPR for a Processor | Details for this Agreement |
|-----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>The subject matter and duration of the Processing:</i> | <p>Contract information: Contract name, number and addresses Contract value and activity requirements</p> <p>Financial records: Details of contract payments, additional payments, adjustments and financial recoveries All data reported and submitted as part of a claim for payment and declaration (e.g. GOS forms/FP17/FP170/FP10 etc.)</p> <p>Patient Clinical Records: All details as defined in the GDS/PDS regulations Patient details, contract, performer, treatment, payment, exemption status.</p> <p>Duration of Processing: Any physical submissions will be returned to contractor at the end of the process or securely destroyed. Any records created for the purpose of the assurance and reconciliation activities will be held in line with the NHSBSA corporate</p> |

| | |
|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | retention schedule after which point, they will be deleted. |
| <i>The nature and purpose of the Processing</i> | In order to support the identification and intervention of fraud and loss in the system, NHSBSA will be processing this data on behalf of NHS England. The purpose in processing this personal data is to: <ul style="list-style-type: none"> • Provide an assurance to NHS England about the quality and probity of treatment made by NHS contractors through a range of post payment verification activities. • Assure NHS England that contractors are making claims appropriately and in line with the regulations • Support annual reconciliation of delivered activity against contractual payments made by the NHSBSA on behalf of NHS England. These activities to be in line with the requirements set out in the relevant regulations. |
| <i>The type of Personal Data</i> | Name, address, DOB, medical history summary, dental clinical records, exemption from payment status, medication/treatment |
| <i>The categories of Data Subjects</i> | The personal identifiable content of the forms will relate to patients who have received a service from the NHS provider. The financial information will relate to the contract held and claims made by that provider/contractor |
| <i>The Controller's obligations and rights</i> | The Controller will ensure requirements are clearly articulated to the processor in regard data management and use to deliver an effective and robust contract and performance management service that meets their regulatory obligations. Any processes implemented under this MOU have been and will be routinely reviewed to ensure it is compliant with the relevant Data Protection Legislation. |

3. The Controller and the Processor shall record details of their responsibilities for Processing in the table below.

| Responsibilities under Article 82 Compensations & Liability | Details for this Agreement |
|------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Controller responsibilities for Processing</i> | The Controller is providing the Provider with the legal basis to carry out the Contract and Performance Management activities and request information from NHS Contractors. The controller will review the processes in place for processing data and will seek appropriate assurances from the Provider. |
| <i>Provider responsibilities for Processing</i> | The Provider will process information and evidence in line with the expectations of the Controller and in a manner which is compliant with GDPR regulations. Contract and Performance Management activities will involve reviewing evidence from contractors and comparing claims to assess |

| | |
|--|----------------------------------------------------------------------------------------------------------------------|
| | whether the treatment activity or claim was appropriate. The evidence will contain patient identifiable information. |
|--|----------------------------------------------------------------------------------------------------------------------|

Appendix 3 – Key Personnel and escalation routes

s.99(1) PA23

Appendix 4 – Service request form template

Provider Assurance/VDPS/Post Event Assurance (delete as appropriate) – Project Proposal Evaluation

Please complete this form in collaboration with a representative of NHSBSA. Requirements must be defined and signed off by stakeholders before any delivery activity can proceed.

| Part 1 - Project Request | | | |
|------------------------------------|----------------------------------|----------------------------|-----------------------------|
| Proposed project name | Enter the proposed project name. | | |
| Date request received | Select date request received. | Expected start date | Select expected start date. |
| Expected completion date | | | |
| Stakeholder organisation(s) | | | |
| Stakeholder project lead | | | |

| Part 2 - Information Governance | |
|-------------------------------------------------|--|
| Legal basis | |
| Purpose(s) | |
| Privacy notice | |
| Data Protection Impact Assessment (DPIA) | |
| Retention | |
| MoU | |
| Data Controller | |

| Part 3 - Project Details |
|--------------------------|
| Request details |

| | |
|----------------------------------|--|
| | |
| Expected deliverables | |
| Detail the project deliverables. | |
| Expected benefits | |
| | |
| Project timeline | |
| | |
| Additional information | |
| Detail the project deliverables. | |

Part 4 – Stakeholder approval

| | |
|-----------------------------|----------------------------------------|
| Stakeholder approval | Attach stakeholder confirmation email. |
| Date of approval | Enter the date of approval. |

Part 5 – NHSBSA approval (for internal use only)

| | |
|-----------------------------------------------------------------------|--------------------------------------------------------|
| Assessment completed by | |
| Resource requirements | |
| Provider Assurance | |
| Customer Insight | |
| Contact Centre Services (CCS) | |
| Provider Assurance | |
| Data Insight | |
| CMS requirements (including integration in Dynamics 365 email queues) | |
| Working instructions | <i>(insert hyperlink to working instructions here)</i> |
| Communications | |

| | |
|------------------------------|--|
| External Stakeholders | |
|------------------------------|--|

| | |
|-----------------------------|--|
| PA (NHSBSA) approval | |
| Date of approval | |

Appendix 5 – Variation Procedure

1. GENERAL PRINCIPLES

1.1 Where NHSE or the Supplier sees a need to vary this Agreement, NHSE may at any time request, and the Supplier may at any time recommend, such Variation only in accordance with the Variation Procedure set out in Paragraph 2 of this Appendix D.

1.2 Until such time as a Variation is made in accordance with the Variation Procedure, NHSE and the Supplier shall, unless otherwise agreed in writing, continue to perform this Agreement in compliance with its terms before such Variation.

1.3 Any discussions which may take place between NHSE and the Supplier in connection with a request or recommendation before the authorisation of a resultant Variation shall be without prejudice to the rights of either Party.

2. PROCEDURE

2.1 Discussion between NHSE and the Supplier concerning a Variation shall result in any one of the following:

- (a) no further action being taken; or
- (b) a request to vary this Agreement by NHSE; or
- (c) a recommendation to vary this agreement by the Supplier.

2.2 The Agreement may be executed by NHSE and/or the Supplier via a secure online electronic signature platform provided by a third-party e-signature provider nominated by NHSE from time to time. The E-Signature Platform allows an authorised signatory(s) of the supplier to electronically sign the agreement. The Supplier hereby acknowledges and that its authorised signatory(s) will only use the E-signature Platform to conclude the agreement. By Signing this agreement using the E-signature Platform, the authorised signatory consents and agrees to:

- a) the provision of information relating to this agreement in electronic form;
- b) both NHSE and the Supplier using an electronic signature to sign the agreement, and;
- c) the presentation, retention and production of information and documents (including the Agreement) by NHSE and /or such third-party e-signature provider in electronic form.

2.3 Where a written request for a Variation is received from NHSE, the supplier shall, unless otherwise agreed submit a confirmed copy for signing (under paragraph 2.2) within 3 weeks of the date of the request. The confirmation can be in electronic email format between NHSE and the Supplier.

2.4A recommendation to amend this Agreement by the Supplier shall be submitted directly to NHSE in the form of a confirmed copy. This can be in electronic email format between the Supplier and NHSE. NHSE shall give its response to the Variation Form within normally within three weeks.

2.5 Each Variation Form shall be in the form as set out in this Appendix 6

2.6 For each Variation Form submitted by the supplier, NHSE shall:

- a) allocate a sequential number to the Variation Form
- b) evaluate the Change Control Note and, as appropriate:
 - i) request further information
 - ii) accept the Variation form and revert to the process defined in paragraph 2.2
 - iii) notify the Supplier of the rejection of the Variation Form and the reasons for such variation.

2.7 If NHSE rejects the Variation Form under paragraph 2.6 (b)(ii), the Supplier may refer the matter to the dispute resolution procedure.

2.8 The secure online electronic signature platform ensures that the E-signed documents are jointly signed by both NHSE and the Supplier. The jointly signed documents are sent to both parties by NHSE after the E-Signature process has been completed.

2.9 A Variation Form signed by NHSE and by the Supplier shall constitute an amendment to this Agreement.

Appendix 6 – Variation form

VARIATION FORM

| | |
|---------------------------------------|--|
| SERVICE LEVEL AGREEMENT TITLE: | |
|---------------------------------------|--|

| | | | |
|----------------------|--|-------------|--|
| VARIATION NO: | | DATE | |
|----------------------|--|-------------|--|

BETWEEN:

NHS ENGLAND and NHSBSA (the Supplier)

The Agreement is varied as follows:
[[INSERT DETAILS OF VARIATION]]

Start Date:

Proposed Completion Date:

Costs:

Extension of Time:

The Agreement including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

SIGNED:

FOR NHS ENGLAND

FOR SUPPLIER

BY

BY

FULL NAME

FULL NAME

TITLE

TITLE

DATE

DATE